

## **ARTICLE VII. CORPORATE MINING AND CHEMICAL AND RADIOACTIVE TRESPASS\***

(adopted 02-07-08)

**\*Cross reference--Environment, ch. 50**

### **Section 30-81 – 30-150. Reserved**

#### **Section 30-152. Authority**

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Halifax to democratic self-governance, and their corresponding right to be free from anti-democratic private governments, and by authority granted to the municipal government of the Town of Halifax by all relevant Federal and State laws and their corresponding regulations, including, without limitation, the following:

The Declaration of Independence, which declares that the people are born with “certain unalienable rights” and that governments are instituted among people to secure those rights;

The Ninth Amendment to the United States Constitution, which declares, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”;

The Fourteenth Amendment to the United States Constitution, which declares in part, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States”;

The Virginia Constitution, Article 1, Section 1, which declares that all people “are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety”;

The Virginia Constitution, Article 1, Section 2, which does not declare that corporations have any rights, but does declare that “all power is vested in, and consequently derived from, the people”;

The Virginia Constitution, Article 1, Section 3, which declares that “government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community. . . and whenever any government shall be found inadequate or

contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it”;

The Virginia Constitution, Article 1, Section 4, which declares that “no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community,” and thus, corporations, as sets of men, shall not enjoy special legal privileges under the law;

The Virginia Constitution, Article XI, Section 1, which declares that “it shall be the Commonwealth’s policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth”;

Common law, which recognizes well-settled rules governing the tort of trespass, and which requires injunctive, compensatory, and punitive relief to be assessed for unauthorized intrusions;

The Virginia Code, Section 15.2-1102, which declares that “A municipal corporation shall have and may exercise all powers which it now has or which may hereafter be conferred upon or delegated to it under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of the affairs and functions of the municipal government, the exercise of which is not expressly prohibited by the Constitution and the general laws of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the inhabitants of the municipality and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce and industry of the municipality and the inhabitants thereof, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power.”

### **Section 30-153. Findings and purpose**

In support of the enactment of this Ordinance, the Town Council of The Town of Halifax, on behalf of the People of the Town, finds and declares that:

Corporations engaged in mining activities in Virginia have damaged and harmed – and continue to damage and harm – people’s lives, properties, livelihood, their pursuit of happiness, and their quality of life.

Corporations engaged in mining have also damaged and harmed – and continue to damage and harm – ecosystems and natural communities. Those ecosystems and natural communities are essential for thriving human and natural communities, for both present and future generations.

Damages and harms to residents and ecosystems include chemical, toxic, radioactive and carcinogenic trespass, subsidence of land and homes, loss of water, property devaluation, devastation of mountains and natural features, and destruction of complex natural

communities, hydrological systems, and other ecosystems. In addition, a small number of multinational mining organizations – run by a handful of corporate Directors and Managers – have used accumulated corporate wealth gained from years of destructive corporate mining to enact statewide laws that strip almost all community decisionmaking from the citizens of the Town of Halifax.

The Town Council of The Town of Halifax finds that county, state, and federal governments have failed to protect and preserve either the health, safety, and welfare of residents and natural communities within the Town, or the fundamental right of residents of the Town of Halifax to local control and self-government. The Council finds that the Virginia Department of Environmental Quality – along with the State's entire environmental regulatory structure – have legalized continuing corporate assaults on life, liberty, and people's basic rights, contrary to the common-sense understanding of the purpose of the rule of law.

In addition, having examined the legacy of regulatory laws and agencies in Virginia and the United States, the Council clearly understands that the Department of Environmental Quality's enabling of mining corporations has not been the exception in this State and Nation, but a normal governmental practice.

The Town Council of the Town of Halifax finds that corporate mining in Virginia is incompatible with the protection and preservation of the health, safety, and welfare of residents in the Town of Halifax; and that corporate mining is incompatible with the protection and preservation of the health, safety, and welfare of natural communities and ecosystems within the Town of Halifax. The Town Council of the Town of Halifax finds that corporate mining – backed by laws that empower small numbers of corporate directors and managers to override the wishes and values of majorities of citizens – destroys the authority and ability of people within the Town of Halifax to govern their communities democratically.

As a community in the path of mining corporations seeking resources from under people's homes and within people's communities, the people of the Town of Halifax find it necessary to take action to prevent the creation of yet one more "sacrifice zone." As we do so, we call for changes in corporate laws and constitutional interpretations regarding legal privileges conferred upon a corporate few, so that people in communities across this nation can take logical steps towards assuring energy needs without subjecting people, communities and nature to long-term destructions and rights-denials.

In order to protect the health, safety, and welfare of the residents of The Town of Halifax, the soil, groundwater and surface water, the people's cultural heritage, the environment and its flora and fauna, rural quality of life, and democratic self-government within the Town, the Town of Halifax finds it necessary to ban corporations from engaging in mining within the Town, to hold strictly liable those corporations, persons, and governmental agencies who are culpable for the deposition of toxic and potentially toxic substances in the bodies of residents of the Town, and to ban corporate ownership of land and mineral estates used for mining within the Town. The Board also finds it necessary to

assert the people's inherent power and right of self-government against competing claims to "rights" asserted by mining corporations, and to restore ownership over land and minerals within the Town to non-corporate mining interests.

#### **Section 30-154. Interpretation**

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Section 3 over such accounting and business terms characterized as "economy," "efficiency," and "scheduling factors."

#### **Section 30-155. Definitions**

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

*Corporation:* Any corporation organized under the laws of any state of the United States or under the laws of any country. The term shall also include any limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers. The term shall also include any business entity in which one or more owners or partners is a corporation or other entity in which owners, directors, officers and/or managers possess limited liability attributes.

*Culpable Parties:* Persons owning or managing corporations that engage in mining activities that inject or introduce toxic or potentially toxic chemicals or substances, including radiation, into the Town that are detected within the body of any resident of the Town of Halifax.

*Deposition:* The placement of a toxic substance or potentially toxic substance within the body of a person. The act of deposition shall be assumed if a toxic substance or potentially toxic substance is detected within the body of a person.

*DEQ:* Virginia Department of Environmental Quality.

*Hazardous substance:* Waste, garbage, refuse, or sludge from an industrial or other waste water treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above, which, because of its quantity, concentration, or physical, chemical, radioactive or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment.

*Mineral Estate:* Any interest held in subsurface mineral or fossil fuel resources, which shall include, but not be limited to, interests held in coal, uranium, natural gas, or oil.

*Mining:* Any commercial activity in which mineral resources, including coal and uranium; or fossil fuel resources, including natural gas and oil, are extracted from the ground.

*Mining Corporation:* Any corporation engaged in, or planning to engage in, mining activities.

*Ordinance:* The Town of Halifax Corporate Mining Chemical and Radioactive Bodily Trespass Ordinance.

*Person:* A natural person, or an association of natural persons that does not qualify as a corporation under this Ordinance.

*Substantially Owned or Controlled:* A person, corporation, or other entity substantially owns or controls another person, corporation, or other entity if it has the ability to evade the intent of this Ordinance by using that person, corporation, or other entity to conduct mining operations within the Town of Halifax.

*Toxic substances and potentially toxic substances:* The phrase shall include chemicals or chemical compounds, radioactive ores, particulate matter and gasses, that have been found to cause adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic, neurotoxic, carcinogenic, teratogenic, reproductive or developmental toxicants. The phrase includes, but is not limited to, Thorium-230, radium-226, radon-222, radon progeny including radioactive isotopes of bismuth, polonium and lead, including but not limited to lead-210, polonium-218, polonium-214 and polonium-210. The phrase shall also refer to nonylphenyl-ethoxylates, polycyclic aromatics, phthalates, ethylene glycol monobutyl ether, 2-(2-methoxyethoxy) ethanol, chlorinated solvents, polychlorinated biphenyls, organophosphate pesticides, organochlorine pesticides, carbamate insecticides, polybrominated diphenyl ethers (PBDEs), polychlorinated dioxins and dibenzofurans, pyrethroid pesticides, cyanide, or any other toxic chemical or hazardous substance identified by the Town Council of the Town of Halifax by resolution as subject to this Ordinance.

*Town:* The Town of Halifax, Halifax County, Virginia, its Town Council, or its representatives or agents.

*Trespass:* As used within this Ordinance, the involuntary deposition of toxic or potentially toxic substances within a human body.

**Section 30-156. Statements of law – the rights of the Town of Halifax residents and communities**

**Section 30-156.1. *Right to self-government.*** All residents of the Town of Halifax possess the fundamental and inalienable right to a republican form of governance – a form of governance that recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority, and that corporate entities and their directors and managers cannot enjoy special privileges or powers under the law that render community majorities subordinate to them.

**Section 30-156.2. *Right to a healthy environment.*** All residents of the Town of Halifax possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna.

**Section 30-156.3. *Right to self.*** All residents of the Town of Halifax possess a fundamental and inalienable right to the integrity of their bodies, and to be free from unwanted invasions of their bodies by manufactured chemicals and toxins, radioactive substances and their progeny, genetically engineered life forms, involuntary biometric or implanted surveillance devices, as well as a right to privacy of their bodies against involuntary searches and inspections, or denial of medical treatment.

**Section 30-156.4. *Right to livelihood and home.*** All residents of the Town of Halifax possess a fundamental and inalienable right to their livelihood, homes and land, and a right to enjoy those homes and land uncompromised by the removal of earth support from below.

**Section 30-156.5. *Right to cultural heritage.*** All residents of the Town of Halifax possess a fundamental and inalienable right to their communities’ cultural heritage within the Town. Residents’ right to their own histories shall include a right to the preservation of historic buildings, unaltered rural historic districts and landscapes, and other structures, relationships, and lands that residents of the Town of Halifax consider important to the preservation of their cultural heritage.

**Section 30-156.6. *Right to water.*** All residents of the Town of Halifax possess a fundamental and inalienable right to access, use, consume, and preserve water drawn from the sustainable natural water cycles that provide water necessary to sustain life within the Town.

**Section 30-156.7. *Rights of natural communities.*** Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within the Town of Halifax.

**Section 30-156.8. *People as sovereign.*** The Town of Halifax shall be the governing authority responsible to, and governed by, the residents of the Town. Use of the “Town of Halifax” municipal corporation by the sovereign people of the Town to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The

people at all times enjoy and retain an inalienable and indefeasible right to self-governance in the community where they reside.

**Section 30-157. Statements of law – scope of corporate powers within the Town of Halifax**

**Section 30-157.1. *Prohibition of corporate mining:*** It shall be unlawful for any corporation to engage in mining activities within the Town of Halifax.

**Section 30-157.2. *Prohibition of corporate enablement(a):*** It shall be unlawful for any person to assist a corporation to engage in mining activities within the Town of Halifax.

**Section 30-157.3. *Prohibition of corporate enablement(b):*** It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to engage in mining activities within the Town of Halifax.

**Section 30-157.4. *Prohibition of corporate legal protections(a):*** Within the Town of Halifax, corporations shall not be “persons” under the United States or Virginia Constitutions, or under the laws of the United States, Virginia, or the Town of Halifax, and so shall not have the rights of persons under those constitutions and laws. It shall be unlawful for any class of individuals upon whom the state has indirectly bestowed those rights – through the conferral of rights upon their corporations – to assert those rights against the Town of Halifax or its residents.

**Section 30-157.5. *Prohibition of corporate legal protections(b):*** Within the Town of Halifax, no corporation shall be afforded the privileges, powers, and protections of the Contracts Clause or Commerce Clause of the United States Constitution, or of similar provisions within the Virginia Constitution.

**Section 30-157.6. *Prohibition of corporate legal protections(c):*** Within the Town of Halifax, no corporation shall be afforded the privileges, powers, and protections of the First Amendment or the Fifth Amendment to the United States Constitution, or of similar provisions within the Virginia Constitution.

**Section 30-157.7. *Future lost profits:*** Within the Town of Halifax, corporate claims to “future lost profits” shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

**Section 30-157.8. *Corporate violation of natural rights:*** It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the rights of natural communities and ecosystems to exist and flourish, or to cause damage to those natural communities and ecosystems.

**Section 30-157.9. *Prohibition on corporate participation in elections:*** It shall be unlawful for any corporation – or the corporation’s directors, officers, owners, or managers operating in their corporate capacities – to transfer any monies, services,

products, or any other thing of value, to persons serving as candidates for elected or appointed offices within the Town.

**Section 30-157.10. *Prohibition on corporate communications:*** It shall be unlawful for any corporation – or the corporation’s directors, officers, owners, or managers operating in their corporate capacities – to contact, or to communicate with, any resident of the Town of Halifax concerning any issue related to the substance or enforcement of this Ordinance, prior to or after the adoption of this Ordinance.

**Section 30-157.11. *Prohibition on corporate ownership of mineral estates:*** It shall be unlawful for any corporation engaging in mining activities, or planning to engage in mining activities, to purchase any land or mineral estates within the Town after the effective date of this Ordinance. Mining corporations holding existing titles to land to be used for surface mining, or holding existing titles to minerals and other resources to be extracted during mining operations, shall divest those titles within sixty (60) days of submitting a permit application to any State agency that seeks a permit to extract minerals or other resources within the Town of Halifax. Persons and entities holding title to surface estates shall possess the right of first refusal to purchase title to minerals and other resources beneath those estates. Titles to those mineral estates shall be available for purchase at the same price that the titles were originally purchased at the time of original severance from the surface estate. Mineral estates not sold to persons or entities holding title to the surface estate must be conveyed to other persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals and other resources within the Town of Halifax. Titles to land to be used for surface mining must be conveyed to persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within the Town of Halifax.

**Section 30-157.12. *Strict corporate liability:*** It shall be unlawful for corporations to engage in mining in a neighboring municipality in a manner that causes harm to the health, safety, and welfare of the residents of the Town of Halifax, or to the ecosystems and natural communities within the Town. Persons using corporations to engage in that mining activity shall be strictly liable for those harms.

**Section 30-157.13. *Bodily trespass:*** The deposition of toxic substances or potentially toxic substances within the body of any resident of the Town of Halifax is declared a form of trespass, and is hereby prohibited. No corporation or syndicate shall engage in the production, extraction, generation, disposal, distribution, use, and/or sale of toxic substances and potentially toxic substances within the Town of Halifax.

**Section 30-157.14. *Culpable parties:*** Persons owning or managing corporations that engage in mining activities resulting in the deposition of toxic substances and potentially toxic substances detected within the body of any resident of the Town of Halifax shall be deemed culpable parties, along with the corporation itself, for the recovery of trespass damages, compensatory damages, punitive damages, and the instatement of permanent



injunctive relief. If more than one corporation manufactured or generated or introduced the detected toxic or potentially toxic substance, persons owning and managing those corporations, along with the corporations themselves, shall be held jointly and severally liable for those damages, in addition to being subject to injunctive relief.

**Section 30-157.15. *Obligation to provide information:*** Corporations that engage in mining activities that result in the deposition of toxic substances and potentially toxic substances detected within the body of a Town resident shall provide information about the production, extraction, generation, disposal, distribution, use, and/or sale of those toxic substances and potentially toxic substances to the municipality sufficient for a determination by the municipality of the culpability of that particular corporation.

**Section 30-157.16. *Town government's duty to protect:*** It shall be the duty of the Town to protect the right of Town residents to be free from chemical trespass under the provisions of this Ordinance, and to obtain damages for any violation of that right. If the presence of toxic and/or potentially toxic substances is detected within the body of any Town resident, the municipality shall initiate litigation to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties. If a significant number of Town residents have been similarly trespassed against, the municipality shall select representative plaintiffs and file a class action lawsuit on behalf of all Town residents to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties.

**Section 30-157.17. *Strict liability for deposition of toxic substances:*** Persons who engage in mining activities that result in the deposition of toxic substances and potentially toxic substances shall be strictly liable for the deposition of those substances into the bodies of residents of the Town. Culpable parties shall be deemed strictly liable if one of their toxic or potentially toxic substances or chemical compounds is discovered within the body of a Town resident. The municipality's showing of the existence of that toxic or potentially toxic substance within the body of a resident living in the Town, and the municipality's showing that the Defendant(s) are responsible for the production, extraction, generation, disposal, distribution, use, and/or sale of that substance, shall constitute a *prime facie* showing of causation under a strict liability standard. Current and future damages resulting from the culpable parties' trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the toxic and/or potentially toxic substances could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the culpable parties are not responsible for the trespass of that particular substance into the body of residents of the Town.

**Section 30-157.18. *Neighboring jurisdictions:*** Corporations and persons using corporations to engage in mining in a neighboring municipality, county or state shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the Town of Halifax from those activities, and for all harms caused to ecosystems and natural communities within the Town of Halifax.

