

CODE
Town of
PEARISBURG, VIRGINIA
Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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THE CODE OF
THE TOWN OF
PEARISBURG, VIRGINIA

Published in 1997 by Order of the Town Council

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OFFICIALS
of the
TOWN OF
PEARISBURG, VIRGINIA
AT THE TIME OF THIS CODIFICATION

John H. Givens, Jr.
Mayor

Barbara Stafford, Vice-Mayor
Daniel Robertson
George Psathas
Rebecca Moses
Steve Stewart
Jimmie Williams
Town Council

Kenneth F. Vittum
Town Manager

James A. Hartley
Town Attorney

Judy R. Harrell
Town Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 1979 Code, as supplemented through October 31, 1980, and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1979 Code, as supplemented, and any subsequent ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

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

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

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Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Milton E. Lefkoff, Supervising Editor, and John Welch, Editor, of the Municipal Code Corpora-

tion, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Kenneth F. Vittum, Town Manager, Mr. James Hartley, Town Attorney, and Ms. Judy R. Harrell, Town Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

Copyright

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ADOPTING ORDINANCE

ORDINANCE NO. 97-01

An Ordinance Adopting and Enacting a New Code for the Town of Pearisburg, Virginia; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be it Ordained by the Town Council of the Town of Pearisburg, Virginia:

Section 1. The Code entitled "The Code of the Town of Pearisburg, Virginia" published by Municipal Code Corporation consisting of Chapters 1 to 78, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before June 24, 1996, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance of the town shall be guilty of a class I misdemeanor. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 24, 1996, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective immediately.

Passed and adopted by the council this 11th day of February, 1997.

Approved:

/s/

Mayor John H. Givens, Jr.

Attest:

/s/

Clerk, Judy R. Harrell

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the council of the Town of Pearisburg, Virginia, held on the 11th day of February, 1997.

/s/

Clerk, Judy R. Harrell

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code will be able to gain a more complete picture of the Code's historical evolution.

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13-01	6-25-13	Include	20
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18-01	5- 8-18	Include	23

PART I

CHARTER*

- Sec. 1. Body politic and corporate; corporate boundaries.
- Sec. 2. Vesting of administration and government; composition of council; compensation of councilmen.
- Sec. 3. Election and term of councilmen and mayor.
- Sec. 4. Council meetings.
- Sec. 5. Reserved.
- Sec. 6. Appointment, term, compensation, etc., of clerk, treasurer, town attorney, etc.; combination of offices.
- Sec. 7. Appointment, term, compensation, bond, powers and duties of sergeant.
- Sec. 8. Mayor as conservator of the peace; judicial power of mayor; appointment, qualifications, term, compensation, bond, powers and jurisdiction of police justice.
- Sec. 9. Powers of town and council generally.
- Sec. 10. Certain powers of town enumerated—Waterworks and water supply; discontinuance of water service for default in payment for service.
- Sec. 11. Same—Sanitary sewer lines; discontinuance of sewer service for default in payment for service; acquisition of property, etc., for establishing, etc., sewer lines.
- Sec. 12. Same—Acquisition and sale of property and rights therein generally; playgrounds and other recreational facilities.
- Sec. 13. Same—Operation of motor vehicles carrying passengers or freight for hire; fares charged by taxicabs; motor traffic and parking of motor vehicles.
- Sec. 14. Same—Holding of shows, carnivals, etc., in town or within one mile of town; imposition, etc., of license taxes.
- Sec. 15. Same—Building code, safe, etc., construction of houses, etc., and construction standards; subdivision regulations generally.
- Sec. 16. Same—Damage to property; minors in poolrooms, etc.; compelling prisoners to work.
- Sec. 17. Same—Encroachments upon streets, etc.
- Sec. 18. Same—Poles, wires, pipes, etc.
- Sec. 19. Same—Exercise of police power; ordinances, etc., to carry Charter powers into effect and punishment for violation of such ordinances; when ordinances to take effect.
- Sec. 20. Town manager.
- Sec. 21. Further provisions as to subdivisions.
- Sec. 22. Continuation of ordinances in effect.

***Editor's note**—Printed herein is Acts 1946, ch. 328, p. 544 et seq., as adopted by the General Assembly of Virginia, approved March 27, 1946. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

To provide a new Charter for the Town of Pearisburg, in the County of Giles, and to repeal the existing Charter of the town, and all other acts inconsistent with this act.

Be it enacted by the General Assembly of Virginia:

1.

Sec. 1. Body politic and corporate; corporate boundaries.

The inhabitants of the territory embraced within the present limits of the Town of Pearisburg, as hereinafter defined, or as the same may be hereafter altered or established by law, shall constitute and continue a body politic and corporate, to be known and designated as the Town of Pearisburg, and as such shall have and may exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia as fully and as completely as though all such powers were specifically enumerated herein. The territory embraced within the present limits of the Town of Pearisburg is described by metes and bounds as follows:

Beginning at an iron pipe stake in the center of a water oak stump, the same being the northern corner of "King Heights" subdivision and in a line of the land of D. W. Mason, then with Mason's lines, south 17 degrees 20 minutes east 1,578.25 feet to a white oak; thence south 6 degrees 58 minutes east 738.1 feet to an iron pipe stake in the northern right-of-way line of state highway number 8; thence crossing the highway and continuing the same direction, south 6 degrees 58 minutes east 1,263.2 feet to a hub in line of the Mistress Daisy Claypool land; thence with said line, south 35 degrees 46 minutes east 1,329.6 feet to an iron pipe stake 6.3 feet northeast of a red oak and 1.5 feet southwest of a dead red oak, a corner of the said Mistress Daisy Claypool land and the land of Frank Pack; thence with Pack, south 39 degrees east 774.3 feet to a post; thence south 79 degrees 44 minutes east 379.4 feet to the head of a spring; thence south 48 degrees 10 minutes east 137.25 feet to a nail and cap in road; thence south 56 degrees 10 minutes east 330 feet to a nail and cap in said road; thence south 11 degrees 10 minutes east 190.9 feet to an iron pipe stake in old road bed, a corner of the lands of Frank Pack and Arch Pack; thence with the latter, south 44 degrees 27 minutes west 1,364 feet to a post at draw bars in fence; thence south 89 degrees 16 minutes west 550.5 feet to an iron pipe stake in fence, 6 feet northward from a marked chestnut in a line of the land of Martha Santolla Williams; thence with her lines, north 12 degrees 5 minutes east 354.2 feet to an iron pipe stake in an old chestnut stump; thence north 80 degrees 50 minutes west 1,032.2 feet to an iron pipe stake 3 feet southward from a locust; thence north 17 degrees 5 minutes west 746.4 feet to a post 34 feet eastward from a large white oak; thence south 76 degrees 10 minutes west 2,988.8 feet to an iron pipe stake by the south side of a post, a corner of the land of Robert A. Johnston and Nannie Buchanan Ballard; thence with the latter, north 29 degrees west 371.6 feet to an iron pipe stake 1.5 feet west of an old black oak; thence with Ballard north 60 degrees 14 minutes east 1,178.9 feet to a post near a large white oak; thence north 17 degrees 42 minutes west 1,213.9 feet to a locust post, corner to the J. W.

Scott and Sam Thompson lands; thence approximately north 84 degrees west approximately 4,800 feet to an iron pipe stake; thence north 20 degrees east 4,350 feet, crossing state highway number 8 and on to a hub in a line between the Negro cemetery and the lands of Doctor H. G. Johnston; thence through the H. G. Johnston land and the James D. Johnston estate land, north 72 degrees 20 minutes east 2,354 feet to a locust hub in the Old Mill Road; thence north 67 degrees 20 minutes east 456 feet to a chestnut; thence north 12 degrees 35 minutes east 495 feet to a hub; thence north 57 degrees 50 minutes east 445 feet to a hub on a line of the land of F. W. Carper; thence with his line in part and in part with a line of the Stafford land, south 32 degrees 8 minutes east 1,716.5 feet to a fence post; thence through the Stafford land and the A. E. Shumate land south 76 degrees 14 minutes east 3,242 feet to the beginning.

Editor's note—As provided in Code of Virginia, § 15.1-836.2, the boundaries of a municipal corporation are to be incorporated by reference in the Charter.

Sec. 2. Vesting of administration and government; composition of council; compensation of councilmen.

The administration and government of the town shall be vested in a council which shall consist of seven members, six of whom shall be denominated the councilmen and one to be denominated the mayor, all of whom shall be residents and qualified voters of the town. Each councilman may receive a salary for his services as such, the amount thereof to be fixed by council, but in no event to be in excess of \$600.00 per year.

(Acts 1956, ch. 94; Acts 1973, ch. 91)

Editor's note—Code of Virginia, §§ 15.1-827 and 15.1-827.1, authorize the council to establish the amount of compensation of the mayor and councilmembers, notwithstanding the provisions of the Charter.

Sec. 3. Election and term of councilmen and mayor.

The councilmen and the mayor shall be elected by the qualified voters of the town on the first Tuesday in May, and the mayor shall be elected every four years beginning in 1974. Members of the council shall be elected for terms of four years; but upon the first assembling of the council elected in June 1950, the members thereof shall be divided into two equal classes to be determined by lot; and the terms of the members of the first class shall be two years and that of the members of the second class four years. Thereafter the terms of all the members of each class shall be four years. The present mayor and councilmen shall continue in office until the expiration of the terms for which they were respectively elected.

(Acts 1950, ch. 73; Acts 1973, ch. 91)

Sec. 4. Council meetings.

The council shall, by ordinance, fix the time for its regular meetings. Special meetings shall be called by the clerk of the council upon the written request of the mayor or any three councilmen. At least 12 hours' written notice shall be given to the other members of the council, of the purpose, place and time of any such special meeting. Special meetings may also be held

at any time without notice, provided all members of the council are present. No business shall be transacted at any such special meeting which is not stated in the notice calling the same, unless all members of the council attend the meeting or waive notice thereof.

Editor's note—The Virginia Freedom of Information Act (Code of Virginia, § 2.1-340 et seq.) provides that, with certain exceptions, all meetings must be public meetings, and that information as to the time and place of each meeting must be furnished to any citizen upon request. Code of Virginia, § 2.1-344, enumerates specific purposes for which executive or closed meetings are permissible.

Sec. 5. Reserved.

(Omitted in the original numbering.)

Sec. 6. Appointment, term, compensation, etc., of clerk, treasurer, town attorney, etc.; combination of offices.

The council shall appoint a clerk and a treasurer, and may appoint a town attorney and such other officers and create such boards and departments as it deems necessary or proper, and define their duties and functions. Such officers so appointed shall hold office during the pleasure of the council, shall give such bond as the council requires, and shall receive such compensation as the council prescribes. The same person may hold two or more of such offices, in the discretion of the council.