**Section 30-157.19. Testing for toxic substances:** The Town of Halifax shall select a laboratory with expertise in the testing for toxic substances and potentially toxic substances and toxic chemical compounds, including, but not limited to, those toxic substances listed in Section 30-155 of this Ordinance. The Town shall provide financial resources for the first ten residents who request to be tested for the presence of toxic substances and potentially toxic substances and chemical compounds within their bodies, and make all reasonable efforts to provide financial resources for the testing of additional residents.

**Section 30-157.20. Governmental liability:** It shall be unlawful for any permit, license, privilege or charter issued by any municipal, county, state or federal regulatory agency, commission, or board, to any person or any corporation operating under a State-issued charter – or any director, officer, owner, or manager of a corporation operating under a State-issued charter – to violate the provisions of this Ordinance or deprive any Town of Halifax resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. This prohibition shall also apply to permits issued to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state. Accordingly, such permit, license, privilege, or charter shall not be deemed valid within the Town of Halifax.

**Section 30-157.21. Governmental agents:** It shall be unlawful for any employee, agent, or representative of any municipal, county, state or federal regulatory agency, commission, or board to issue a permit, license, privilege, or charter to any person or any corporation operating under a State charter – or to any director, officer, owner, or manager of a corporation operating under a State-issued charter – that would violate the provisions of this Ordinance, or deprive any resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. This prohibition shall also apply to permits issued to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state.

**Section 30-157.22. Governmental agent liability:** Any governmental agent violating the preceding section of this Ordinance shall be liable to any parties injured by the agent's actions and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the Town of Halifax for restoration of those natural communities and ecosystems.

#### **Section 30-158. Administration**

This Ordinance shall be administered by The Town of Halifax.

#### **Section 30-159. Enforcement**

Section 30-159.1: The Town of Halifax shall enforce this Ordinance by an action brought in the same manner as provided in the Code of Virginia, §18.2-11 for the punishment of a class 3 Misdemeanor.

Section 30-159.2: Any person, corporation, or other entity that violates any provision of this Ordinance shall, upon conviction be imprisoned to the extent allowed by law for the punishment of a class 3 Misdemeanor.

Section 30-159.3: A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance that is found to be violated.

Section 30-159.4: The Town of Halifax may also enforce this Ordinance through an action in equity brought in the appropriate Circuit Court. In such an action, the Town of Halifax shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees. Such an action to enforce this Ordinance may also be brought by any resident of the Town of Halifax, and that resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 30-159.5: All monies collected for violation of this Ordinance shall be paid to the Treasurer of the Town of Halifax.

Section 30-159.6: Any person, corporation, or other entity that violates, or is convicted of violating this Ordinance, two or more times shall be permanently prohibited from doing business within the Town of Halifax. This prohibition applies to that person's, corporation's, or other entity's parent, sister, and successor companies, subsidiaries, and alter egos; and to any person, corporation, or other entity substantially owned or controlled by the person, corporation, or other entity (including its officers, directors, or owners) that twice violates this Ordinance, and to any person, corporation, or other entity that substantially owns or controls the person, corporation, or other entity that twice violates this Ordinance.

Section 30-159.7: Any Town resident shall have the authority to enforce this Ordinance through an action in equity brought in a court of competent jurisdiction. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

#### Section 30-160. Civil rights enforcement

Section 30-160.1: Any person acting under the authority of a permit issued by the Department of Environmental Quality, any corporation operating under a State charter or certificate of authority to do business, or any director, officer, owner, or manager of a corporation operating under a State charter or certificate of authority to do business, who deprives any Town resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation to satisfy that

liability, including, without limitation, expert and attorney's fees. These liabilities shall also apply to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state, and to governmental agencies and agents issuing permits that allow a corporation in a neighboring municipality, county, or state to deprive any Town resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the Town of Halifax for restoration of those natural communities and ecosystems.

Section 30-160.2: Any Town resident shall have standing and authority to bring an action under this Ordinance's civil rights provisions, or under state and federal civil rights laws, for violations of the rights of natural communities, ecosystems, and Town residents, as recognized by this Ordinance.

#### Section 30-161. Effective date and existing DEQ permit holders

This Ordinance shall be effective immediately, at which point the Ordinance shall apply to any and all mining corporations, mining corporation employees, directors, officers, and governmental agents making decisions affecting the people and natural communities within the Town of Halifax, regardless of the date of the applicable DEQ permits.

#### Section 30-162. People's right to self-government

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure our rights to life, liberty, property, and pursuit of happiness. Any attempts to use county, state, or federal levels of government – judicial, legislative, or executive – to preempt, amend, alter, or overturn this Ordinance or parts of this Ordinance, or to intimidate the people of the Town of Halifax or their elected officials, shall require the Town Council of the Town of Halifax to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of the Town of Halifax or their elected officials.

#### Section 30-163. Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Town Council of the Town of Halifax hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this

Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 30-164. Repealer

All inconsistent provisions of prior Ordinances adopted by the Town of Halifax are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 30-165 – 30-180. Reserved

Chapters 31—33

RESERVED

CD31:1

## Chapter 34

### FIRE PREVENTION AND PROTECTION\*

#### Article I. In General

- Sec. 34-1. Definitions.
- Sec. 34-2. Congregating in streets at fires; interference with fire department.
- Sec. 34-3. Driving vehicle through street where department fighting fire.
- Sec. 34-4. Turning on fire hydrant.
- Sec. 34-5. Obstructing fire hydrant.
- Sec. 34-6. Open air fires.
- Sec. 34-7. False alarms.
- Sec. 34-8. Bonfires.
- Sec. 34-9. Fire in street prohibited.
- Sec. 34-10. Inspection and correction of fire hazards.
- Sec. 34-11. Regulations governing fire station.
- Sec. 34-12. Driving over fire hose.
- Sec. 34-13. Fireworks—Sale, storage and display.
- Sec. 34-14. Same—Setting off.
- Secs. 34-15—34-30. Reserved.

#### Article II. Fire Department

- Sec. 34-31. Officers of fire department.
- Sec. 34-32. Fire chief and assistants to attend fires.
- Sec. 34-33. Authority of fire chief.
- Sec. 34-34. Obedience to orders of chief at fire.
- Sec. 34-35. Interference with commanding officer at fire.
- Sec. 34-36. Turning off electric current.
- Sec. 34-37. Reporting injury to equipment or other violations.

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\*Charter reference—Enumeration of powers, § 7.

Cross reference—Buildings and building regulations, ch. 22.

State law references—Forest resources and the department of forestry, Code of Virginia, § 10.1-1100 et seq.; removal, repair, etc., of dangerous structures, Code of Virginia, § 15.2-906; smoke detectors, Code of Virginia, § 15.2-922; appropriations, loans for voluntary firefighting organizations, rescue squads, etc., Code of Virginia, § 15.2-953 et seq.; explosive and inflammable substances, fireworks, Code of Virginia, § 15.2-1113; fuel-burning equipment, Code of Virginia, § 15.2-1116; regulation of the making of fires, Code of Virginia, § 15.2-1118; false fire alarms, Code of Virginia, § 18.2-212; fire protection generally, Code of Virginia, title 27; furnishing fire protection beyond territorial limits, Code of Virginia, § 27-1 et seq.; fire/EMS departments and fire/EMS companies, Code of Virginia, § 27-6.1 et seq.; ordinances as to fire/EMS departments, etc., Code of Virginia, § 27-14; local fire marshals, Code of Virginia, § 27-30 et seq.; relief for firefighters and dependents, Code of Virginia, § 27-39 et seq.; mobilization of firefighters during state of war, Code of Virginia, § 44-152 et seq.; explosives, Code of Virginia, § 59.1-137 et seq.

## ARTICLE I. IN GENERAL

**Sec. 34-1. 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:

*Fireworks* means any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known as fireworks, and which explodes, rises into the air or travels laterally, or fires projectiles into the air.

**Cross reference**—Definitions generally, § 1-2.

**State law reference**—Similar provisions, Code of Virginia, § 27-95.

**Sec. 34-2. Congregating in streets at fires; interference with fire department.**

It shall be unlawful for persons to congregate in the streets or squares next to a fire, so as to interfere with the work of the fire department, or for any person to interfere with any member of the fire department or obstruct its work in any way at or during a fire or while answering an alarm. The chief of police shall respond to alarms of fire and prevent any obstruction to the work of the firefighters from spectators or any other source.

(Code 1950, ch. 7, § 8)

**Cross reference**—Streets, sidewalks and other public places, ch. 58.

**Sec. 34-3. Driving vehicle through street where department fighting fire.**

It shall be unlawful for any person to drive a vehicle through any part of a street or square in or upon which the fire department is assembled for the purpose of extinguishing a fire.

(Code 1950, ch. 7, § 9)

**Cross references**—Streets, sidewalks and other public places, ch. 58; traffic and vehicles, ch. 66.

**Sec. 34-4. Turning on fire hydrant.**

(a) *Restricted use of fire hydrants.* It shall be unlawful for any person to turn on the water at any fire hydrant of the town except in case of fire or at the direction of the town manager or fire chief or the officer in charge, or by an employee of the town in the regular discharge of his duties.

(b) *Penalty.* Any person who violates this section shall be guilty of a class 4 misdemeanor.  
(Code 1950, ch. 7, § 11)

**Sec. 34-5. Obstructing fire hydrant.**

It shall be unlawful for any person to place any vehicle or obstruction within 15 feet of any fire hydrant, or to obstruct the sight of the fire hydrant by hitching, placing building material, boxes, cans or in any manner whatsoever obstructing the sight, the easy approach to or the convenient use of the fire hydrant by the fire department.

(Code 1950, ch. 7, § 12)



**Sec. 34-6. Open air fires.**

It shall be unlawful for any person in the town to burn excelsiors, rubbish, trash, or grass fields that may be dangerous or offensive without first notifying the town administration and the fire department.

(Code 1950, ch. 7, § 13)

**Sec. 34-7. False alarms.**

It shall be unlawful for any person willfully or wantonly to give a false alarm of fire in the town.

(Code 1950, ch. 7, § 15)

**Sec. 34-8. Bonfires.**

Before any person shall light any bonfire, a written permit shall be obtained from the chief of the fire department or his assistant.

(Code 1950, ch. 7, § 17)

**Sec. 34-9. Fire in street prohibited.**

No person shall build a fire in any street in the town.

(Code 1950, ch. 7, § 18)

**Cross reference—**Streets, sidewalks and other public places, ch. 58.

**Sec. 34-10. Inspection and correction of fire hazards.**

All chimneys, flues, stoves, stovepipes, smokestacks, roofs and buildings and premises in the town shall be kept in a safe condition free from danger from fires. The fire chief may inspect premises in the town as often as he or the town manager deems necessary and shall place any dangerous structure in a safe condition at the owner's expense, or at the tenant's expense, or shall notify the owner or tenant to put the structure in a safe condition. Each day such condition may be allowed to remain in an improper condition after notice to the owner or tenant to correct the condition shall constitute a separate offense.

(Code 1950, ch. 7, § 19)

**Sec. 34-11. Regulations governing fire station.**

(a) *Disorderly conduct prohibited.* There shall be no disorderly conduct in and around the fire house or municipal building.

(b) *Enforcement of regulations pertaining to town property.* The police department of the town is authorized to enforce all ordinances and regulations pertaining to town properties and the use thereof.

(Code 1950, ch. 7, § 20)

**Sec. 34-12. Driving over fire hose.**

It shall be unlawful, without the consent of the fire department official in command, for the driver of any vehicle to drive over any unprotected hose of a fire department laid down for use at any fire or alarm of fire.

(Code 1950, ch. 7, § 10)

**Cross reference**—Traffic and vehicles, ch. 66.

**State law reference**—Similar provisions, Code of Virginia, § 46.2-922.

**Sec. 34-13. Fireworks—Sale, storage and display.**

It shall be unlawful for any person to sell, store or display fireworks of any description in the town.

(Code 1950, ch. 7, § 25)

**Sec. 34-14. Same—Setting off.**

It shall be unlawful for anyone to explode or set off any fireworks on the streets of the town.

(Code 1950, ch. 7, § 26)

**Secs. 34-15—34-30. Reserved.**

**ARTICLE II. FIRE DEPARTMENT****Sec. 34-31. Officers of fire department.**

(a) *Appointment.* The officers duly elected by the members of the fire department shall then be appointed by the council before their election becomes official. The officers of the fire department must be bonafide residents of the town or reside or be employed within a four-mile radius of the town. Any officer of the fire department may be removed from office in the manner set forth in subsection (b) of this section.

(b) *Impeachment.* Any officer of the department, for the abuse of his authority or misconduct in his office, may be impeached therefor and removed from his office by a two-thirds vote of active members at any regular meeting. The charge against him must be made in writing and be signed by at least three names of active members, and be filed with the secretary at least one month before any vote shall be taken upon it, and a copy of such charge shall be served upon him by the secretary at least two weeks before such vote shall be taken.

(Code 1950, ch. 7, § 1)

**Cross reference**—Officers and employees, § 2-61 et seq.

**Sec. 34-32. Fire chief and assistants to attend fires.**

When a fire breaks out in the town or county, whenever possible the fire chief and/or his assistants shall immediately go to the place of such fire with necessary equipment, and carry with them suitable badges of their office, and shall endeavor to extinguish such fire.

(Code 1950, ch. 7, § 2)

**Sec. 34-33. Authority of fire chief.**

(a) *Command over assistants.* At any fire, the fire chief shall have command over his assistants and over all other persons who may be present, and may appoint the stations and operations of the companies with their engines, and of all others, for the purpose of extinguishing the fire, removing things from any building on fire or in danger thereof, guarding the building, and suppressing all tumult and disorder.

(b) *Sounding of alarm.* The fire chief shall have the authority to authorize the sounding of the alarm to assemble the members of the department in case of emergencies and drills.  
(Code 1950, ch. 7, § 3)

**Sec. 34-34. Obedience to orders of chief at fire.**

If any person at a fire refuses or neglects to obey any order duly given by the fire chief or his assistant in command, he shall be guilty of a violation of this Code.  
(Code 1950, ch. 7, § 4)

**Sec. 34-35. Interference with commanding officer at fire.**

Any person who shall, at a fire, obstruct or interfere with, or attempt to intimidate, any commanding officer of the fire department in the discharge of his duties, shall be guilty of a violation of this Code.  
(Code 1950, ch. 7, § 5)

**Sec. 34-36. Turning off electric current.**

During any fire the fire chief or any of his assistants may order any electric light or power company to cut off the electricity from its wires, whenever it may be considered necessary to preserve life or property, and it shall be unlawful for any of such companies to maintain current on its wires after receiving such order.  
(Code 1950, ch. 7, § 6)

**Sec. 34-37. Reporting injury to equipment or other violations.**

It shall be the duty of all members of the fire department to report any person defacing or injuring any apparatus or equipment of such department, or in any manner violating any regulation or law pertaining to the fire department.  
(Code 1950, ch. 7, § 7)

Chapters 35—37

**RESERVED**

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## Chapter 38

### HEALTH AND SANITATION\*

#### Article I. In General

- Sec. 38-1. Unwholesome food and drink.
- Sec. 38-2. Sanitary requirements for restaurants and public eating places.
- Sec. 38-3. Slops or discharges flowing into street or upon adjacent premises.
- Sec. 38-4. Unlawful disposition of waste.
- Sec. 38-5. Water in cellars.
- Sec. 38-6. Mosquito control.
- Sec. 38-7. Conditions conducive to breeding flies.
- Sec. 38-8. Permit required to operate certain businesses.
- Sec. 38-9. Leaving wells or pits open or unenclosed.
- Sec. 38-10. Right of entry for enforcement of chapter.
- Sec. 38-11. Obstruction of inspections; refusal to abate insanitary condition.
- Secs. 38-12—38-30. Reserved.

#### Article II. Nuisances

- Sec. 38-31. Nuisance defined.
- Sec. 38-32. Powers and duties of town manager as to nuisances.
- Sec. 38-33. Abatement of nuisance—Notice generally.
- Sec. 38-34. Same—Notice by publication.
- Sec. 38-35. Same—By town; lien.
- Secs. 38-36—38-60. Reserved.

#### Article III. Weeds and Debris

- Sec. 38-61. Definitions.
- Sec. 38-62. Where prohibited generally.
- Sec. 38-63. Notice of violation; town may remove weeds or debris when owner fails to do so.

\*Charter reference—Enumeration of powers, § 7.

Cross references—Animals, ch. 18; environment, ch. 30; solid waste, ch. 54; utilities, ch. 70.

State law references—Food and drink generally, Code of Virginia, § 3.1-361 et seq.; certain local regulations pertaining to food and beverage containers prohibited, Code of Virginia, § 10.1-1425; authority of town to require cutting of weeds and removal of trash, Code of Virginia, § 15.2-901; regulation of well covers, Code of Virginia, § 18.2-318; inspection warrant for inspecting or testing for toxic substances, Code of Virginia, § 19.2-393 et seq.; health, Code of Virginia, title 32.1; restaurants, Code of Virginia, § 35.1-1 et seq.