Sec. 7. Appointment, term, compensation, bond, powers and duties of sergeant.

The council shall appoint a sergeant who shall qualify as provided by law, and give bond in such amount as the council requires. The sergeant shall be a conservator of the peace, and shall have the same powers and perform the same duties within the corporate limits of the town and to a distance of one mile beyond the same, as were formerly had and performed by constables. He shall perform such other duties and receive such compensation as the council prescribes, and shall hold office during the pleasure of the council.

Editor's note—Code of Virginia, § 15.1-796, authorizes a fixed term for the sergeant.

Sec. 8. Mayor as conservator of the peace; judicial power of mayor; appointment, qualifications, term, compensation, bond, powers and jurisdiction of police justice.

Editor's note—The text of this section (Acts 1946, ch. 328, § 8; Acts 1973, ch. 91; char. § 8) is omitted as obsolete. Code of Virginia, § 16.1-52 et seq., which formerly provided for municipal courts, was repealed by Acts 1972, ch. 708 and Acts 1973, ch. 546.

Code of Virginia, § 16.1-69.1 et seq. establishes a statewide system of judicial districts (Code of Virginia, § 16.1-69.6) consisting of full-time judges (Code of Virginia, § 16.1-69.6:1); and provides (in Code of Virginia, § 16.1-69.8(d)) the municipal court or other court "however called" having general civil and criminal jurisdiction in any town shall be abolished and all jurisdiction and power conferred upon any such court shall pass to the district courts of the county wherein the town is located; and provides (in Code of Virginia, § 16.1-69.48) that fines collected for violations of town ordinances shall be paid monthly into the treasury of the town; it is provided (in Code of Virginia, § 16.1-69.1) that all provisions of municipal Charters inconsistent therewith are repealed to the extent of such inconsistency.

Sec. 9. Powers of town and council generally.

In addition to and supplementary of the powers conferred upon towns and town councils by general law, the Town of Pearisburg and its council shall have the powers set forth in the following sections of this Charter.

Sec. 10. Certain powers of town enumerated—Waterworks and water supply; discontinuance of water service for default in payment for service.

The town is empowered to acquire, establish, enlarge, maintain and operate such waterworks and systems as the council deems necessary for the purpose of providing an adequate supply of water to consumers within the corporate limits of the town and within such adjacent territory as the council deems it expedient or proper to serve, at such rates as the council prescribes, provided that the rates charged consumers without the corporate limits shall not be less than, or more than double, the rates charged consumers within the town for similar services, any or all of which rates the council may alter at any time without notice.

The council may discontinue serving water to any consumer who defaults in payment for such service within the time prescribed by the council for the payment thereof, for so long as such default continues.

Sec. 11. Same—Sanitary sewer lines; discontinuance of sewer service for default in payment for service; acquisition of property, etc., for establishing, etc., sewer lines.

The town is empowered to establish, construct, enlarge, and maintain such sanitary sewer lines and systems as the council deems necessary or expedient, and to require owners or occupiers of real estate within the corporate limits of the town, which fronts or abuts on any such sewer line, to make connection with and use the same; and shall have power to assess and collect reasonable fees and rates for making sewer connections and for sewer service, of the reasonableness of which, the council shall be the sole judge; and sewer service may be discontinued for default in payment for such service within the time prescribed by the council for payment thereof, for so long as such default continues.

The town is empowered to acquire by condemnation or otherwise, such properties or interest or estate therein, either within or without its corporate limits, as the council deems necessary for the purpose of establishing, enlarging, maintaining or operating any such sewer line or lines.

Sec. 12. Same—Acquisition and sale of property and rights therein generally; playgrounds and other recreational facilities.

The town is empowered to acquire by condemnation or otherwise, property, real or personal, or any interest or estate therein, either within or without its corporate limits, for any of its proper purposes, including that of providing playgrounds, parks, golf courses and other recreational facilities, and to make reasonable charges for the use of such facilities, and to otherwise handle and deal with such properties in such manner as the council deems proper

or expedient; and shall have power to acquire by condemnation or otherwise, rights-of-way from the town to any property acquired by it under any of the provisions of this Charter, which lies without its corporate limits, and to construct and maintain upon such rights-of-way, such roads or bridges as may be reasonably necessary for the full enjoyment thereof; and shall also have power to sell such properties or any of them, or any other property owned by the town, whenever the council deems it expedient to do so.

Sec. 13. Same—Operation of motor vehicles carrying passengers or freight for hire; fares charged by taxicabs; motor traffic and parking of motor vehicles.

Insofar as not expressly prohibited by general law, the town is empowered to:

- (1) Control and regulate the operation upon its streets and alleys, of motor vehicles carrying passengers or freight for hire, and to require the owners or operators of such carriers to provide and maintain within the town, suitable terminals for the convenient loading and unloading of passengers and freight;
- (2) Regulate the fares to be charged by operators of taxicabs or other motor vehicles operating from established stands within the town, for carrying passengers within its corporate limits, and to require that the drivers of such vehicles be of such moral character as meets with the approval of the council; and
- (3) Prescribe rules and regulations with respect to motor traffic of all kinds, within the town, and the parking of motor vehicles on its streets and alleys.

Sec. 14. Same—Holding of shows, carnivals, etc., in town or within one mile of town; imposition, etc., of license taxes.