## ARTICLE I. IN GENERAL

**Sec. 38-1. Unwholesome food and drink.**

No food or drink which is not wholesome or safe for human consumption shall be brought into the town or offered or held for sale therein. The town manager and chief of police may take from any place where food and drink are stored or kept or offered for sale samples of food and drink for analysis. The town manager may order condemned, removed or destroyed any food or drink which is found upon examination to be unwholesome or unfit for consumption.  
(Code 1950, ch. 9, § 1)

**Sec. 38-2. Sanitary requirements for restaurants and public eating places.**

It shall be unlawful for any person in the town to violate any sanitary regulation provided by or under the authority of state law for the conduct of restaurants and public eating places, either as the operator of any such establishment, or in the course of his employment therein.  
(Code 1950, ch. 9, § 2)

**Sec. 38-3. Slops or discharges flowing into street or upon adjacent premises.**

No slops from any premises nor the discharge from any kitchen sink, water closet, bathtub, or other like receptacle, shall be permitted by the owner or any occupant of premises in the town to flow into any street or sidewalk or upon the premises of any adjacent lot owner.  
(Code 1950, ch. 9, § 4)

**Sec. 38-4. Unlawful disposition of waste.**

No person in the town shall deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of drinking water or be accessible to flies or animals.  
(Code 1950, ch. 9, § 5)

**Sec. 38-5. Water in cellars.**

It shall be unlawful for the owner of any building in the town to allow water to accumulate in the cellar thereof, and the town manager shall give notice to the owner of any cellar in which water accumulates or stands to concrete or refill such cellar so as to prevent water from accumulating therein.  
(Code 1950, ch. 9, § 6)

**Sec. 38-6. Mosquito control.**

(a) *Collection of water restricted.* It shall be unlawful for the owner, agent, occupant or any person in control of any premises in the town to dig any hole wherein rain or filth may settle, or to cause, suffer or permit any collection of standing or flowing water in which mosquitoes

breed, or which is favorable to breeding of mosquitoes, on such premises, unless such collection of water is treated in a manner prescribed by the town manager so as to prevent the breeding of mosquitoes therein.

(b) *Forms of collection of water enumerated.* Collection of water to be considered as coming within the terms of subsection (a) of this section are those which are contained in ditches, ponds, pools, lakes, creeks, depressions, privy vaults, fountains, cisterns, tanks, wells, barrels, troughs, urns, cans, tubs, buckets, bottles, defective house gutters or any other container.  
(Code 1950, ch. 9, § 7)

**Sec. 38-7. Conditions conducive to breeding flies.**

No person shall suffer, permit or have upon any premises owned or leased by him any animal manure, privy, vault, cesspool, pit or like place, or any garbage, trash, litter, rags or other thing in which flies may breed or multiply, unless the place is securely protected against the entrance of flies.

(Code 1950, ch. 9, § 8)

**Sec. 38-8. Permit required to operate certain businesses.**

No slaughterhouse, distillery, soap factory, tannery, or other establishment of like offensive character, shall be conducted in the town without the consent in writing of the council. All applications for the such businesses shall be made to the council, and shall state with precision the nature and proposed location of the business.

(Code 1950, ch. 9, § 9)

**Sec. 38-9. Leaving wells or pits open or unenclosed.**

No person shall leave a well or other dangerous pit in the ground open or not properly and safely enclosed, on either private or public property.

(Code 1950, ch. 9, § 10)

**Sec. 38-10. Right of entry for enforcement of chapter.**

The town manager or chief of police may enter any premises or building in the town at any reasonable time for the purpose of enforcing the provisions of this chapter.

(Code 1950, ch. 9, § 11)

**Sec. 38-11. Obstruction of inspections; refusal to abate insanitary condition.**

It shall be unlawful for the owner, agent, occupant or any person in control of any building or premises to obstruct the town manager or chief of police in the inspection of such building or premises, or to refuse to abate any insanitary condition or nuisance when ordered so to do.

(Code 1950, ch. 9, § 12)

**Secs. 38-12—38-30. Reserved.**

## ARTICLE II. NUISANCES

**Sec. 38-31. Nuisance defined.**

Every condition or activity in the town which is offensive, or prejudicial to the health or general welfare of the residents, shall be deemed to be a nuisance, and where not so specified by law or ordinance, the town manager shall have the power and authority to determine that an activity or condition constitutes a nuisance as defined in this section.  
(Code 1950, ch. 9, § 14)

Cross reference—Definitions generally, § 1-2.

**Sec. 38-32. Powers and duties of town manager as to nuisances.**

The town manager, with the approval and consent of the council, is vested with authority to require the abatement of any and all conditions in the town which constitute a nuisance detrimental to the public health. The town manager shall cause all such nuisances to be abated, and, when necessary, shall advise the council to have instituted in the name of the town legal proceedings therefor and for the recovery of the expense incurred by the town in abating any nuisance.

(Code 1950, ch. 9, § 13)

**Sec. 38-33. Abatement of nuisance—Notice generally.**

Whenever a nuisance is found by the town manager to exist on premises in the town, it shall be his duty to serve notice on the person who created the nuisance or, if such person cannot be ascertained, upon the occupant, to cause such nuisance to be abated within 48 hours, and that if he fails so to do, the nuisance will be abated by the town at the expense of such person, occupant or owner, as the case may be. When such premises are unoccupied, such notice shall be served upon the owner thereof, if a resident of the town, and if not, then upon the owner's agent in charge of the premises or upon the owner by publication as provided in section 38-34.  
(Code 1950, ch. 9, § 15)

**Sec. 38-34. Same—Notice by publication.**

If the owner of such unoccupied land or premises is not a resident of the town, and has no agent in the town upon whom such notice may be served, the notice hereinabove required may be given publication by posting in not less than two public places within the town, and the cost of such publication, if any, shall be collected as part of the expense of effecting an abatement.  
(Code 1950, ch. 9, § 16)

**Sec. 38-35. Same—By town; lien.**

If a nuisance remains unabated after the expiration of the time specified in such notice, the town manager shall cause the nuisance to be abated or removed therefrom at the expense of such person, occupant or owner of the premises, as the case may be, and if abated at the expense of the owner, the expense of such abatement shall be a lien upon such premises, and shall be reported by the town manager to the treasurer, who shall collect the expense in the



manner in which taxes levied upon real estate are authorized to be collected. Such expense shall be docketed in a book kept for that purpose in the office of the treasurer, and indexed in the name of the person owning such estate or land at the time such lien was created. (Code 1950, ch. 9, § 17)

Secs. 38-36—38-60. Reserved.

### ARTICLE III. WEEDS AND DEBRIS

#### Sec. 38-61. Definitions.

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

*Debris* means cuttings of weeds, trash, junk, discarded motor vehicles or any other material which may provide a hiding place for snakes or rats, or anything or any condition which may be a fire menace or breeding place for mosquitoes or which gives off obnoxious or offensive odors.

*Discarded motor vehicle* means 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, engine 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 term "motor vehicles" shall be construed as any motor vehicle, trailer or semitrailer, as such are defined in Code of Virginia, § 46.2-100.

*Owner* means persons holding title to any land or lot in the town, lessees, tenants and principal occupants of any land or lot in the town or agents of persons holding titles of such land or lots, having care, custody, control or management of the land or lot.

*Weeds* means grass, weeds, bushes, poison ivy, poison oak, kudzu, invasive, non-native plant species or any other vegetable growth, other than trees, ornamental shrubbery, flowers and garden vegetables.

(Code 1950, ch. 9, § 18; Ord. of 3-24-1994)

Cross reference—Definitions generally, § 1-2.

#### Sec. 38-62. Where prohibited generally.

It shall be unlawful for any owner of any land or lot in the town abutting a street improved with curbs and gutters or within 100 feet of any other lot on which a residence has been erected and is occupied, to permit weeds standing more than 15 inches in height or any debris to remain upon such land or lot, or to remain upon any portion of the sidewalk, street or area between the property line of such land and the curb of the street adjacent to such land, or to remain between the property line and the middle of the alley adjacent to the property line of such land.

(Code 1950, ch. 9, § 19)

**Sec. 38-63. Notice of violation.**

Whenever it shall come to the knowledge of the town manager or his duly authorized representative that there exists upon any land or lot in the town any violation of this article, it shall be the duty of the town manager or his duly authorized representative to notify the owner of such violation. Should such owner fail, refuse or neglect to comply with such notice within ten days, the town manager or his duly authorized representative shall cause the weeds to be cut and debris removed therefrom at the expense of the owner.

(Code 1950, ch. 9, § 3, 20)

**Sec. 38-64. Liens; penalties; subsequent violations.**

(a) *Collection of unpaid charges; liens.* Every charge authorized by this article with which the owner of any such property shall have 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 Code of Virginia, § 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.

(b) *Penalty for violations.* Violations of this article shall be subject to a civil penalty, not to exceed \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period.

(c) *Subsequent violations.* Except as provided in this subsection, subsection (b) shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. However, such violations shall be a class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

(Code 1950, ch. 9, §§ 20, 21)

State law reference—Similar provisions, Code of Virginia, § 15.2-901.

Chapters 39—41

**RESERVED**

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Chapter 42

**LAW ENFORCEMENT\***

**Article I. In General**

- Sec. 42-1. Arrest without warrant authorized in certain cases.  
Sec. 42-2. By whom fine or punishment imposed; fines to inure to use of town.  
Sec. 42-3. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.  
Sec. 42-4. Procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.  
Sec. 42-5. Persons aiding escape of prisoner or child.  
Secs. 42-6—42-30. Reserved.

**Article II. Chief of Police**

- Sec. 42-31. Powers and duties generally.  
Sec. 42-32. Arrest for or report of violations of ordinances.  
Sec. 42-33. Refusal to aid officer in execution of his office.

\*Charter reference—Use of county jail, § 9.

Cross references—Administration, ch. 2; offenses and miscellaneous provisions, ch. 46; traffic and vehicles, ch. 66.

State law references—Police and public order, Code of Virginia, § 15.2-1700 et seq.; powers and duties of police force, Code of Virginia, § 15.2-1704; powers of governor as to local law enforcement agencies, Code of Virginia, § 18.2-410.

## ARTICLE I. IN GENERAL

## Sec. 42-1. Arrest without warrant authorized in certain cases.

(a) *Power of arrest.* Members of the duly constituted police force of the town may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

(b) *Watercraft or motor boat violations.* Any such officer may arrest without a warrant any person whom the officer has probable cause to suspect of operating a watercraft or motor boat (i) while intoxicated in violation of Code of Virginia, § 29.1-738(B) or (ii) in violation of an order issued pursuant to Code of Virginia, § 29.1-738.4, in his presence, and may thereafter transfer custody of the person suspected of the violation to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

(c) *Arrest upon suspicion of commission of crime.* Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in Code of Virginia, § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest.

(d) *Arrest of person charged in another jurisdiction.* Such officers may arrest, without a warrant, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

(e) *Arrest on misdemeanor warrant.* Such officers may arrest, without a warrant, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law enforcement agency within the commonwealth that a warrant for such offense is on file.

(f) *Arrests for misdemeanor not committed in presence of officers; summons.* Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of Code of Virginia, §§ 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of Code of Virginia, § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of Code of Virginia, § 18.2-282, or (v) destruction of property in violation of Code of Virginia, § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable

complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

(Code 1950, ch. 10, § 50.6)

State law reference—Similar provisions, Code of Virginia, § 19.2-81.

**Sec. 42-2. By whom fine or punishment imposed; fines to inure to use of town.**

(a) *Warrant issuance by town manager.* Any fine or other punishment prescribed for the violation of any ordinance of the town may be imposed upon warrant issued in the name of the town by the town manager, and in such other tribunal or court as may be prescribed by the laws of the state.

(b) *Payment of fines.* Fines collected for violations of town ordinances shall be paid promptly to the clerk of the circuit court who shall pay monthly into the treasury of the town.

(Code 1950, ch. 6, § 1)

State law reference—Similar provisions, Code of Virginia, § 16.1-69.48.

**Sec. 42-3. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.**

(a) *Generally.* Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within ten days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court may authorize the clerk to establish and approve the conditions of all deferred or installment payment agreements, pursuant to guidelines established by the court. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within ten days of sentencing, the court may assess a one-time fee not to exceed \$10.00 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to Code of Virginia, §§ 17.1-275.1, 17.1-275.2, 17.1-275.3 or 17.1-275.4. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection (b) or (c) of this section. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with section 42-4.

(b) *Payment of fines and costs required for participation in certain programs.* When a person sentenced to a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in Code of Virginia, §§ 53.1-60, 53.1-131, 53.1-131.1 or 53.1-131.2 to either make full payment or make payments

in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. Any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

- (1) Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
- (2) Pay any fines, restitution or costs as ordered by the court;
- (3) Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in Code of Virginia, § 53.1-150; and
- (4) Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

(c) *Credit for performance of community service work.* The court shall establish a program to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

(d) *Suspension of driving privileges for failure to pay fines or costs.* When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to section 42-4 and his privilege to operate a motor vehicle will be suspended pursuant to Code of Virginia, § 46.2-395.

(e) *Other remedies.* The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the tax commissioner to act in accordance with Code of Virginia, § 19.2-349 to collect all fines, costs, forfeitures and penalties.

(Code 1950, ch. 6, § 2)

State law reference—Similar provisions, Code of Virginia, § 19.2-354.

**Sec. 42-4. Procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.**

(a) *Procedure generally.* When an individual obligated to pay a fine, costs, forfeiture, restitution or penalty defaults in the payment or any installment payment, the court upon the motion of the attorney for the town or for the commonwealth in the event of a conviction of a

violation of a local law or ordinance, or upon its own motion, may require him to show cause why he should not be confined in jail or fined for nonpayment. A show cause proceeding shall not be required prior to issuance of a *capias* if an order to appear on a date certain in the event of nonpayment was issued pursuant to section 42-3(a) and the defendant failed to appear.

(b) *Excusable default.* Following the order to show cause or following a *capias* issued for a defendant's failure to comply with a court order to appear issued pursuant to section 42-3(a), unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, or unless the defendant shows that any failure to appear was not attributable to an intentional refusal to obey the order of the court, the court may order the defendant confined as for a contempt for a term not to exceed 60 days or impose a fine not to exceed \$500.00. The court may provide in its order that payment or satisfaction of the amounts in default at any time will entitle the defendant to his release from such confinement or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such amounts.

(c) *Additional time for payment.* If it appears that the default is excusable under the standards set forth in subsection (b) of this section, the court may enter an order allowing the defendant additional time for payment, reducing the amount due or of each installment, or remitting the unpaid portion in whole or in part.

(d) *Alternative collection of fines.* Nothing in this section shall be deemed to alter or interfere with the collection of fines by any means authorized for the enforcement of money judgments rendered in favor of the town.

(Code 1950, ch. 6, § 2)

State law reference—Similar provisions, Code of Virginia, § 19.2-358.

#### **Sec. 42-5. Persons aiding escape of prisoner or child.**

When a person is lawfully detained as a prisoner in any jail or prison or held in custody, or when a child is placed in a local juvenile detention home, or committed to the state department of juvenile justice in any juvenile correctional center, or reception and diagnostic center for children or held in custody, if any person: (i) conveys anything into the jail, prison, juvenile detention home, juvenile correctional center or reception and diagnostic center for children with intent to facilitate a person's escape therefrom; (ii) in any way aids such prisoner or child to escape, or in an attempt to escape, from such jail, prison, juvenile detention home, juvenile correctional center, reception and diagnostic center for children or custody; or (iii) forcibly takes, or attempts to take him therefrom, such person, if the prisoner or child was not detained on conviction, commitment or charge of felony, or if the taking or escape is not effected, shall be guilty of a class 1 misdemeanor.

(Code 1950, ch. 6, § 10)

State law reference—Similar provisions, Code of Virginia, § 18.2-473.

**Secs. 42-6—42-30. Reserved.**



**ARTICLE II. CHIEF OF POLICE\***

**Sec. 42-31. Powers and duties generally.**

The chief of police shall have the powers, perform the duties and be subject to the liabilities prescribed by the laws of the state for sergeants of towns. The chief of police shall perform such other duties as the council may direct.

(Code 1950, ch. 2, § 28)

**Sec. 42-32. Arrest for or report of violations of ordinances.**

The chief of police shall arrest or report to the town manager any person guilty of a violation of the ordinances of the town.

(Code 1950, ch. 2, § 29)

**Sec. 42-33. Refusal to aid officer in execution of his office.**

If any person on being required by any sheriff or other officer refuses or neglects to assist him: (i) in the execution of his office in a criminal case, (ii) in the preservation of the peace, (iii) in the apprehending or securing of any person for a breach of the peace, or (iv) in any case of escape or rescue, he shall be guilty of a class 2 misdemeanor.