The town is empowered to:

- (1) Regulate the holding of shows, carnivals, fairs and other similar public exhibitions, or to prohibit the holding of same, or any of them, within its corporate limits or within one mile thereof;
- (2) Except as prohibited by general law, impose and collect a license tax for the privilege of doing within the town anything upon which the state imposes a license tax; provided that the town may, unless expressly prohibited by general law, impose a higher license tax on any such thing than that imposed by the state on the same thing, the amount of the license tax imposed by the town to be, in each instance, in the discretion of the council.

State law reference—Licensing of carnivals, circuses, speedways, Code of Virginia, § 58.1-3728.

Sec. 15. Same—Building code, safe, etc., construction of houses, etc., and construction standards; subdivision regulations generally.

The town is empowered to:

- (1) Provide a building code for the town, to provide for the orderly and safe construction of houses and other buildings, to prescribe setback lines on designated streets, [and] to designate standards to be observed in the construction of dwellings and business houses on designated streets and in designated sections; and

- (2) Adopt a comprehensive plan concerning the subdivision of lands within the corporate limits of the town or within two miles thereof; to require that plats of all such subdivisions shall, after having been approved by the council as hereinafter provided, be recorded in the clerk's office of Giles County; and the term "subdivision," when and as used in this Charter, means the division of a tract of land into five or more lots, with appropriate streets and alleys, and with the intention on the part of the owner of the land, of developing the same, or making it available for development by others, for residential and business purposes.

State law reference—Uniform Statewide Building Code which supersedes municipal building codes, Code of Virginia, § 36-98.

Sec. 16. Same—Damage to property; minors in poolrooms, etc.; compelling prisoners to work.

The town is empowered to:

- (1) Prohibit, and to punish for mischievous or wanton damage to school property or any other property, either public or private, within the town;
- (2) Prohibit minors from frequenting or loitering in public poolrooms, billiard parlors or bowling alleys, and prescribe punishment therefor, and to punish the proprietors of such places, or their agents in charge, for permitting the same;
- (3) Compel persons sentenced to confinement in jail for violations of town ordinances, to work on the streets or other public places of the town.

Sec. 17. Same—Encroachments upon streets, etc.

The town is empowered to prohibit encroachments upon the streets or alleys, or upon parks or other public places of the town by any fence, building, porch, or other projection, and to require the removal of any such encroachment heretofore or hereafter made, unless made with the consent and approval of the council, and to punish for any such encroachment hereafter made without such consent first obtained; and any such encroachment made without such consent shall be deemed a nuisance, of which the town may compel the abatement and removal by and through appropriate court action or proceeding, against which right of the town, no statute or limitation shall run.

Sec. 18. Same—Poles, wires, pipes, etc.

The town is empowered to permit and regulate, or to prohibit, the erection of poles and wires for electric, telegraph or telephone service or the laying of any kinds of pipes in the streets or alleys of the town, and to prescribe, assess and collect annual or other periodical charges for the doing of any such things under permits hereafter granted; and the power to require the owners or operators of any such electric light, telephone or telegraph lines to change the location of any of their poles whenever the council deems any such change expedient; and to require all wires or cables carrying electric current, whether heretofore or

hereafter installed, to be placed in suitable conduits, underground, in the discretion of the council; provided that none of the powers above enumerated shall be exercised in a manner inconsistent with the provisions of any franchise granted by the town.

Sec. 19. Same—Exercise of police power; ordinances, etc., to carry Charter powers into effect and punishment for violation of such ordinances; when ordinances to take effect.

The town is empowered to exercise all such police powers as the council deems reasonably necessary for the promotion and protection of the health, morals and safety of the inhabitants of the town, for the protection of the property of the town and its inhabitants, for the preservation of peace and good order, and for the general welfare; and the council is empowered to make ordinances and bylaws for the purpose of carrying into effect the enumerated powers conferred upon the town by this Charter, including police powers, and to prescribe punishments for violations thereof, provided that no such punishment shall exceed the maximum punishment prescribed by general law for a misdemeanor; and provided further, that all ordinances, bylaws and resolutions made and adopted by the council shall become effective 30 days after their passage, unless a different date is specified in any such ordinance, bylaw or resolution, upon which the same shall become effective.

Sec. 20. Town manager.

(a) The council may appoint a town manager who shall be the chief administrative officer of the town and shall be chosen solely on the basis of his executive and administrative qualifications, and shall have some knowledge of civil, mechanical and electrical engineering. He need not, when appointed, be a resident of the town, or of the State of Virginia, but shall during his term of office, reside within the corporate limits of the town, and shall be appointed for such term as he and the council agree upon, not to exceed two years, but in any event, to end with the term of the council making the appointment. The town manager may be suspended or removed by the council for any cause it deems sufficient, provided that no order of suspension or removal shall be made until after he shall have been given at least five days' notice in writing, stating the cause for such suspension or removal and fixing a day when he may be heard thereon. The action of the council, suspending or removing the town manager, shall be final.

The council may place the control and supervision of the police force of the town under either the mayor or the town manager.

(b) Except as otherwise provided in this Charter, the town manager may, with the consent of the council, appoint or employ, and remove or discharge, such officers, employees and assistants as he deems necessary to carry on the work of such departments of the town as are committed to him by the council, in all their respective details, in an economical and satisfactory manner. The salary or compensation, and the terms of office or employment of

such officers, employees and assistants shall be fixed by the town manager, subject to approval by the council; and his actions in all respects shall be subject to review by the council, and he shall be accountable to the council only.

Sec. 21. Further provisions as to subdivisions.

No plat of any subdivision within the corporate limits of the town or within two miles thereof shall be recorded in the clerk's office of Giles County unless and until it shall have been approved by the council, and the council shall not approve any plat of any such subdivision unless the streets, alleys or other roadways provided for therein are of such widths and grades and are so located as to, in the opinion of the council, meet the probable traffic needs in the reasonably near future. Before approving any such plat, the council may, in its discretion, require the owner of the land so subdivided to enter into an agreement in writing, and to give satisfactory security for the performance thereof, to the effect that he will, when and as the same becomes necessary, grade and surface the streets, alleys or roadways shown thereon, in such manner as to meet with the approval of the council.

The approval of any such plat by the council shall not be construed or held to impose any obligation upon the town to grade or surface such streets, alleys, or roadways unless and until the same is, in the opinion of the council, for the best interest and general welfare of the town and its inhabitants.

Sec. 22. Continuation of ordinances in effect.

All ordinances now in force in the Town of Pearisburg, not inconsistent with this Charter, shall be and remain in full force and effect until altered, amended or repealed by the council of the town, after the effective date of this Act.

2.

Chapter 63 of the Acts of Assembly of 1932, approved February 27, 1932, which provided a new Charter for the Town of Pearisburg, and all acts amendatory thereof, are hereby repealed; and all other acts and parts of acts inconsistent with any of the provisions of this Act, are hereby repealed to the extent of such inconsistencies.

3.

An emergency exists and this Act is in force from its passage.

CHARTER COMPARATIVE TABLE

ACTS

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

Year	Chapter	Section	Section this Charter
1946	328	1—22	1—22
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PART II

CODE

Chapter 1

GENERAL PROVISIONS*

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Application of statutory rules for construction of statutes.
- Sec. 1-4. Severability of parts of Code.
- Sec. 1-5. Provisions considered as continuations of existing ordinances.
- Sec. 1-6. Section catchlines and other headings.
- Sec. 1-7. History notes.
- Sec. 1-8. Editor's notes and references.
- Sec. 1-9. Miscellaneous actions and ordinances not affected by Code.
- Sec. 1-10. General penalty; continuing violations.
- Sec. 1-11. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-12. Supplementation of Code.
- Sec. 1-13. Liability of corporations, associations, organizations and agents for violations.

***Charter reference**—Body politic and corporate, corporate boundaries, § 1.

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

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

(Code 1979, § 1-1)

Charter reference—Continuation of ordinances in effect, § 22.

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

In the interpretation and construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed unless otherwise specifically provided or unless they are inconsistent with the manifest intent of the council or the context clearly requires otherwise:

And, or. "And" may be read "or," and "or" may be read "and" if the sense requires it.

Bond. When a bond is required, an undertaking in writing with such surety, if any, as the council may direct, shall be sufficient.

Charter. The word "Charter" means the Charter of the town, as it now exists or as it may be amended in the future.

Code. Whenever the term "Code" or "this Code" is referred to without further qualification, it means the Code of the Town of Pearisburg, Virginia, as designated in section 1-1.

Code of Virginia. The words "Code of Virginia" shall mean the Code of Virginia of 1950, as amended from time to time.

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

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

Council or town council. The term "council," "the council" or "town council" means the council of the Town of Pearisburg, Virginia.

County. The term "county" or "the county" means the County of Giles in the State of Virginia.

Following. The word "following," when used by way of reference to any section, shall be construed to mean next following that in which such reference is made.

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

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

State law reference—Similar provisions, Code of Virginia, § 1-13.7.

Health department. The term "health department" shall be taken to mean the Giles County health department.

Health officer. The term "health officer" shall be taken to mean the director of public health of Giles County or his authorized representative.

In the town. The words "in the town" mean any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

Month. The word "month" means a calendar month.

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

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

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

Oath. The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

State law references—Similar provisions, Code of Virginia, § 1-13.16; when affirmation may be made, Code of Virginia, § 49-9.

Occupant or tenant. The word "occupant" or "tenant" applied to a building or land shall mean any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

Officers, agencies. Any reference in this Code to an officer, employee, department, board, commission or agency shall be construed as if followed by the words "of the Town of Pearisburg, Virginia."

Official time standard. Whenever particular hours are specified in this Code relating to the time within any act shall or shall not be performed by any person, the time applicable shall be official Eastern Standard Time or Eastern Daylight Saving Time, whichever may be in current use in the town.

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

Person. The word "person" includes any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

State law reference—Similar provisions, Code of Virginia, § 1-13.19.

Preceding. The word "preceding," when used by way of reference to any section, shall be construed to mean next preceding that in which such reference is made.

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

Property. The word "property" means real, personal or mixed property.

Public place. The word "public place" means the parks and all public lands owned by the town, and those parts of public places which do not form traveled parts of streets as defined in this section.

Shall, may. The word "shall" is mandatory; the word "may" is permissive.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature, subscription. The words "signature" and "subscription" include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

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

State law reference—"State" defined, Code of Virginia, § 1-13.26.

Street. The word "street" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the town, including the streets and alleys, and, for law enforcement purposes, the entire width between the boundary lines of all private roads or private streets which have been specifically designated "highways" by an ordinance adopted by the council.