(Code 1950, ch. 2, § 30)

State law reference—Similar provisions, Code of Virginia, § 18.2-463.

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\*Cross reference—Officers and employees, § 2-61 et seq.

Chapters 43—45

**RESERVED**

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CD43:1

## Chapter 46

### OFFENSES AND MISCELLANEOUS PROVISIONS\*

#### Article I. In General

- Sec. 46-1. Punishment for using abusive language to another.  
Sec. 46-2. Fornication.  
Sec. 46-3. Adultery defined; penalty.  
Sec. 46-4. Assault and battery.  
Sec. 46-5. Begging and soliciting alms.  
Sec. 46-6. Carrying concealed weapons.  
Sec. 46-7. Injuring, etc., any property, monument, etc.  
Sec. 46-8. Discharging firearms; throwing missiles, shooting; use of bow and arrows—Generally.  
Sec. 46-9. Same—Exception.  
Sec. 46-10. Disturbing public performance or assembly.  
Sec. 46-11. False publications.  
Sec. 46-12. Disorderly conduct in public places.  
Sec. 46-13. Gaming.  
Sec. 46-14. Removing baggage or leaving without agreement as to credit from hotel, restaurant or boardinghouse.  
Sec. 46-15. Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.  
Sec. 46-16. "Obscene" defined.  
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Sec. 46-18. Production, publication, sale, possession, etc., of obscene items.  
Sec. 46-19. Indecent or obscene conduct.  
Sec. 46-20. Minors under 18 years of age—Encouragement to commit crime; contributing to delinquency.  
Sec. 46-21. Same—Purchase of secondhand articles from.  
Sec. 46-22. Injuries to churches, church property, cemeteries, burial grounds, etc.; penalty.  
Sec. 46-23. Prostitutes loitering or soliciting.  
Sec. 46-24. Schools—Loitering near; disturbing pupils.  
Sec. 46-25. Sleeping in automobiles.  
Sec. 46-26. Expecterating in public places.  
Sec. 46-27. Interfering or tampering with telephone or lighting equipment.  
Sec. 46-28. Trespassing.  
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#### Article II. Bad Checks

- Sec. 46-61. Issuing bad checks, etc., larceny.  
Sec. 46-62. Presumption of intent.  
Secs. 46-63—46-90. Reserved.

\*Charter reference—Enumeration of powers, § 7.

Cross reference—Law enforcement, ch. 42.

State law references—Crimes and offenses generally, Code of Virginia, title 18.2; local ordinances prohibiting obscenity, Code of Virginia, § 18.2-389.

## HALIFAX TOWN CODE

### Article III. Shoplifting

- Sec. 46-91. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts.
- Sec. 46-92. Punishment for conviction under section 46-91.
- Sec. 46-93. Liability upon conviction under section 46-91.
- Sec. 46-94. Exemption from civil liability in connection with arrest or detention of suspected person.
- Sec. 46-95. Detention of suspected shoplifter.
- Sec. 46-96. "Agents of the merchant" defined.
- Sec. 46-97. Use of photographs as evidence in certain larceny prosecutions.
- Secs. 46-98—46-120. Reserved.

### Article IV. Curfew for Minors

- Sec. 46-121. Person under 18 years of age.
- Sec. 46-122. Responsibility of parents.
- Sec. 46-123. Duties of enforcement officers.
- Sec. 46-124. Penalties.

## ARTICLE I. IN GENERAL

**Sec. 46-1. Punishment for using abusive language to another.**

If any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a class 3 misdemeanor.

(Code 1950, ch. 10, § 1)

State law reference—Similar provisions, Code of Virginia, § 18.2-416.

**Sec. 46-2. Fornication.**

Any person, not being married, who voluntarily shall have sexual intercourse with any other person, shall be guilty of fornication, punishable as a class 4 misdemeanor.

(Code 1950, ch. 10, § 2)

State law reference—Similar provisions, Code of Virginia, § 18.2-344.

**Sec. 46-3. Adultery defined; penalty.**

Any person, being married, who voluntarily shall have sexual intercourse with any person not his or her spouse shall be guilty of adultery, punishable as a class 4 misdemeanor.

(Code 1950, ch. 10, § 2)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 18.2-365.

**Sec. 46-4. Assault and battery.**

(a) *Generally.* Any person who commits a simple assault or assault and battery shall be guilty of a class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, 30 days of which shall not be suspended, in whole or in part.

(b) *Assault and battery on teacher, principal or guidance counselor.* If any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a class 1 misdemeanor and the sentence of such person upon conviction shall include a mandatory, minimum sentence of 15 days in jail, two days of which shall not be suspended in whole or in part. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to Code of Virginia, § 18.2-308.1, the person shall serve a mandatory, minimum sentence of confinement of six months which shall not be suspended in whole or in part.

(c) *Definitions.* As used in this section:

*School security officer* means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

(d) *Exceptions for actions of teachers, principals, guidance counselors or school security officers.* Simple assault or assault and battery shall not be construed to include the use of, by any teacher, principal, assistant principal, guidance counselor, or school security officer, in the course and scope of his acting official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control. In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, principal, assistant principal, guidance counselor, or school security officer at the time of the event.

(Code 1950, ch. 10, § 6)

State law reference—Similar provisions, Code of Virginia, § 18.2-57.

#### Sec. 46-5. Begging and soliciting alms.

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

*Accosting* means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

*Ask, beg or solicit* means and includes, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

*Forcing oneself upon the company of another* means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Areas where soliciting prohibited.* It shall be unlawful for any person to solicit money or other things of value:

- (1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- (2) Within 15 feet of the entrance to or exit from any public toilet facility;
- (3) Within 15 feet of an automated teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- (5) In any public transportation vehicle, or in any bus station, or within 15 feet of any bus stop or taxi stand;
- (6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
- (7) From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business, or athletic facility; or
- (8) Within 15 feet of the entrance or exit from a building, public or private, including, but not limited to, any residence, business, or athletic facility.

(c) *Unlawful methods of soliciting.* It shall be unlawful for any person to solicit money or other things of value:

- (1) By accosting another; or
- (2) By forcing oneself upon the company of another.

(Code 1960, ch. 10, § 10)

Cross reference—Peddlers and solicitors, ch. 50.

#### Sec. 46-6. Carrying concealed weapons.

If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a class 1 misdemeanor. In addition to any other penalties provided by law for

violation of this section, such weapon shall be forfeited and sold, and the proceeds paid over, as provided by law. No person shall be punishable under this section who has been granted ~~permission to carry concealed weapons in accordance with state law,~~  
(Code 1950, ch. 10, § 12)

State law reference—Similar provisions, Code of Virginia, § 18.2-308.

**Sec. 46-7. Injuring, etc., any property, monument, etc.**

(a) *Injuring property or monuments prohibited.* If any person unlawfully destroys, defaces, damages or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages or removes without the intent to steal, any monument or memorial for war veterans described in Code of Virginia, § 15.2-1812, any monument erected for the purpose of marking the site of any engagement fought during the War between the States, or for the purpose of designating the boundaries of any city, town, tract of land, or any tree marked for that purpose, he shall be guilty of a class 3 misdemeanor; provided that the court may, in its discretion, dismiss the charge if the locality or organization responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

(b) *Penalty and restitution.* If any person intentionally causes such injury, he shall be guilty of a class 1 misdemeanor if the value of or damage to the property, memorial or monument is less than \$1,000.00. The amount of loss caused by the destruction, defacing, damage or removal of such property, memorial or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

(Code 1950, ch. 10, § 19)

State law reference—Similar provisions, Code of Virginia, § 18.2-137.

**Sec. 46-8. Discharging firearms; throwing missiles, shooting; use of bow and arrows—  
Generally.**

(a) *General prohibition.* No person shall in any street or public place recklessly or intentionally throw any stone, ball, or missile of any character in such a manner as to cause bodily injury to any person or damage to the property of any person, or discharge anywhere within the town limits any firearm, gravel shooter, air rifle or air gun, or discharge an arrow from a bow, except upon a properly located and constructed gunnery or archery range, approved by the town manager or town manager's designee, as hereinafter provided. The provisions of this subsection shall not apply to peace officials or members of the armed forces of this state or the United States while acting in performance of their duties as such.

(b) *Discharge of firearms, gravel shooter, air rifle, etc., by minor.* No minor under the age of 18 shall shoot or discharge any firearm, gravel shooter, air rifle, air gun or arrow from a bow, except upon a properly located, constructed and approved gunnery or archery range, and then only under the immediate supervision of an adult.



## CHAPTER 46

(Originally adopted 11-12-2002; amended 02-09-2010)

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### **Section 46-8. Discharging Firearms; throwing missiles, shooting; use of bow and arrows - Generally.**

(a) *General prohibition.* No person shall in any street or public place recklessly or intentionally throw any stone, ball, or missile of any character in such a manner as to cause bodily injury to any person or damage to the property of any person, or discharge anywhere within the town limits any firearm, gravel shooter, air rifle or air gun, or discharge an arrow from a bow, except upon a properly located and constructed gunnery or archery range, approved by the town manager or town manager's designee, as hereinafter provided. The above provision shall not apply to peace officials or members of the armed forces of this state or the United States while acting in performance of their duties as such.

(b) *Discharge of firearms, gravel shooter, air rifle, etc., by minor.* No minor under the age of eighteen (18) shall shoot or discharge any firearm, gravel shooter, air rifle, air gun or arrow from a bow, except upon a properly located, constructed and approved gunnery or archery range, and then only under the immediate supervision of an adult.

(c) *Exception for certain bows and arrows.* Nothing herein shall apply to the use of a bow ten (10) pounds or less of draw weight with a blunt rubber-tipped arrow.

(d) *Penalty.* Any person violating the provisions of section 46-9 and section 49-9.1 shall be guilty of a class I misdemeanor. (Code 1950, ch. 10, § 20)

### **Section 46-9. Same - Exception.**

(a) *Discharging shotguns.* The provisions of section 46-8 shall not apply to shotguns discharging pellets using number 5, 6, 7, 8, or 9 shot under the following conditions:

(1) On land that is twenty-five (25) acres or more of contiguous area;

(2) Used primarily for agricultural or silvicultural purposes; and

(3) The landowner has applied for an annual permit from the town manager, or town manager's designee, to use his property for this purpose.

(b) *Conditions and limitations.* A permit shall be granted by the town manager, or town manager's designee, if the application meets the requirements of subsection (a) of this section, and the permittee agrees to adhere to the following conditions and limitations:

(1) Any person or persons discharging a shotgun as set forth above shall, at all times while engaged in such activity, have in their possession written permission from the landowner to discharge such weapon on the premises.

(2) All hunting shall be in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of the Virginia Department of Game and Inland Fisheries.

(3) 000 to #4 buckshot may be used in shotguns only when hunting deer from an elevated position located at least twelve (12) feet above the ground.

(4) No person or persons shall hunt deer in the town by the use of a dog or dogs.

(5) No person shall discharge a shotgun within one hundred (100) yards of any property line, building, dwelling, street, sidewalk, alley, roadway or public land or public place within the town limits.

(6) Any person engaging in hunting in the town must comply with any conditions or restrictions imposed by the town manager or town manager's designee as a part of the permit.

(7) Any person engaging in deer hunting must dispose of deer carcasses appropriately.

(8) Any person obtaining authorization from a game warden pursuant to Section 29.1-529 of the Code of Virginia permitting the killing of deer must comply with the provisions of this section and all killing of deer must comply with any conditions imposed by the town manager or town manager's designee as part of the permit.  
(Code 1950, ch. 10, § 20.1)

## CHAPTER 46

(Adopted 02-09-2010)

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### Section 46-9.1. Same - Exception.

(a) *Bow hunting.* The provisions of section 46-8 shall not apply when discharging an arrow from a bow for the purposes of deer hunting within the town limits during the Urban Archery Season, Early Special Urban Archery Season, the Early Special Archery Season, the Full General Firearms Deer Season or the Late Special Archery Season, as designated in regulations promulgated by the Virginia Department of Game and Inland Fisheries, under the following conditions:

(1) The landowner has applied for an annual permit from the town manager, or town manager's designee, to use his property for this purpose.

(b) *Conditions and limitations.* A permit shall be granted by the town manager, or town manager's designee, if the application meets the requirements of subsection (a) of this section, and the permittee agrees to adhere to the following conditions and limitations:

(1) Any person or persons discharging a bow as set forth above shall, at all times, while engaged in such activity, have in his possession written permission from the landowner to discharge such a weapon on his premises; and

(2) All hunting shall be in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of the Virginia Department of Game and Inland Fisheries.

(3) Discharge of a bow will be from an elevated position located at least twelve (12) feet above the ground.

(4) No person shall discharge a bow from, over or across any street, sidewalk, alley, roadway or public land or public place within the town limits or toward any building or dwelling in such a manner that an arrow may strike it nor shall a person discharge a bow over or across the private property of another without permission.

(5) No person shall hunt deer in the town by use of dog or dogs.

(6) Any person engaging in deer hunting in the town must comply with any conditions or restrictions imposed by the town manager or town manager's designee as a part of the permit.

(7) Any person engaging in deer hunting must dispose of deer carcasses appropriately.

(9) Any person obtaining authorization from a game warden pursuant to Section 29.1-529 of the Code of Virginia permitting the killing of deer must comply with the provisions of this section and all killing of deer must comply with any conditions imposed by the town manager or town manager's designee as part of the permit.

(c) *Exception for certain bows and arrows.* Nothing in this section shall apply to the use of a bow ten pounds or less of draw weight with a blunt rubber-tipped arrow.

(d) *Penalty.* Any person violating the provisions of this section or section 46-9 shall be guilty of a class 1 misdemeanor.  
(Code 1950, ch. 10, § 20)

**Sec. 46-9. Same—Exception.**

(a) *Discharging shotguns.* The provisions of section 46-8 shall not apply to shotguns discharging pellets using number 5, 6, 7, 8, or 9 shot under the following conditions:

- (1) On land that is 25 acres or more of contiguous area owned in whole or part by one owner;
- (2) Used primarily for agricultural or silvicultural purposes; and
- (3) The landowner has applied for an annual permit from the town manager, or town manager's designee, to use his property for this purpose.

(b) *Conditions and limitations.* A permit shall be granted by the town manager, or town manager's designee, if the application meets the requirements of subsection (a) of this section, and the permittee agrees to adhere to the following conditions and limitations:

- (1) Any person or persons discharging a shotgun as set forth above shall, at all times, while engaged in such activity, have in their possession written permission from the landowner to discharge such weapon on the premises.
- (2) All hunting shall be in compliance with the laws of the state and the rules and regulations of the state board of game and inland fisheries.
- (3) 00 to #4 buckshot may be used in shotguns only when hunting deer from an elevated position located at least 12 feet above the ground.
- (4) No person or persons shall hunt deer in the town by the use of a dog or dogs.
- (5) No person shall discharge a shotgun within 100 yards of any property line, building, dwelling, street, sidewalk, alley, roadway or public land or public place within the town limits.
- (6) Any person engaging in hunting in the town must comply with any conditions or restrictions imposed by the town manager or town manager's designee as a part of the permit.

(Code 1950, ch. 10, § 20.1)

**Sec. 46-10. Disturbing public performance or assembly.**

No person shall disturb any public performance or assembly given or held in the town or otherwise interfere with any such performance by any disorderly conduct.

(Code 1950, ch. 10, § 22)

**Sec. 46-11. False publications.**

It shall be unlawful for any person in the town knowingly and wilfully to state, deliver or transmit by any means whatever to any publisher, or employee or a publisher, of any newspaper, magazine, or other publication, any false an untrue statement concerning any person with intent that the statement shall be published.

(Code 1950, ch. 10, § 24)

**Sec. 46-12. Disorderly conduct in public places.**

(a) *Generally.* A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed;
- (2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any meeting of the governing body of any political subdivision of this state or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or
- (3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

(b) *Conduct not deemed to include other punishable acts.* However, the conduct prohibited under subsections (a)(1), (a)(2) or (a)(3) of this section shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter.

(c) *Ejection of persons violating section.* The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

(d) *Penalty.* A person violating any provision of this section shall be guilty of a class 1 misdemeanor.

(Code 1950, ch. 10, § 21)

**Cross reference**—Streets, sidewalks and other public places, ch. 58.

**State law reference**—Similar provisions, Code of Virginia, § 18.2-415.

**Sec. 46-13. Gaming.**

All of the provisions and requirements of the laws of the state in regard to gaming are hereby adopted as and made a part of this chapter as fully as though set out in this section, and it shall be unlawful for any person to violate such provisions and requirements within the town.