Swear, sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State law reference—Similar provisions, Code of Virginia, § 1-13.28.

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

Town. The term "town" or "the town" means the Town of Pearisburg, in the County of Giles and the State of Virginia.

Written, in writing. The words "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State law reference—Similar provisions, Code of Virginia, § 1-13.32.
(Code 1979, § 1-2)

Sec. 1-3. Application of statutory rules for construction of statutes.

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

(Code 1979, § 1-3)

Sec. 1-4. Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of

competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code or their application.

(Code 1979, § 1-4)

State law reference—Severability of provisions of statutes, Code of Virginia, § 1-17.1.

Sec. 1-5. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the Code of the Town of Pearisburg, Virginia of 1979, and all ordinances adopted subsequent thereto, and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1979, § 1-5)

Sec. 1-6. Section catchlines and other headings.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

(Code 1979, § 1-6)

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

Sec. 1-7. History notes.

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

Sec. 1-8. Editor's notes and references.

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

Sec. 1-9. Miscellaneous actions and ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code;

- (3) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds of the town or any evidence of the town's indebtedness or any contract or obligation assumed by the town;
- (4) Any annual tax levy;
- (5) Any right or franchise conferred by ordinance or resolution of the town on any person or corporation;
- (6) Any ordinance adopted for purposes which have been consummated;
- (7) Any ordinance which is temporary, although general in effect, or special, although permanent in effect;
- (8) Any ordinance relating to the salaries of the town's officers or employees;
- (9) Any ordinance annexing territory to the town;
- (10) Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town; and
- (11) Any ordinance relating to zoning or subdivisions;

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

Sec. 1-10. General penalty; continuing violations.

(a) Whenever in this Code, or in any ordinance of the town or rule or regulation promulgated by an officer, board or commission or agency thereof under authority vested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the violation of any such provision of this Code, ordinance, rule or regulation shall be punished as follows, except as otherwise provided in subsection (b) of this section:

- (1) Whenever an act or offense, or the failure to do any act, is declared to be a class 1 misdemeanor, such act or offense shall be punished by a fine of not more than \$2,500.00 or confinement in jail for not more than 12 months or both such fine and imprisonment.
- (2) Whenever an act or offense, or the failure to do any act, is declared to be a class 2 misdemeanor, such act or offense shall be punished by a fine of not more than \$1,000.00 or confinement in jail for not more than six months or both such fine and imprisonment.
- (3) Whenever an act or offense, or the failure to do any act, is declared to be a class 3 misdemeanor, such act or offense shall be punished by a fine of not more than \$500.00.
- (4) Whenever an act or offense, or the failure to do any act, is declared to be a class 4 misdemeanor, such act or offense shall be punished by a fine of not more than \$250.00.

(b) Whenever a provision in this Code or other ordinance of the town prescribes punishment by stating that the act or offense, or the failure to do any act, is a misdemeanor, or that it is punishable as provided for in subsection (a) of this section, or no specific penalty is provided therefor, the act or offense, or failure to do any act, shall be deemed to be a class 1 misdemeanor. Acts or offenses, or failure to do any act, defined by the various provisions of this Code, for which punishment is prescribed without specification as to the class of the offense, act or failure to act, shall be punished according to the provisions prescribing the punishment.

(c) Such penalties shall not exceed the penalties prescribed by general law for a like offense.

(d) Except where otherwise provided, each day any violation of this Code or of any such ordinance, rule or regulation shall continue shall constitute a separate offense.

(Code 1979, § 1-8)

Charter references—Power of town to require persons convicted and sentenced to work on streets or other public places, § 16; punishment for violation of ordinances, § 19.

State law references—Penalties for violations of municipal ordinances, Code of Virginia, § 15.1-901; bond of persons convicted to prevent additional violations, Code of Virginia, § 15.1-902; injunctive relief against continuing violation of ordinance, Code of Virginia, § 15.1-905; classification of criminal offenses, Code of Virginia, § 18.2-9; punishment for conviction of misdemeanor, Code of Virginia, § 18.2-11; punishment for misdemeanor where no penalty prescribed, Code of Virginia, §§ 18.2-12, 18.2-13; extraterritorial jurisdiction in state criminal cases, Code of Virginia, § 19.2-250; payment of fines on installment basis, Code of Virginia, § 19.2-354 et seq.

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

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

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

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

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

Sec. 1-12. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

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

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

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

State law reference—Authority of town to supplement Code, Code of Virginia, § 15.1-37.3.

Sec. 1-13. Liability of corporations, associations, organizations and agents for violations.

Any violation of this Code or other ordinance of the town by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code or other ordinance of the town, where such violation was the act or omission or the result of the act, omission or order of any such person.

(Code 1979, § 1-12)

Chapter 2

ADMINISTRATION*

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Sec. 2-71. Generally.
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***Charter reference**—Powers of town and council generally, § 9 et seq.

Cross references—Fire prevention and protection, ch. 34; law enforcement, ch. 38; library, ch. 42; parks and recreation, ch. 50; recreation commission, § 50-31 et seq.; solid waste, ch. 58; streets, sidewalks and other public places, ch. 62; taxation, ch. 66; utilities, ch. 74.