(Code 1950, ch. 10, § 27)

**Sec. 46-14. Removing baggage or leaving without agreement as to credit from hotel, restaurant or boardinghouse.**

It shall be unlawful for any person without having an express agreement for credit, to leave his hotel, restaurant or boardinghouse in the town, or to remove any of his baggage therefrom, until all charges are paid in full.

(Code 1950, ch. 10, § 28)

**Sec. 46-15. Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.**

(a) *Generally.* It shall be unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such bawdy place. Each and every day such bawdy place shall be kept, resided in or visited, shall constitute a separate offense. In a prosecution under this section the general reputation of the place may be proved.

(b) *Definition.* As used in this Code, the term "bawdy place" shall mean any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution.

(Code 1950, ch. 10, § 29)

**Cross reference—**Definitions generally, § 1-2.

**State law reference—**Similar provisions, Code of Virginia, § 18.2-347.

**Sec. 46-16. "Obscene" defined.**

The word "obscene" where it appears in this shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

**Cross reference—**Definitions generally, § 1-2.

**State law reference—**Similar provisions, Code of Virginia, § 18.2-372.

**Sec. 46-17. Obscene items enumerated.**

Obscene items shall include:

- (1) Any obscene book;

- (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture, videotape recording;
- (3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds; or
- (4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in a perceivable form.

(Code 1950, ch. 10, § 36)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

**Sec. 46-18. Production, publication, sale, possession, etc., of obscene items.**

(a) *Unlawful activities.* It shall be unlawful for any person knowingly to:

- (1) Prepare any obscene item for the purposes of sale or distribution;
- (2) Print, copy, manufacture, produce, or reproduce any obscene item for purposes of sale or distribution;
- (3) Publish, sell, rent, lend, transport in intrastate commerce, or distribute or exhibit any obscene item, or offer to do any of these things; or
- (4) Have in his possession with intent to sell, rent, lend, transport, or distribute any obscene item. Possession in public or in a public place of any obscene item as defined in this article shall be deemed prima facie evidence of a violation of this section.

(b) *Definition.* For the purposes of this section, the term "distribute" shall mean delivery in person, by mail, messenger or by any other means by which obscene items as defined in this article may pass from one person, firm or corporation to another.

(Code 1950, ch. 10, § 36)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

**Sec. 46-19. Indecent or obscene conduct.**

(a) *Obscene display or exposure.* Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(b) *Obscene acts, writings or drawings.* It shall be unlawful for any person to do any obscene act in any public place or to utter or write obscene language or make obscene marks or drawings on any wall or other object in any public place within the town.

(Code 1950, ch. 10, § 30)

State law reference—Similar provisions, Code of Virginia, § 18.2-387.



**Sec. 46-20. Minors under 18 years of age—Encouragement to commit crime; contributing to delinquency.**

Any person in the town over 18 years of age who shall cause or encourage any child under the age of 18 years to violate any town ordinance, or who shall send, or cause any such child to go into any place for unlawful purpose, or who shall induce, cause, encourage or contribute towards neglect or delinquency of any such child shall be guilty of a violation of this Code. (Code 1950, ch. 10, § 31)

**Sec. 46-21. Same—Purchase of secondhand articles from.**

No person in the town shall buy or receive any secondhand builders' hardware, electrical light and gas fixtures, plumbing fixtures, bell and bell fixtures, lead or brass pipes, or any part of such fixtures or pipes from any minor. (Code 1950, ch. 10, § 32)

**Sec. 46-22. Injuries to churches, church property, cemeteries, burial grounds, etc.; penalty.**

(a) *Prohibited acts.* Any person who willfully or maliciously commits any of the following acts is guilty of a class 1 misdemeanor:

- (1) Destroys, removes, cuts, breaks, or injures any tree, shrub, or plant on any church property or within any cemetery or lot of any memorial or monumental association;
- (2) Destroys, mutilates, injures, or removes and carries away any flowers, wreaths, vases, or other ornaments placed within any church or on church property, or placed upon or around any grave, tomb, monument, or lot in any cemetery, graveyard, or other place of burial; or
- (3) Obstructs proper ingress to and egress from any church or any cemetery or lot belonging to any memorial or monumental association.

(b) *Exceptions; terms defined.* This section shall not apply to any work which is done by the authorities of a church or congregation in the maintenance or improvement of any church property or any burial ground or cemetery belonging to it and under its management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker or vault. For purposes of this section, the term "church" shall mean any place of worship, and the term "church property" shall mean any educational building or community center owned or rented by a church.

(Code 1950, ch. 10, § 47)

State law reference—Similar provisions, Code of Virginia, § 18.2-127.

**Sec. 46-23. Prostitutes loitering or soliciting.**

No prostitute shall loiter or solicit upon the streets or in any public place in the town at any time.

(Code 1950, ch. 10, § 37)

**Sec. 46-24. Schools—Loitering near; disturbing pupils.**

(a) *Loitering near school and disturbing pupils prohibited.* No person shall loiter near or enter upon the premises of any school in the town for the purpose of prying therein or of holding unauthorized or stealthy communication with the pupils thereof, nor shall any one accompany or follow the pupils of any school on the public streets without the permission of the teacher in charge of such pupils, nor shall any person otherwise interfere with or annoy such pupils.

(b) *Enforcement.* The officers of any school or any trustee of the any school residing in the town shall be clothed with the police authority, without pay, to aid in the enforcement of this section.

(Code 1950, ch. 10, § 38)

**Sec. 46-25. Sleeping in automobiles.**

It shall be unlawful for any person to use an automobile for sleeping in lieu of hotel, tourist cabin, boardinghouse, roominghouse or other similar accommodations, within the town.

(Code 1950, ch. 10, § 39)

**Cross reference—**Traffic and vehicles, ch. 66.

**Sec. 46-26. Expectorating in public places.**

(a) *Prohibition.* No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assemble, or upon the floor of any part of any public conveyance, or upon any sidewalk abutting on any public street, alley or lane of any town or city.

(b) *Penalty.* Any person violating any provision of this section shall be guilty of a class 4 misdemeanor.

(Code 1950, ch. 10, § 42)

**Cross reference—**Streets, sidewalks and other public places, ch. 58.

**State law reference—**Similar provisions, Code of Virginia, § 18.2-322.

**Sec. 46-27. Interfering or tampering with telephone or lighting equipment.**

No person shall interfere with, or in any way tamper with, any telephone, telephone wire or other property of any telephone company, or with any of the lights, electric wires or other property used in the lighting of the town.

(Code 1950, ch. 10, § 43)

**Sec. 46-28. Trespassing.**

No person shall trespass upon the property, real or personal, of another, or enter any vacant dwelling house, barn, stable, or other building without the consent of the owner.

(Code 1950, ch. 10, § 44)

**Secs. 46-29—46-60. Reserved.**

**ARTICLE II. BAD CHECKS****Sec. 46-61. Issuing bad checks, etc., larceny.**

(a) *Issuing bad checks prohibited.* Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company, or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny; and, if this check, draft, or order has a represented value of less than \$200.00, the person shall be guilty of a class 1 misdemeanor.

(b) *Definition.* The word "credit" as used in this section, shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

(c) *Making, drawing, uttering or delivering check, draft or order.* Any person making, drawing, uttering or delivering any such check, draft or order in payment as a present consideration for goods or services for the purposes set out in this section shall be guilty as provided in this section.

(Code 1950, ch. 10, §§ 7, 9)

State law reference—Similar provisions, Code of Virginia, § 18.2-181.

**Sec. 46-62. Presumption of intent.**

In any prosecution under section 46-61, the making or drawing or uttering or delivery of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or credit with such bank, banking institution, trust company or other depository unless such maker or drawer, or some one for him, shall have paid the holder thereof the amount due thereon, together with interest, and protest fees (if any), within five days after receiving written notice that such check, draft, or order has not been paid to the holder thereof.

(Code 1950, ch. 10, § 8)

**Secs. 46-63—46-90. Reserved.**

**ARTICLE III. SHOPLIFTING****Sec. 46-91. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts.**

Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the

goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than \$200.00, shall be guilty of petit larceny. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

(Code 1950, ch. 10, § 50)

State law reference—Similar provisions, Code of Virginia, § 18.2-103.

**Sec. 46-92. Punishment for conviction under section 46-91.**

(a) *First time offense.* Any person convicted for the first time of an offense under section 46-91, when the value of the goods or merchandise involved in the offense is less than \$200.00, shall be guilty of a class 1 misdemeanor.

(b) *Subsequent offenses.* When a person is convicted of an offense of larceny or any offense deemed to be or punished as larceny under any provision of the Code, and it is alleged in the warrant, indictment or information on which he is convicted, and admitted, or found by the jury or judge before whom he is tried, that he has been before convicted in the state or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies or a combination thereof, he shall be confined in jail not less than 30 days nor more than 12 months.

(Code 1950, ch. 10, § 50.1)

State law reference—Similar provisions, Code of Virginia, § 18.2-104.

**Sec. 46-93. Liability upon conviction under section 46-91.**

Any person who has been convicted of violating the provisions of section 46-91 shall be civilly liable to the owner for the retail value of any goods and merchandise illegally converted and not recovered by the owner, and for all costs incurred in prosecuting such person under the provisions of section 46-91. Such costs shall be limited to actual expenses, including the base wage of one employee acting as a witness for the state and suit costs. Provided, however, the total amount of allowable costs granted under this section shall not exceed \$250.00, excluding the retail value of the goods and merchandise.

(Code 1950, ch. 10, § 50.2)

State law reference—Similar provisions, Code of Virginia, § 18.2-104.1.

**Sec. 46-94. Exemption from civil liability in connection with arrest or detention of suspected person.**

A merchant, agent or employee of the merchant, who causes the arrest or detention of any person pursuant to the provisions of section 46-91, shall not be held civilly liable for unlawful detention, if such detention does not exceed one hour, slander, malicious prosecution, false

imprisonment, false arrest, or assault and battery of the person so arrested or detained, whether such arrest or detention takes place on the premises of the merchant, or after close pursuit from such premises by such merchant, his agent or employee, provided that, in causing the arrest or detention of such person, the merchant, agent or employee of the merchant, had at the time of such arrest or detention probable cause to believe that the person had shoplifted or committed willful concealment of goods or merchandise. The activation of an electronic article surveillance device as a result of a person exiting the premises or an area within the premises of a merchant where an electronic article surveillance device is located shall constitute probable cause for the detention of such person by such merchant, his agent or employee, provided such person is detained only in a reasonable manner and only for such time as is necessary for an inquiry into the circumstances surrounding the activation of the device, and provided that clear and visible notice is posted at each exit and location within the premises where such a device is located indicating the presence of an antishoplifting or inventory control device. For purposes of this section, the term "electronic article surveillance device" means an electronic device designed and operated for the purpose of detecting the removal from the premises, or a protected area within such premises, of specially marked or tagged merchandise.

(Code 1950, ch. 10, § 50.3)

State law reference—Similar provisions, Code of Virginia, § 18.2-105.

**Sec. 46-95. Detention of suspected shoplifter.**

A merchant, agent or employee of the merchant, who has probable cause to believe that a person has shoplifted in violation of section 46-91, on the premises of the merchant, may detain such person for a period not to exceed one hour pending arrival of a law enforcement officer. (Code 1950, ch. 10, § 50.4)

**Sec. 46-96. "Agents of the merchant" defined.**

As used in this article the term "agents of the merchant" shall include attendants at any parking lot owned or leased by the merchant, or generally used by customers of the merchant through any contract or agreement between the owner of the parking lot and the merchant. (Code 1950, ch. 10, § 50.5)

Cross reference—Definitions generally, § 1-2.

**Sec. 46-97. Use of photographs as evidence in certain larceny prosecutions.**

In any prosecution for shoplifting under the provisions of section 46-91, photographs of the goods, merchandise, money or securities alleged to have been taken or converted shall be deemed competent evidence of such goods, merchandise, money or securities and shall be admissible in any proceeding, hearing or trial of the case to the same extent as if such goods, merchandise, money or securities had been introduced as evidence. Such photographs shall bear a written description of the goods, merchandise, money or securities alleged to have been taken or converted, the name of the owner of such goods, merchandise, money or securities and the manner of the identification of goods, merchandise, money or securities by such owner, or

the name of the place wherein the alleged offense occurred, the name of the accused, the name of the arresting or investigating police officer or conservator of the peace, the date of the photograph and the name of the photographer. Such writing shall be made under oath by the arresting or investigating police officer or conservator of the peace, and the photographs identified by the signature of the photographer. Upon the filing of such photograph and writing with the police authority or court holding such goods and merchandise as evidence, such goods or merchandise shall be returned to their owner, or the proprietor or manager of the store or establishment wherein the alleged offense occurred.

(Code 1950, ch. 10, § 50.7)

State law reference—Similar provisions, Code of Virginia, § 19.2-270.1.

Secs. 46-98—46-120. Reserved.

#### ARTICLE IV. CURFEW FOR MINORS

##### Sec. 46-121. Person under 18 years of age.

It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m. The provisions of this section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor; where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor; where the minor is in attendance at or participating in sports, theatrical or other recreational activities not promoted or conducted or provided for gain but constantly and directly supervised by one or more adults; or where the minor is in attendance at a place of amusement where one or more police officers are in regular attendance throughout the period of entertainment or performance. Each violation of this section shall constitute a separate offense.

(Code 1950, ch. 10, § 51)

##### Sec. 46-122. Responsibility of parents.

(a) *General parental responsibility.* It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to permit such minor to loiter, idle, wander, stroll or play in or upon public streets, highways, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between 10:00 p.m. and 5:00 a.m. The provisions of this section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor; where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor; where the minor is in attendance at or participating in sports, theatrical or other recreational activities not promoted or conducted or

provided for gain but constantly and directly supervised by one or more adults; or where the minor is in attendance at a place of amusement where one or more police officers are in regular attendance throughout the period of entertainment or performance.

(b) *Violation constitutes separate offense.* Each violation of this section shall constitute a separate offense.

(Code 1950, ch. 10, § 52)

#### **Sec. 46-123. Duties of enforcement officers.**

Whenever any police officer or other officer in charged with the duty of enforcing the ordinances of the town discovers or has his attention called to the fact that any such minor is in or upon the public streets, highways, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m.; and that minor is not accompanied by his parent, guardian or other adult having the care and custody of the minor, such officer shall make an immediate investigation, including the questioning of the minor, if feasible, for the purpose of ascertaining whether or not the presence of such minor in or upon any such places is not prohibited by the provisions of this section. If the investigation satisfies the officer that the presence of the minor in or upon such place is prohibited by the provisions of this section, the officer shall cause a report thereof to be made to the judge of the juvenile and domestic relations court.

(Code 1950, ch. 10, § 53)

#### **Sec. 46-124. Penalties.**

Any minor under the age of 18 years violating the provisions of section 46-121, upon conviction thereof, shall be dealt with in accordance with the juvenile court law and procedure as prescribed by the various acts of the general assembly of the state, and any future amendments thereof, and upon conviction thereof such minor may be sentenced to receive such punishment as may be permissible under the juvenile laws of the state, or any amendments thereof. Any parent, guardian or other adult person having the care and custody of a minor violating the provisions of section 46-121, upon a conviction thereof, shall be punished as provided in section 1-8.

(Code 1950, ch. 10, § 54)

Chapters 47—49

**RESERVED**

CD-47:1



Chapter 50

**PEDDLERS AND SOLICITORS\***

- Sec. 50-1. Solicitations of funds—Permission required.
- Sec. 50-2. Same—Exemptions.
- Sec. 50-3. Licenses for door to door solicitors.

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\*Cross references—Businesses, ch. 26; begging and soliciting alms, § 46-5; streets, sidewalks and other public places, ch. 58; using vehicles on streets for advertising or peddling, § 58-5.

State law references—Local regulation of door-to-door vendors, Code of Virginia, § 15.2-913; municipal powers as to peddling, Code of Virginia, § 15.2-1114; license taxes on peddlers and itinerant merchants, Code of Virginia, § 58.1-3717 et seq.

**Sec. 50-1. Solicitations of funds—Permission required.**

It shall be unlawful for any person representing or pretending to represent, directly or indirectly, or using the name of any lodge, club, charitable, philanthropic, educational, patriotic, political or labor organization, or any other association or society, to solicit funds in the town for a public dance, entertainment, charity advertising scheme or similar purpose, through the sale of tickets, tags, contributions, advertising or any other method, where such person shares or receives, directly or indirectly, any part of such fund for such solicitation and promotion, without having first procured permission for the town manager or his designee to do so.

(Code 1950, ch. 10, § 40)

**Sec. 50-2. Same—Exemptions.**

Section 50-1 shall not apply to the public solicitation of funds by the sale of tickets, tags, contributions, advertising or otherwise, for events, activities and enterprises described therein, by the regularly constituted and duly authorized members of bona fide organizations, religious, charitable, fraternal, patriotic, political, civic, philanthropic or otherwise, where the entire funds or proceeds derived from such enterprise revert to and belong to such organization. Section 50-1 is also subject to the restrictions provided in Code of Virginia, § 57-63.