State law references—The Virginia Freedom of Information Act, Code of Virginia, § 2.1-340 et seq.; State and Local Government Conflict of Interests Act, Code of Virginia, § 2.1-639.1 et seq.; Virginia Public Procurement Act, Code of Virginia, § 11-35 et seq.; liability insurance or self-insurance for officers, employees, etc., Code of Virginia, § 15.1-7.3:1; photographing, recording, etc., of records, Code of Virginia, § 15.1-8; purchase of recycled paper, Code of Virginia, § 15.1-11.5:01; municipal ordinances generally, Code of Virginia, § 15.1-13; creation of service districts, Code of Virginia, §§ 15.1-18.2, 15.1-18.3; fee for bad checks, Code of Virginia, § 15.1-29.4; oath of local officers, Code of Virginia, §§ 15.1-38, 49-1; budget procedures, Code of Virginia, § 15.1-159.8 et seq.; Public Finance Act of 1991, Code of Virginia, § 15.1-227.1 et seq.; provisions affecting towns only, Code of Virginia, § 15.1-826 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.

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ADMINISTRATION

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Sec. 2-206. Creation.
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Article V. Finance

Sec. 2-226. Deposit of funds.
Sec. 2-227. Drawing of checks.
Sec. 2-228. Annual budget.
Sec. 2-229. Annual audit.

ARTICLE I. IN GENERAL**Sec. 2-1. Official safety program units.**

The Pearisburg Volunteer Fire Department, Giles County Rescue Squad, and Pearisburg Police Department are designated as integral parts of the official safety program of the town and as such shall be entitled to such benefits as are set forth in the Line of Duty Act (Code of Virginia, § 2.1-133.5 et seq.).

(Code 1979, § 8-1)

Cross references—Fire prevention and protection, ch. 34; law enforcement, ch. 38.

Secs. 2-2—2-30. Reserved.**ARTICLE II. COUNCIL***

DIVISION 1. GENERALLY

Sec. 2-31. When regular meetings held.

The council shall meet regularly on the second Tuesday night of each month, at 7:30 p.m.
(Code 1979, § 2-5)

Charter reference—Council meetings, § 4.

Sec. 2-32. Quorum for transaction of business.

A majority of the members elected to the council shall constitute a quorum for the transaction of all business except such business as may require a larger vote as prescribed by law.

(Code 1979, § 2-6)

Sec. 2-33. Order of business at regular meetings.

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

- (1) Approval of the minutes of previous meeting.
- (2) Reports of standing committees.
- (3) Reports of special committees.

***Charter references**—Composition of council, compensation of councilmen, § 2; election and term of councilmen and the mayor, § 3.

Cross reference—Disbursement of appropriations for library, § 42-4.

State law references—Where officers shall reside, removal vacates office, Code of Virginia, §§ 15.1-51, 15.1-52; members of councils ineligible to certain offices, Code of Virginia, § 15.1-800; investigations by councils, Code of Virginia, § 15.1-801; journal of council, Code of Virginia, § 15.1-828; oaths of councilmen and mayor, Code of Virginia, § 15.1-829; council may punish or expel members, vacancies, Code of Virginia, § 15.1-830; suspension and removal of town officers, Code of Virginia, § 15.1-831; tax levies, Code of Virginia, § 58.1-3005 et seq.

(4) Introduction of new business, ordinances, petitions, etc.
(Code 1979, § 2-7)

Sec. 2-34. Form of petitions, resolutions, reports; permission prerequisite for non-member to speak to council.

All petitions, resolutions and reports to the council shall be in writing and shall be in respectful language. No person not a member of the council shall speak to the council without first obtaining permission.
(Code 1979, § 2-8)

Sec. 2-35. Recorded vote.

A recorded vote shall be ordered upon the demand of any member on any question then before the council.
(Code 1979, § 2-10)

State law reference—Vote required for levy of taxes, Code of Virginia, § 15.1-826.

Secs. 2-36—2-50. Reserved.

DIVISION 2. COMMITTEES

Sec. 2-51. Enumeration; appointment.

As soon as convenient after the organization of each council, the mayor shall appoint the following committees:

- (1) Finance committee.
 - (2) Public works committee.
 - (3) Public safety committee.
 - (4) Property and recreation committee.
- (Code 1979, § 2-12; Ord. No. 96-10, § 1, 11-11-96; Ord. No. 98-05, § 1, 6-9-98)

Sec. 2-52. Composition.

Each committee of the council shall be composed of a minimum of two councilmembers and one citizen member.
(Code 1979, § 2-13; Ord. No. 11-04, § 1, 9-13-11)

Sec. 2-53. Chairman.

The councilmember first named on each committee shall be the chairman thereof, upon whose call the members of the committee shall meet.
(Code 1979, § 2-14)

Secs. 2-54—2-70. Reserved.

DIVISION 3. VICE-MAYOR

Sec. 2-71. Generally.

The council shall appoint a vice-mayor at the first meeting following an election of councilmembers. In the temporary absence or disability of the mayor, the vice-mayor shall act as mayor and exercise all the powers of mayor during such absence or disability.

(Code 1979, § 2-15)

Secs. 2-72—2-75. Reserved.

DIVISION 4. ELECTION OF COUNCIL

Sec. 2-76. Generally.

(a) Pursuant to Code of Virginia, § 24.2-222.1 and notwithstanding the provisions of Code of Virginia, § 24.2-222, the election of town council and the mayor elected in May shall be held on the general election date in November of odd-numbered years, beginning in November, 2011, and biennially thereafter, in accordance with the following cycles:

- (1) The election for the town council seats filled by the council election of May 2008 shall be held on the November 2011 general election date and every four years thereafter; and
- (2) The election for the town council seats and the office of mayor filled by the council election of May 2010 shall be held on the November 2013 general election date and every four years thereafter.