(Code 1950, ch. 10, § 41)

**Sec. 50-3. Licenses for door to door solicitors.**

A license fee of \$100.00 per day shall be required for all door to door solicitors; provided, that the fee for charitable organizations shall be \$10.00 as provided in Code of Virginia, § 57-63(A)(1).

(Code 1950, ch. 10, § 57)

Chapters 51—53

**RESERVED**

CD51:1

Chapter 54

**SOLID WASTE\***

- Sec. 54-1. Maintenance of premises and sidewalks by owners or occupants.
- Sec. 54-2. Receptacles required.
- Sec. 54-3. Dumping garbage within corporate limits.
- Sec. 54-4. Depositing refuse or litter on sidewalks or streets.

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\*Cross references—Buildings and building regulations, ch. 22; environment, ch. 30; health and sanitation, ch. 38.

State law references—Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.; removal of trash, garbage, etc., weeds and other foreign growth, Code of Virginia, §§ 15.2-901, 15.2-902; garbage and refuse disposal, Code of Virginia, § 15.2-927 et seq.; regulation of garbage and refuse pickup and disposal services, contracts, Code of Virginia, § 15.2-930; contracts for garbage and refuse pickup and disposal services, waste recovery facilities, Code of Virginia, § 15.2-932; delivery of garbage, trash and refuse to certain facilities, Code of Virginia, § 15.2-933; mailing summons for violation of trash ordinance, Code of Virginia, § 19.2-76.2.

**Sec. 54-1. Maintenance of premises and sidewalks by owners or occupants.**

The occupant of each lot or building in the town, and the owner of all unoccupied premises therein, shall be responsible for the cleanliness of the premises, and shall keep them in a sanitary condition by removing regularly all litter, trash, garbage and other refuse and placing the litter, trash, garbage and other refuse in approved receptacles for collection by the town. Such occupant or owner shall also be responsible for the cleanliness of the sidewalks in front of his premises, and shall keep them in a sanitary condition, free of all litter, trash, garbage and other refuse.

(Code 1950, ch. 8, § 1)

**Sec. 54-2. Receptacles required.**

All persons disposing of garbage or refuse shall provide receptacles with tightfitting covers for all garbage or refuse set out by them for removal by the town.

(Code 1950, ch. 8, § 2)

**Sec. 54-3. Dumping garbage within corporate limits.**

No garbage, trash, litter, or other offensive or disease-producing material shall be dumped in any lot or space within the town limits for the purpose of filling or for any other purpose.

(Code 1950, ch. 8, § 3)

**Sec. 54-4. Depositing refuse or litter on sidewalks or streets.**

No person shall throw upon any sidewalk or street within the town, any paper, rags, old shoes, tin cans, bottles, fruit or vegetable peelings, or other refuse or waste. Floor trash or dirt from stores or buildings shall not be swept on the sidewalk or into the gutters but shall be placed in approved receptacles.

(Code 1950, ch. 8, § 4)

*Add*  
**CHAPTER 55**  
**RECYCLING\***

(originally adopted 05-13-91; amended 03-14-06)

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\*State reference—Code of Virginia §10.1-1411 and Code of Virginia §15.1-11.5 [Repealed]; Code of Virginia §15.2-927 through §15.2-939

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**Sec. 55-1. Purpose.**

The general purpose of this ordinance is the furtherance of effective solid waste management and the recycling of solid waste as provided for in §10.1-1411, Code of Virginia, and as authorized by §15.1-11.5.

**Sec. 55-2. Definitions.**

(a) *Solid Waste.* Any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, residential, mining and agricultural operations, or community activities, but does not include: (1) Solid or dissolved material in domestic sewage, (2) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (3) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

(b) *Recycling.* The process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.

(c) *Recyclable Materials.* Includes newspapers, magazines, cardboard, mixed paper, glass bottles and jars (clear), aluminum cans, metal cans, plastic containers (#1 & #2), and any other additional items as designated by the Town Manager, intended to be discarded by persons who receive Town refuse collection services.

**Sec. 55-3. Requirement.**

All residences and businesses operated for profit shall separate and make available for collection and recycling all recyclable glass, aluminum, plastics and paper which otherwise would be placed in Solid Waste (garbage) containers for collection by Town employees. Exact types of each recyclable item will be furnished to the Town's people by the Town Manager prior to implementation of the Recycling Program.

(a) This ordinance shall not affect the right of any person to sell or otherwise dispose of waste material as provided in the Virginia Code, §15.1-28.03 or permitted under any other law of the Commonwealth.

(b) This ordinance shall not impose any liability upon any apartment or commercial office building owner or manager for failure of tenants to comply with any provisions of

the ordinance adopted pursuant to this Section or upon any waste hauler for failure of its customers to comply with such ordinance.

**Sec. 55-4. Collection of refuse.**

- (a) This section applies to occupants of single family homes and multi-family dwellings, and to commercial establishments from which the Town collects refuse.
- (b) A person shall not place recyclable material in a refuse receptacle that the Town's compaction truck collects for landfill disposal unless newspapers are soiled, or glass is broken. (Wet or soiled paper, broken glass, or partially filled containers are not to be added to the recyclable materials.)
- (c) The Town, or a contractor of the Town, shall collect recyclable material once weekly on a day specified by the Town Manager. However, recyclable material will not be collected on that day if (1) weather conditions or emergencies have made roadways impassable, or (2) the day falls on a legal holiday. Collection will be resumed on the make-up day.
- (d) A person shall place the container of recyclable material on the public right-of-way next to the edge of the pavement. The recyclable material shall not interfere with parking or traffic. A person shall not place the recyclables next to the curb before 4:00 PM the day before the scheduled collection. After being emptied, the recycling containers, if reusable ones are used, shall be removed from the edge of the pavement by the occupants before midnight the day of collection. (The Manager may designate a single place next to the edge of the pavement for residents of multi-family dwellings and commercial establishments to place recyclable materials.)
- (e) In cases where the public right-of-way is inaccessible, the Town Manager shall designate an appropriate place near the edge of the pavement for the placement of recyclables. Examples of these placements include the foot of driveways, alleys, walkways, or steps to the house, or edge of the front lawn.
- (f) A person shall tie newspapers in a bundle, or take other action to prevent newspapers from being blown about by the wind. If bundled, newspapers shall not weigh more than 25 pounds. (On wet days, a person shall place the newspaper bundle in a plastic bag [if not using the plastic recycling bin with cover provided by the Town], such as to protect its contents from weather.)
- (g) The Town, as an initial incentive, shall provide one (1) plastic recycling bin to each residential unit and commercial establishment required to participate in the recycling program. ~~Recycling participants may purchase additional bags from the Town. Residents who move into the Town after the program has begun will purchase bags from the Town without benefit of free bags.~~ The plastic recycling bin is property of the Town and should be returned if no longer used by the resident/business prior to relocating.
- (h) A person shall place newspapers, magazines, mixed paper, cardboard, glass bottles and jars (clear), aluminum and metal cans and plastic containers (#1 & #2), in the recycling bin provided by the Town or a container of equal quality. Glass, plastic, aluminum and metal materials shall be emptied, cleaned and dried before being placed in the respective recycling container. It is recommended that aluminum cans be flattened, but this is not required. Glass bottles and jars shall not be broken and shall be placed on top of the other materials in the container. ~~It is recommended that plastic containers be flattened (depressed) and the cap replaced to maintain the flattened shape.~~

(i) The Town Manager may designate additional materials for residents to include in the recycling collection containers.

(j) Only the Town, a contractor of the Town, or the person who placed the recycling container next to the designated collection point may recover recyclable materials. No scavenging or unauthorized collection of recyclable materials from the designated collection point shall be permitted. A violation of this Section (j) shall be a Class III Misdemeanor.

(k) The Town Manager is authorized to amend these requirements, and provide special exceptions on a case-by-case basis, for individuals who, due to frail health, age, incapacity or handicap are unable to comply with the provisions of this Section.

(l) The Town Manager is authorized to provide for more frequent collections at residential or commercial locations where recyclable materials are generated in such volume as to make more frequent collection desirable and warranted. Each authorization shall be made upon a reviewable, case-by-case basis.

**Sec. 55-5. Penalty for non-compliance.**

(a) Before issuing a criminal citation for an infraction hereunder, warning notices shall be given to the responsible occupant or owner as follows:

(1) *First Violation.* The Town Manager or the Manager's representative shall issue a warning notice to the person responsible.

(2) *Second Violation.* The refuse shall not be collected on the date of the violation and the Town Manager or the Manager's representative shall issue a second warning notice to the person responsible.

The first and second warning notices shall describe the violation, include instructions for the proper sorting of recyclables from refuse, state that all occupants of single family homes, multi-family dwellings, and commercial establishments from which the Town collects refuse, must participate in the recycling program, and inform the person responsible for the violation, and for subsequent violations, of the penalty. The warning notice shall be personally delivered to the person responsible for the violation or mailed by certified letter to the address where the violation occurred.

(3) *Third violation.* The refuse shall not be collected on the date of the violation and the Town Manager or the Manager's representative shall prepare an affidavit citing the facts of the violation. A Code Enforcement Officer for the Town of Halifax shall issue a criminal citation for the infraction to the responsible occupant or owner.

(4) No criminal citations for infractions for violations of this Section shall be issued prior to six (6) months after the effective date of this Ordinance.

Violation of any provision of this Ordinance shall result in a fine of not more than Two Hundred and Fifty Dollars (\$250.00).

(b) The following shall apply with respect to all infractions:

(1) Failure to abate the cited violation at the time of a subsequent infraction shall cause the violation to be treated as a repeat violation.

(2) Any individual or corporate owner who receives a citation and who wishes to stand trial shall not receive additional citations until the court rules on the citation for which the defendant is standing trial.



(3) In cases where the Town Manager has determined that extreme danger exists to persons or property or extreme unsanitary conditions exist, the warning notice shall be dispensed with and the Town Manager shall obtain a court order to take corrective action. However, nothing shall be construed to prohibit the Town Manager from taking whatever action he finds appropriate to protect the public health and safety, both under the laws of the Town of Halifax and of the Commonwealth of Virginia.

(4) The Town Manager or the Manager's representative shall have the authority to enforce all of the provisions of this Article. Officers of the Halifax Police Department are deemed representatives of the Town Manager.

Chapters 55—57

**RESERVED**

CD55:1

**STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\***

- Sec. 58-1. Streets not to be closed to public by acts of individuals.  
 Sec. 58-2. Loitering on sidewalks or in, upon or around any business establishment, any public place or like places; penalty.  
 Sec. 58-3. Persons assembling on streets and sidewalks.  
 Sec. 58-4. Peddling or hawking.  
 Sec. 58-5. Using vehicles on streets for advertising or peddling.  
 Sec. 58-6. Kites and ballgames.  
 Sec. 58-7. Removal of snow and ice from sidewalks.  
 Sec. 58-8. Throwing or depositing certain substances upon highway; removal of such substances.  
 Sec. 58-9. Construction, maintenance and loading must prevent escape of contents; load covers; exemptions.  
 Sec. 58-10. Barbed wire fences prohibited.  
 Sec. 58-11. Protection of sidewalks.  
 Sec. 58-12. Excavations.  
 Sec. 58-13. Restoration of pavement after excavation.  
 Sec. 58-14. Barriers and lights on excavations or obstructions.  
 Sec. 58-15. Tampering with barriers or lights; driving on streets or sidewalks under construction.  
 Sec. 58-16. Encroachments in general.  
 Sec. 58-17. Projecting eaves and gutters.  
 Sec. 58-18. Signs, etc., overhanging streets or sidewalks.  
 Sec. 58-19. Obstructions in general.  
 Sec. 58-20. Permit required to obstruct culverts or drains.  
 Sec. 58-21. Use of streets by utilities.  
 Sec. 58-22. Unloading merchandise.  
 Sec. 58-23. Building materials.  
 Sec. 58-24. Sidewalk sheds.

\*Charter reference—Enumeration of powers, § 7.

Cross references—Any ordinance providing for any public improvement saved from repeal, § 1-11(a)(7); any ordinance making any assessment saved from repeal, § 1-11(a)(8); any ordinance naming, renaming, opening, altering, relocating, accepting, closing or vacating any street or alley saved from repeal, § 1-11(a)(9); buildings and building regulations, ch. 22; environment, ch. 30; congregating in streets at fires; interference with fire department, § 34-2; driving vehicle through street where department fighting fire, § 34-3; fire in street prohibited, § 34-9; disorderly conduct in public places, § 46-12; expectorating in public places, § 46-26; peddlers and solicitors, ch. 50; vehicles on sidewalks, § 66-4; widening of highways and streets, app. A, § 8-6.

State law references—Local streets and sidewalks, Code of Virginia, § 15.2-2000 et seq.; taxes or assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.; state highway plat book, Code of Virginia, § 17.1-238; state highway system, Code of Virginia, § 33.1-25 et seq.; local authority over highways, Code of Virginia, § 33.1-224 et seq.; pipelines and other works in streets, alleys, etc., Code of Virginia, § 56-257 et seq.

**Sec. 58-1. Streets not to be closed to public by acts of individuals.**

No agreement between or release of interest by any person owning the land contiguous to any street, whether such street has been opened and used by the public or not, shall have the effect of closing such street, or to divest the interest of the public therein or the authority of the town over such street.

(Code 1950, ch. 12, § 1)

**Sec. 58-2. Loitering on sidewalks or in, upon or around any business establishment, any public place or like places; penalty.**

(a) *Loitering prohibited.* In the town, no persons or aggregation of persons shall be permitted to loiter on the sidewalk; inside, upon or around any business establishment in a manner that interferes with the operation of the business, any public place or like places. To loiter is defined as follows: to remain in, upon or near a place in idle or apparently idle manner; to hang around aimlessly or as if aimlessly; to stand around or move slowly about; to spend time idly; or to linger.

(b) *Penalty.* Each instance of loitering shall be a class 4 misdemeanor.

(Code 1950, ch. 12, § 2)

**Sec. 58-3. Persons assembling on streets and sidewalks.**

The assembling and collecting of persons on the streets or sidewalks in such manner as to block and obstruct free passage shall be a class 4 misdemeanor, and it shall be the duty of the chief of police to disperse such assemblages.

(Code 1950, ch. 12, § 3)

**Sec. 58-4. Peddling or hawking.**

It shall be unlawful for any person to peddle or hawk goods, wares or merchandise on any of the streets or sidewalks of the town, except agricultural products produced by such person or his employer.

(Code 1950, ch. 12, § 4)

**Sec. 58-5. Using vehicles on streets for advertising or peddling.**

No person shall stop a vehicle upon the street at any time for the purpose of advertising any article of any kind, or displaying thereupon or therefrom any articles for sale, or selling such articles from such vehicle, or advertising for sale the vehicle itself, unless the written permission of the town manager so to do and a business license from the town are first obtained.

(Code 1950, ch. 12, § 5)

Cross references—Advertising, ch. 6; peddlers and solicitors, ch. 50.

**Sec. 58-6. Kites and ballgames.**

No person shall raise or fly a kite or play any game of ball in the streets of the town.  
(Code 1950, ch. 12, § 6)

**Sec. 58-7. Removal of snow and ice from sidewalks.**

It shall be the duty of the occupant of any property which has a sidewalk of brick, wood or concrete abutting on such property, to have all snow removed from such sidewalk within three hours after it has ceased falling; provided, that if snow falls during the night, it shall be removed by 10:00 a.m. on the following morning. The same requirements shall exist with respect to ice or sleet on sidewalks, except that ice and sleet if it cannot be removed without injury to the sidewalk, shall be covered within the time required herein with sawdust, ashes or other material which shall render the sidewalk safe for travel. When there is no occupant of such property it shall be the duty of the owner thereof to have snow, ice and sleet removed or covered as provided herein. If the owner of such property cannot be found, the town manager shall cause such sidewalk to be cleaned or covered, and may, after notice, proceed against such owner for the expense of the work.  
(Code 1950, ch. 12, § 7)

**Sec. 58-8. Throwing or depositing certain substances upon highway; removal of such substances.**

(a) *General prohibition.* No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.

(b) *Exception.* This section shall not apply to the use, by a law enforcement officer while in the discharge of official duties, of any device designed to deflate tires. The state division of purchase and supply shall, pursuant to Code of Virginia, § 2.2-1112, set minimum standards for such devices and shall give notice of such standards to law enforcement offices in the state. No such device shall be used which does not meet or exceed the standards.  
(Code 1950, ch. 12, § 8)

State law reference—Similar provisions, Code of Virginia, § 18.2-324.

**Sec. 58-9. Construction, maintenance and loading must prevent escape of contents; load covers; exemptions.**

(a) *Dropping or leaking contents of load prohibited; exceptions.* No vehicle shall be operated or moved on any highway unless it is so constructed, maintained, and loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping. No provision of this section,

however, shall apply to any (i) motor vehicle that is used exclusively for agricultural purposes as provided in Code of Virginia, § 46.2-698 and is not licensed in any other state; (ii) agricultural vehicle, tractor, or other vehicle exempted from registration and licensing requirements pursuant to Code of Virginia, § 46.2-662 et seq.; or (iii) motor vehicle transporting forest products, poultry, or livestock.

(b) *Securing and covering certain loads.* The loads of all trucks, trailers and semitrailers carrying gravel, sand, coal or other nonagricultural and nonforestry products on interstate, primary, or secondary highways or roads maintained by cities, counties or incorporated towns shall be either (i) secured to the vehicle in which they are being transported or (ii) covered. Covers used to prevent the escape of material from commercial vehicles used to transport solid waste shall be of such design, installation, and construction as to contain the vehicle's cargo within the vehicle, regardless of the vehicle's speed or weather conditions. Public service company vehicles, pickup trucks, and emergency snow removal equipment while engaged in snow removal operations shall be excluded from the provisions of this subsection.  
(Code 1950, ch. 12, § 9)

State law reference—Similar provisions, Code of Virginia, § 46.2-1156.

**Sec. 58-10. Barbed wire fences prohibited.**

No person shall construct or maintain a barbed wire fence upon any street or sidewalk in the town.

(Code 1950, ch. 12, § 10)

**Sec. 58-11. Protection of sidewalks.**

(a) *Motor vehicles crossing sidewalks; protection.* No motor vehicle shall be driven on to, over or across any sidewalk crossing, curbing or guttering, unless such crossing, curbing or guttering has first been bridged with sufficient timbers to be protected from injury.

(b) *Handling certain substances; protection.* No hard substance of a greater weight than 200 pounds shall be handled upon the sidewalks, curbing or guttering unless such sidewalk, curbing or guttering is first sufficiently covered with wood to be protected from injury.  
(Code 1950, ch. 12, § 11)

**Sec. 58-12. Excavations.**

Whenever any person proposes to take up or disturb any paving, curbing or guttering in any of the streets or sidewalks of the town, or to dig into the streets or sidewalks, for the purpose of laying or repairing sewer, water, or gas pipes, or to erect poles, or for any other purpose, such person shall, before proceeding with such work, make application in writing and obtain permit from the council to do such work, and shall post such bond as may be required of him. No such permit shall be issued unless in case of absolute necessity. No unnecessary delay shall be permitted in the completion of such work, and in no case shall such work be done in such manner as to obstruct the streets or endanger persons or property.

(Code 1950, ch. 12, § 12)

**Sec. 58-13. Restoration of pavement after excavation.**

When any excavation made pursuant to the preceding section has been completed, the person who caused such excavation to be made shall immediately cause the street or sidewalk to be restored to as good condition, in the opinion of the town manager, as it was before the excavation or opening was made. Such repair shall be continued until the earth is completely settled and the grade of the street conforms to its proper cross section.  
(Code 1950, ch. 12, § 13)

**Sec. 58-14. Barriers and lights on excavations or obstructions.**

Whenever any excavation has been made in any of the streets or sidewalks of the town or any obstruction placed thereon, under the provisions of this chapter, the person causing such excavation or obstruction shall, where necessary to prevent accident to persons or property while work is progressing, have such excavation or obstruction guarded by proper barriers, and during the nighttime shall provide light by lanterns or other sufficient means over such excavation or obstruction. Where such excavation is in the nature of a trench or ditch, such lights shall be placed continuously along the line of such excavation, at no greater distance apart than 100 feet.  
(Code 1950, ch. 12, § 14)

**Sec. 58-15. Tampering with barriers or lights; driving on streets or sidewalks under construction.**

No person shall remove any barrier, lights or other guard placed across the streets or sidewalks of the town while paving, grading, macadamizing, or other improvement or activity is in progress, or ride or drive over any street or sidewalk so guarded.  
(Code 1950, ch. 12, § 15)

**Sec. 58-16. Encroachments in general.**

Every person who desires to construct a building, fence, gate, porch, steps, post, door or grating on any street or sidewalk in the town shall secure permission from the council so to do and make application to the town manager to give him the line of such street at the place where such improvement is intended to be constructed. The town manager shall note the details of such proposed construction in his records and shall give the applicant a written memorandum of such line. Such applicant shall not be required to remove any improvement constructed in accordance with such memorandum and permission. It shall be unlawful for any person, without obtaining such permission and memorandum, to construct any such improvement in such manner as to encroach upon the street or sidewalk or interfere with the grade thereof.  
(Code 1950, ch. 12, § 16)

**Sec. 58-17. Projecting eaves and gutters.**

All houses which are built on the line of the street, or so that their eaves project over the sidewalk, shall be so provided with gutters that there shall be no drip form the eaves upon the sidewalks. All gutters, the water from which may be emptied upon the streets, shall be so constructed as to discharge such water at or below the surface of the ground.  
(Code 1950, ch. 12, § 17)

**Sec. 58-18. Signs, etc., overhanging streets or sidewalks.**

No sign, figure or ornament shall be permitted to be erected over any street or sidewalk, unless it is securely fastened to the wall or doorway of a building, and the erection of such sign figure or ornament has been approved by the council. Such sign, figure or ornament shall be at least nine feet above such street or sidewalk and shall not extend outward from such building beyond a point 12 inches inward from the outer edge of the curblin. Any person who fails, within five days after notice from the town manager, to remove any sign, figure or ornament erected or maintained contrary to the provision of this section shall be guilty of a violation of this Code.  
(Code 1950, ch. 12, § 18)

**Sec. 58-19. Obstructions in general.**

Except as provided in this Code no person shall obstruct a street or sidewalk by placing or permitting thereon any bench, bar, shelf, barrel, carriage, cart, wagon, goods, box, merchandise or other article or fixture whatsoever, whether for exhibition, sale, or other purposes.  
(Code 1950, ch. 12, § 19)

**Sec. 58-20. Permit required to obstruct culverts or drains.**

It shall be unlawful for any person to place any obstruction in or across any culvert or drain in the town without first obtaining the permission of the council so to do.  
(Code 1950, ch. 12, § 20)

**Sec. 58-21. Use of streets by utilities.**

Telegraph, electric and telephone companies, when authorized by the council to do business in the town, may place such reasonable number of poles in the street as may be requisite for their business, but such poles shall be located and moved according to the direction and under the supervision of the town manager.  
(Code 1950, ch. 12, § 21)

Cross reference—Utilities, ch. 70.



**Sec. 58-22. Unloading merchandise.**

Merchants and others, while receiving goods, may place the same on the street next to the curbing, in front of their premises, provided that not more than five feet of such street and no part of the sidewalk is so occupied. Such occupations shall be for such reasonable time as may be necessary for such reception or delivery.

(Code 1950, ch. 12, § 22)

**Sec. 58-23. Building materials.**

One-half of the street opposite a lot upon which any building or wall is being erected may be used for the purpose of laying timber and other building materials during such reasonable time as may be necessary for such erection, but no longer; provided, that while such building or wall is being erected the gutter in front thereof shall not be so obstructed as to interfere with the natural flow of water.

(Code 1950, ch. 12, § 23)

**Sec. 58-24. Sidewalk sheds.**

When any building or wall is being erected, the sidewalk in front thereof shall not be obstructed, but for the protection of person passing, a shed or platform under which persons may safely walk shall be erected over the sidewalk. Such shed or platform shall be at least eight feet high and as wide as the pavement and as long as the building or wall which is being constructed.

(Code 1950, ch. 12, § 24)

**CHAPTER 58  
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

\* (adopted 07-08-97 as § 13-10)

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**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.\***

Any person riding a bicycle, using roller skates and skateboards, electric personal assistive mobility device, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk within the town limits shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. No person shall ride a bicycle, use roller skates and skateboards, electric personal assistive mobility device, or an electric power-assisted bicycle on the sidewalk in a commercial or industrial zone between the hours of 7 A.M. to 7 P.M. No person shall ride a bicycle, electric personal assistive mobility device, or an electric power-assisted bicycle on the sidewalk in areas where signs are displayed to prohibit said activity.

No person shall ride a bicycle, use roller skates and skateboards electric personal assistive mobility device, or an electric power-assisted bicycle on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, roller skates and skateboards, electric personal assistive mobility devices, or electric power-assisted bicycles is prohibited by official traffic control devices.

A person riding a bicycle, using roller skates and skateboards, electric personal assistive mobility device, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.

**\*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

**Section 58-26. Same-Penalty.**

The penalty for such violation is as follows: First offense, a warning will be issued. Second offense, a summons will be issued and a fine of not less than fifteen dollars nor more than twenty-five dollars will be levied. In addition to the fine, the bicycle, roller skates, skateboard, electric power-assisted bicycle or electric personal assistive mobility device will be impounded for no less than five days nor more than seven days. When impoundment term is expired, the parent or legal guardian of any minor charged under

this session must appear in person to remove the confiscated item from impoundment. A civil impoundment fee of fifteen dollars must be paid to remove the confiscated item from impoundment.

**Section 58-27. Same-Exception.**

A. A person with a mobility impairment operating an electric personal assistive mobility device (EPAMD) shall have the same rights as an able-bodied pedestrian to use streets, sidewalks, and walkways. In addition, an electric personal assistive mobility device may be operated on the following roadways:

- (1) A road or street where the posted speed limit is twenty-five miles per hour or less.
- (2) A marked bicycle path or designated bicycle lane.
- (3) Within any residential subdivision.
- (4) Any street or roadway when necessary to cross or as a reasonable accommodation under the Americans with Disabilities Act, 42 U.S.C. Section 12131, et. seq., because of physical barriers, such as a lack of curb cuts or sidewalks, to other means of access by persons using mobility aids.

Chapters 59—61

**RESERVED**

CD59:1

## Chapter 62

### TAXATION\*

#### Article I. In General

- Sec. 62-1. Bank franchise tax.  
Secs. 62-2—62-30. Reserved.

#### Article II. Consumer Utility Taxes

##### Division 1. Generally

- Sec. 62-31. Electric utility consumer tax.  
Sec. 62-32. Local natural gas utility consumer tax.  
Secs. 62-33—62-50. Reserved.

##### Division 2. Local Mobile Telecommunications

- Sec. 62-51. Definitions.  
Sec. 62-52. Tax imposed.  
Secs. 62-53—62-70. Reserved.

##### Division 3. Local Telephone Service

- Sec. 62-71. Definitions.  
Sec. 62-72. Tax imposed; rate.  
Sec. 62-73. Collection; reports.  
Sec. 62-74. Records.  
Sec. 62-75. Exemptions.  
Sec. 62-76. Application of tax.  
Sec. 62-77. Failure to pay tax.  
Secs. 62-78—62-100. Reserved.

#### Article III. Tax on Meals

- Sec. 62-101. Definitions.

\***Charter references**—Annual tax levy, § 11; occupation licenses and taxes, § 12.

**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 ordinance consistent with this Code levying or imposing taxes, fees or other charges saved from repeal, § 1-11(a)(6); administration, ch. 2; finance, § 2-201 et seq.

**State law references**—Municipal taxes and assessments, Code of Virginia, § 15.2-1104; taxation generally, Code of Virginia, § 58.1-1 et seq.; priority of taxes in distribution of assets of person or corporation, Code of Virginia, § 58.1-6 et seq.; Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.; local sales and use taxes, Code of Virginia, § 58.1-605 et seq.; local bank franchise tax, Code of Virginia, § 58.1-1208 et seq.; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; town tax levies, Code of Virginia, § 58.1-3005; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

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- Sec. 62-102. Levy rate.
- Sec. 62-103. Exemptions.
- Sec. 62-104. Collection.
- Sec. 62-105. Reports and remittances.

## ARTICLE I. IN GENERAL

## Sec. 62-1. Bank franchise tax.

There is hereby imposed on all banks a tax of \$0.80 on each \$100.00 of taxable value of the shares of stock in such bank which are subject to taxation by the town under Code of Virginia, § 58.1-1200 et seq., or which are otherwise subject to taxation by the town.  
(Ord. of 12-7-1971)

Secs. 62-2—62-30. Reserved.

## ARTICLE II. CONSUMER UTILITY TAXES\*

## DIVISION 1. GENERALLY

## Sec. 62-31. Electric utility consumer tax.

(a) *Levy of tax.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied by the town a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

- (1) *Residential consumers.* For residential consumers such tax shall be \$1.40 plus the rate of \$0.017071 on each kWh delivered monthly to residential consumers by a service provider not to exceed \$3.00 monthly.
- (2) *Nonresidential consumers.* The tax on nonresidential consumers shall be at the rates per month for the classes of nonresidential consumers set forth as follows:
  - a. *Commercial consumers.* For commercial consumers such tax shall be \$2.29 plus the rate of \$0.013170 on the first 2104 kWh plus a rate of \$0.000880 on any additional kWh.
  - b. *Industrial consumers.* For industrial consumers such tax shall be \$2.29 plus the rate of \$0.013170 on the first 2104 kWh plus a rate of \$0.000880 on any additional kWh.

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

- (1) Any church or religious body entitled to exemption pursuant to article 4 of chapter 36 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3650 et seq.).
- (2) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

\*Cross reference—Utilities, ch. 70.

(c) *Billing, collection and remittance of tax.* The provider of billing services shall bill the electricity consumer tax to all users who are subject to the tax and to whom the service provider delivers electricity and shall remit the tax to this jurisdiction on a monthly basis. Such taxes shall be paid by the provider of billing services to this jurisdiction in accordance with Code of Virginia, § 58.1-3814(F) and (G) and Code of Virginia, § 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the provider of billing services shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a provider of billing services, including the tax imposed by this section, the service provider must follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills, for the purposes of this section, if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows: (i) the kWh will be divided by two; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two; (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."

**Sec. 62-32. Local natural gas utility consumer tax.**

In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Code of Virginia, § 58.1-3814(J), as follows:

- (1) *Residential consumers.* For residential consumers such tax on residential consumers of natural gas shall be \$0.000 plus at the rate of \$0.0000 on CCF delivered monthly to residential consumers, not to exceed \$0.00 per month.
- (2) *Nonresidential consumers.* Such tax on nonresidential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes set forth as follows:
 

*Commercial consumers.* Such tax shall be \$0.00 plus the rate of \$0.0000 on each CCF delivered monthly to commercial consumers, not to exceed \$0.00 monthly.

**Secs. 62-33—62-50. Reserved.**

**DIVISION 2. LOCAL MOBILE TELECOMMUNICATIONS**

**Sec. 62-51. 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:

*Local mobile telecommunications service* means any two-way mobile or portable local telecommunications service, including cellular mobile radio telecommunication service and specialized mobile radio.



## ARTICLE II. CONSUMER UTILITY TAXES\*

(adopted 03-14-06)

\*Cross reference--Utilities, ch. 70

### DIVISION 1. GENERALLY

#### **Sec. 62-32. Local natural gas utility consumer tax.**

In accordance with Virginia Code § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

- (1) *Residential consumers:* Such tax on residential consumers of natural gas shall be 20 percent of the minimum bill plus the rate of \$0.186700 on each CCF unit delivered monthly to residential consumers, not to exceed \$3.00 per month.
- (2) *Non-residential consumers:* Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below:
  - (a) *Commercial consumers.* Such tax shall be 20 percent of the minimum bill plus the rate of \$0.155660 on the first 100 CCF units and \$0.015566 for all CCF units over 100 on each CCF unit delivered monthly to commercial consumers.
  - (b) *Industrial consumers.* Such tax shall be 20 percent of the minimum bill plus the rate of \$0.155660 on the first 100 CCF units and \$0.015566 for all CCF units over 100 on each CCF delivered monthly to industrial consumers.
- (3) The conversion of tax pursuant to this ordinance to monthly CCF delivered shall not be effective before the first meter reading after November 30, 2005, prior to which time the tax previously imposed by this jurisdiction shall be in effect.
  - (a) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section:
    - (i) Any public safety agency as defined in Virginia Code § 58.1-3813.
    - (ii) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.
  - (b) *Billing, collection and remittance of tax.* The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code § 58.1-3814, paragraphs H. and I., and Virginia Code § 58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the

name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(c) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the CCF will be divided by two; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two; (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."

*Mobile service consumer* means a person having a telephone number for local mobile telecommunication service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.  
(Ord. of 10-10-2000)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 62-52. Tax imposed.**

There is imposed and levied by the town upon each and every purchaser of local mobile telecommunication service a tax equal to ten percent of the monthly gross charge. This tax shall not be applicable to any amount so charged in excess of \$30.00 per month for each mobile service consumer.

(Ord. of 10-10-2000)

**Secs. 62-53—62-70. Reserved.**

**DIVISION 3. LOCAL TELEPHONE SERVICE**

**Sec. 62-71. 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:

*Commercial or industrial user* means the owner or tenant of property used for commercial or industrial purposes who pays for utility service for such property.

*Purchaser* means every person who purchases a utility service.

*Residential user* means the owner or tenant of private residential property or tenant of an apartment who pays for utility service in or for such property.

*Seller* means every person whether a public service corporation or not, who sells or furnishes a utility service.

*Utility service* means local telephone service (excluding long distance messages) furnished in the corporate limits of the town.

(Ord. of 9-5-1972, § 1)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 62-72. Tax imposed; rate.**

There is imposed and levied by the town upon each and every purchaser of a utility service, a tax in the amount of 20 percentum of the charge (exclusive of any federal tax thereon) made by the seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the town at the time the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. Provided, however,

that in case any monthly bill submitted by any seller for residential telephone utility service shall exceed \$10.00 for a residential user, there shall be no tax computed on so much of such bill as shall exceed \$10.00; in case any monthly bill submitted by any seller for a commercial or industrial user of telephone utility service shall exceed \$100.00, the tax computed on that amount of the bill which exceeds \$100.00 shall be one percentum of the amount in excess of \$100.00. In case bills are submitted by any seller for two months of service there shall be no tax computed on so much of such bill as shall exceed \$20.00 for a residential user of telephone utility service and in the case of commercial or industrial users of telephone utility service the tax of 20 percentum shall apply to the first \$200.00 of such charge and the tax of one percentum shall apply to any excess over \$200.00.  
(Ord. of 9-5-1972, § 2)

**Sec. 62-73. Collection; reports.**

It shall be the duty of every seller in acting as the tax collecting medium or agency for the town to collect from the purchaser for the use of the town the tax imposed and levied in this division at the time of collecting the purchase price charged therefor and the taxes collected during each calendar month shall be reported by each seller to the town treasurer and each seller shall remit the amount of tax shown by such report to have been collected to the town treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax. The required reports shall be in the form prescribed by the town treasurer.  
(Ord. of 9-5-1972, § 3)

**Sec. 62-74. Records.**

Each and every seller shall keep complete records showing all purchases in the town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof, and the date of payment thereof, and the amount of tax imposed hereunder, and such records shall be kept open for inspection by the duly authorized agents of the town at reasonable times, and the duly authorized agents of the town shall have the right, power and authority to make such transcripts thereof during such times as they may desire.  
(Ord. of 9-5-1972, § 4)

**Sec. 62-75. Exemptions.**

The United States of America, the state, and the political subdivisions, boards, commissions and authorities thereof, are exempted from the payment of the tax imposed and levied by this division with respect to the purchase of utility services used by such governmental agencies.  
(Ord. of 9-5-1972, § 5)

**Sec. 62-76. Application of tax.**

The tax imposed and levied on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local messages which are paid for by inserting coins in coin-operated telephones.  
(Ord. of 9-5-1972, § 6)

**Sec. 62-77. Failure to pay tax.**

Any purchaser failing, refusing or neglecting to pay the tax imposed or levied and any seller violating the provisions of this division, and any officer, agent or employee of any seller violating the provisions hereof, shall upon conviction, be guilty of a class 4 misdemeanor. Each failure, refusal, neglect or violation and each day's continuance thereof, shall constitute a separate offense.

(Ord. of 9-5-1972, § 7)

**Secs. 62-78—62-100. Reserved.**

**ARTICLE III. TAX ON MEALS\*****Sec. 62-101. 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:

*Caterer* means a person who furnishes food on the premises of another, for compensation.

*Finance director* means the duly appointed finance director of the town and any of his duly authorized deputies and agents.

*Food* means any prepared food and drink, including alcoholic beverages offered or held out for sale by a restaurant for the purposes of being consumed by an individual or group of individuals at one time to satisfy the appetite. All such food and drink shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, dinner, supper or by some other name, and without regard to the manner, time or place of service.

*Restaurant* means any place in or from which food is sold in the town including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, delicatessen, confectionery, eating house, eatery, drug store, vending machine, lunch wagon or truck, pushcart, or other mobile facility from which food is sold, public or private club, resort, bar or lounge. The term "restaurant" shall not mean a grocery store or supermarket except for any space or section therein designated as a delicatessen or for the sale of prepared sandwiches, delicatessen food, or food prepared in a delicatessen.

(Ord. of 8-18-1998)

Cross reference—Definitions generally, § 1-2.

**Sec. 62-102. Levy rate.**

In addition to all other taxes and fees of any kind now or hereinafter imposed by law, a tax is levied and imposed on the purchases of all food served, sold, or delivered in the town from

\*State law reference—Excise tax on meals, Code of Virginia, 58.1-3840.

a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not. The rate of this tax shall be three percent of the amount paid for such food. In computation of this tax, any fraction of \$0.005 or more shall be treated as \$0.01.  
(Ord. of 8-18-1998)

#### Sec. 62-103. Exemptions.

No tax shall be payable under this article in any of the following instances:

- (1) Food sold by nonprofit daycare centers, public or private elementary or secondary schools or food sold by any college to its students or employees.
- (2) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facility to patients or residents thereof.
- (3) Food furnished by a nonprofit charitable organization to elderly, infirm, handicapped or needy persons in their homes or at central locations.
- (4) Food sold by a nonprofit educational, charitable or benevolent organization on an occasional basis as a fundraising activity or food sold by a church or religious body on an occasional basis.
- (5) Food sold or furnished by a caterer on the premises of another for compensation.
- (6) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act (Code of Virginia, 58.1-600 et seq.) or administrative rules and regulations issued pursuant thereto.

(Ord. of 8-18-1998)

#### Sec. 62-104. Collection.

(a) *Collection generally.* Every person receiving any payment for food items with respect to which a tax is levied under this article shall collect the amount of tax imposed from the person paying for such food items at the time payment of such food items is made.

(b) *Money held in trust until remitted to town.* All money collected as taxes under this article shall be deemed to be held in trust by the seller collecting the money until remitted to the town as provided in this article.

(Ord. of 8-18-1998)

#### Sec. 62-105. Reports and remittances.

(a) *Reports required; form.* The person collecting any tax levied under this article shall make out a report upon forms, setting forth information as the finance director may prescribe and require, showing the amount collected and tax required to be collected, and shall sign and deliver the report to the finance director with a remittance of such tax to the finance director.

TAXATION

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(b) *Deadline for reports and remittances.* Such reports and remittances shall be made on or before the 20th day of the month following the prior month's collection.  
(Ord. of 8-18-1998)

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## ARTICLE III. TAX ON MEALS

(adopted 03-14-06)

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### **Sec. 62-105. Reports and remittances; preservation of records.**

(c) *Preservation of records.* Such records shall be kept and preserved for a period of five years. The director or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this ordinance, and to make transcripts of all or any parts thereof.

### **Sec. 62-106. Penalty for violation of ordinance.**

(a) Any person willfully failing or refusing to file a return as required under this ordinance shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this ordinance shall be guilty of a class 1 misdemeanor.

(b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this ordinance, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor.

(c) If any person shall fail or refuse to remit to the finance director the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the finance director a penalty of ten percent, or \$10.00, whichever is greater; and, if the tax shall remain delinquent and unpaid for a period of one month from the date the same is due and payable, there shall be in addition added to such tax by the finance director interest at the rate of 10 percent per month on the amount of the tax for each month or portion thereof from the date upon which the tax is due as provided in this article.

(d) In the case of a false or fraudulent return with intent to defraud the town of any tax due under this article, a penalty of 50 percent of the tax shall be assessed against the person required to collect such tax.

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

### **Sec. 62-107. Duty of seller when going out of business.**

Whenever any seller required to collect and pay to the town a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.



**Sec. 62-108. Powers and duties of director.**

It shall be the duty of the finance director to ascertain the name of every person operating a restaurant or eating establishment in the town liable for the collection of the tax levied by this article. The finance director shall have the power to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of carrying out enforcing the payment, collection and remittance of the tax herein levied, and a copy of such rules and regulations shall be on file and available for public examination in the office of the finance director. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.

**Secs. 62-109--62-129. Reserved.**

## ARTICLE IV. TAX ON REAL AND PERSONAL PROPERTY\*

(adopted 03-14-06)

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\***State law references:** Real property tax, Code of Virginia, § 58.1-3200 et seq.; tangible personal property, machinery, and tools and merchants' capital, Code of Virginia, § 58.1-3500 et seq.

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### DIVISION I. GENERALLY

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#### **Sec. 62-130. Annual establishment of rates; valuation of property.**

The town council shall, annually, before November 1, fix the tax rates on all real estate, personal property and machinery and tools properly subject to taxation within and by the town, and shall assess such taxes as may be required to provide for the needs and purposes of the town. In determining the valuation of property in the town, reference shall be had to the records of the finance director.

**State law references:** General provisions as to local taxes, Code of Virginia, § 58.1-3000 et seq.; commissioner of the revenue, Code of Virginia, § 58.1-3100 et seq.

#### **Sec. 62-131. Tax tickets; billing.**

As soon as practicable after tax rates are established as provided in section 62-130, the finance director shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the state department of taxation, and shall send by mail to each taxpayer a bill for such taxes.

**State law references:** General powers and duties of tax commissioner, Code of Virginia, § 58.1-202; treasurers to mail certain bills to taxpayers, Code of Virginia, § 58.1-3912.

#### **Sec. 62-132. When due and payable; penalty for nonpayment.**

- (a) Real estate taxes shall be assessed annually as of January 1 and paid to the finance director in one annual installment due and payable on December 5 of each year. A penalty of ten percent shall be imposed on any installment not paid on or before the time the same is due and payable.
- (b) Personal property, machinery and tools taxes shall be assessed annually as of January 1 and paid to the finance director in one annual installment due and payable on December 5 of each year. A penalty of ten percent shall be imposed on any installment not paid on or before the time the same is due and payable.
- (c) Every taxpayer owning any taxable personal property or machinery and tools or otherwise required to file a return thereon by Code of Virginia, § 58.1-3518, as amended, shall file a return on forms prescribed by the finance director on or before April 15 of each year. For failure to file a return as required herein a penalty shall be imposed of ten

percent of the tax assessable on such return or \$10.00, whichever is greater, provided that any such penalty imposed shall not exceed the amount of the tax. Such penalty shall be imposed on the day after such return is due.

(d) In ascertaining what personal property is to be listed for taxation, who is to list the same, and when and how it is to be listed, the provisions of the laws of the state shall be followed.

(e) Except as otherwise provided, all other taxes shall be due and payable as soon as tax bills are sent. Any person failing to satisfy such tax on or before December 5 following the mailing thereof shall incur a penalty of ten percent of the total taxes due.

**State law references:** Due date for taxes, Code of Virginia, § 58.1-3915 et seq.; authority of town to provide dates for filing return, set penalties, interest, etc., Code of Virginia, § 58.1-3916.

**Sec. 62-133. Interest on unpaid taxes.**

Interest at the rate of ten percent per year shall be collected upon the principal and penalty from December 31 for taxes due December 5 of the year next after taxes were assessed under section 62-130.

**State law references:** Interest on unpaid taxes, Code of Virginia, §§ 58.1-3916, 58.1-3918.

**Sec. 62-134. Assessment of new buildings substantially completed; extension of time for paying.**

Pursuant to the provisions of Code of Virginia, § 58.1-3292, all new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the finance director shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the finance director and made available for public inspection. The total tax on any such new building for that year shall be the sum of:

(1) The tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year; and

(2) The tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year.

With respect to any assessment made under this section after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

**Sec. 62-135. Payment of administrative fees, attorney's fees, and collection agency's fees to cover the costs associated with the collection of delinquent taxes.**

Any person liable for local taxes who fails to pay the taxes on or before the due date shall, in addition to all penalties and interest, pay a fee to cover the administrative costs associated with the collection of delinquent taxes. Such fee shall be added to all penalties and interest and shall be equal to the maximum amounts allowed by § 58.1-3958 of the Virginia Code, as amended, or such other Virginia statute regulating the amount of such fees or covering the subject of fees in such cases. Collection agency's fees not to exceed 20 percent of the delinquent tax bill may be recovered from any such person whose taxes are thereafter collected by a private collection agent, or if the delinquency is collected by action at law or suite in equity, reasonable attorney's fees not to exceed 20 percent may be recovered. For purposes of this section, local taxes shall mean any tax which falls on a taxpayer as a result of action by the Halifax Town Council or whose rate is determined by action of the Halifax Town Council or both.

**Secs. 62-136--62-149. Reserved.**

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**DIVISION 2. IMPLEMENTATION OF 2004-05 CHANGES TO THE PERSONAL PROPERTY TAX RELIEF ACT (PPTRA) OF 1998 (adopted 12-13-05)**

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**Sec. 62-150. Purpose; definitions; relation to other ordinances.**

- (a) The purpose of this Ordinance is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
- (b) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 58.1-3523, as amended.
- (c) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Town Code, this Ordinance shall control.

**Sec. 62-151. Method of computing and reflecting tax relief.**

- (a) For tax years commencing in 2006, the Town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.
- (b) The Town shall, as part of the annual budget adopted pursuant to Chapter 25 of Title 15.2 of the Code of Virginia, set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the Town by the Commonwealth.
- (c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

**Sec. 62-152. Allocation of relief among taxpayers.**

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

(b) Relief with respect to qualifying vehicles shall be provided at a rate, annually fixed in the Town budget and applied to the first \$20,000 in value of each such qualifying vehicle that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the Town.

**Sec. 62-153. Transitional provisions.**

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

(b) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed.

**Secs. 62-154--62-169. Reserved.**

## ARTICLE V. TAX ON TRANSIENTS OBTAINING LODGING\*

(adopted 03-14-06)

**\*State law references:** Excise tax on transient room rentals, Code of Virginia, § 58.1-3840.

### **Sec. 62-170. 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:

*Finance director* means the finance director of the town and any of his duly authorized deputies and agents.

*Hotel* means any public or private hotel, inn, hostelry, tourist home or house, tourist camp, tourist cabin, camping grounds, motel, rooming house or other lodging place within the town offering lodging, for compensation, to any transient.

*Lodging* means any room or rooms, lodging or space furnished to any transient.

*Special tax auditor* means the special tax auditor of the town and any of his duly authorized deputies and agents.

*Transient* means any person who, for any period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging in any hotel.

### **Sec. 62-171. Levied; amount.**

There is hereby levied and imposed on each transient a tax in such amount as shall be prescribed and approved by town council of the total amount paid for lodging, by or for any such transient, to any hotel.

### **Sec. 62-172. Exemptions.**

No tax shall be payable under this article in any of the following instances:

- (1) On charges for lodging paid by any official or employee of the federal government or of this state or town, when on official business.
- (2) On charges for lodging paid to any hospital, medical clinic, convalescent home or home for aged people.

### **Sec. 62-173. Collection.**

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

### **Sec. 62-174. Reports and remittances generally.**

The person collecting any tax as provided in section 62-173 shall make out a report thereof, upon such forms and setting forth such information as the finance director may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such report to the finance director with a remittance of such tax. Such reports and remittances shall be made on or before the 20th day of each month covering the amount of tax collected during the preceding month.

**Sec. 62-175. Collector's records.**

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

**Sec. 62-176. Duty of collector going out or disposing of business.**

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article to the town shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

**Sec. 62-177. Penalty for late remittance or false return.**

(a) If any person, whose duty it is to do, shall fail or refuse to remit to the finance director the tax required to be collected and paid under this article, within the time and in the amount specified in this article, there shall be added to such tax by the finance director a penalty in the amount of five percent, if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof during which the failure continues, not to exceed 25 percent in the aggregate, with a minimum penalty of \$2.00.

(b) In the case of a false or fraudulent return with intent to defraud the town of any tax due under this article, a penalty of 50 percent of the tax shall be assessed against the person required to collect such tax.

**Sec. 62-178. Procedure upon failure to collect, report.**

(a) If any person, whose duty it is so to do, shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required in this article, the finance director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the finance director shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person the tax and penalties provided for by this article and shall notify such person, by registered mail, sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten days from the date of such notice.

(b) It shall be the duty of the finance director to ascertain the name of every person operating a hotel or motel in the town, liable for the collection of the tax levied by this

article, who fails, refuses or neglects to collect such tax or to make, within the time provided by this article, the reports or remittances required in this article. The finance director may have a summons issued for such person in the manner provided by law and may serve a copy of such summons upon such person in the manner provided by law and shall make one return of the original to the general district court.

**Sec. 62-179. Violations of article.**

Any person violating or failing to comply with any provision of this article shall be guilty of a class 1 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes provided in this article.



Chapters 63—65

**RESERVED**

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