(b) In accordance with the provisions of Code of Virginia, § 24.2-222.1(D), members of town council elected at the May general elections in 2008 and 2010 shall have their term of office shortened by six months but shall continue in office until their successors have been elected at the November general election and qualified to serve.

(Ord. No. 11-01, § 1, 1-25-11)

Secs. 2-77—2-85. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-86. Payment of monetary bonuses to officers and employees.

The town council may provide for payment of monetary bonuses to officers and employees of the town from time to time as town council deems appropriate.

(Ord. No. 16-06, § 1, 12-13-16)

Secs. 2-87—2-100. Reserved.

DIVISION 2. TOWN MANAGER*

Sec. 2-101. Creation; designation.

An administrative and executive office, to be designated as town manager, is hereby created.

(Code 1979, § 2-16)

Sec. 2-102. Appointment; term.

The town manager shall be appointed by the council by a two-thirds majority vote.

(Code 1979, § 2-17)

Sec. 2-103. Powers and duties generally.

The town manager shall be responsible for the efficient administration of the town's affairs. He shall have general supervision of the construction, maintenance and operation of the town water system, the sewerage system, streets, and sidewalks and shall have direct control of all work directed to be done by the council or any committee thereof. He shall see that all terms and conditions imposed by law upon any public utility company or under any franchise in favor of the town or its inhabitants are faithfully kept and performed. He shall have such general powers as are necessary and proper to carry out the work above specified, and he shall personally superintend all work and labor done and performed in connection with the town affairs except such as may be designated from time to time by the council as separate and apart from the duties of the town manager.

(Code 1979, § 2-18)

***Charter reference**—Town manager, § 20.

Cross references—Duties relative to traffic and parking generally, § 70-2; powers and duties relative to stop and yield intersections, § 70-3.

Sec. 2-104. Recommendation of suspension, discharge of officers appointed by council.

The town manager may recommend the suspension or discharge of officers appointed by the council.

(Code 1979, § 2-19)

Sec. 2-105. Collection of delinquent taxes, license taxes, water bills, accounts, charges.

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

The treasurer or clerk, as designated by the town manager, shall from time to time make up a list of all such delinquent taxes, license taxes and water bills and deliver the same to the town manager; and it shall be the duty of the town manager to forthwith proceed to collect such taxes, license taxes and bills in the manner provided by law.

(Code 1979, § 2-21)

Cross references—Businesses, ch. 26; taxation, ch. 66; utilities, ch. 74.

Sec. 2-106. Responsibility for tools, machinery, materials.

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

(Code 1979, § 2-22)

Sec. 2-107. Monthly report as to consumption of water, etc.; preparation of statements.

The town manager on or by the tenth day of each month shall deliver or cause to be delivered to the appropriate officer of the town a report showing the names of all consumers of water, together with the quantity consumed by each and the rate thereof, for the amount of sewer rentals and garbage collection fees due, the total charge to be made against each person

and such other information as will enable the treasurer or clerk, as designated by the town manager, to prepare and send out monthly statements to all water users, sewer users and persons who are chargeable with garbage collections.

(Code 1979, § 2-24)

Cross references—Solid waste, ch. 58; utilities, ch. 74.

Sec. 2-108. Attendance at council meetings.

The town manager shall attend all regular meetings of the council and such special meetings as may be necessary. However, the council may excuse the town manager from attendance at any meeting of the council.

(Code 1979, § 2-25)

Sec. 2-109. Orders to subordinates of town manager.

Neither the council nor any of its members nor the mayor shall give orders to any of the subordinates of the town manager, either publicly or privately.

(Code 1979, § 2-4)

Secs. 2-110—2-125. Reserved.

DIVISION 3. TOWN ATTORNEY*

Sec. 2-126. Attendance at council meetings.

The town attorney shall attend all council meetings. However, the council may excuse the town attorney from attendance at any meeting of the council.

(Code 1979, § 2-26)

Sec. 2-127. Annual report.

The town attorney shall make an annual report to the council, giving a condensed statement of the business done in his office for the town in the year immediately preceding such report. This report shall contain a list of deeds, contracts, etc., to which the town was a party. Such report shall also contain a statement of the unfinished business in the hands of the town attorney with such suggestions with reference to the interest of the town as he may deem pertinent.

(Code 1979, § 2-27)

Sec. 2-128. Compensation generally.

In addition to the annual retainer paid the town attorney by way of salary, he shall have additional compensation for all special services rendered to the council, in such amount as may be agreed upon by the town attorney and the council.

(Code 1979, § 2-28)

***Charter reference**—Appointment, term, compensation, etc., of town attorney, § 6.

Sec. 2-129. Reimbursement for expenses.

From time to time, the town attorney shall present for payment any actual outlay or expense which the performance of his duties has entailed.

(Code 1979, § 2-29)

Secs. 2-130—2-145. Reserved.

DIVISION 4. TOWN TREASURER*

Sec. 2-146. Town money in hands of treasurer to be safely kept.

All money belonging to the town collected by the treasurer or paid over to him shall be safely kept, as provided in section 2-226.

(Code 1979, § 2-30)

Sec. 2-147. Books for receipts, disbursements and accounts.

It shall be the duty of the treasurer to keep suitable books in which all receipts and disbursements shall be properly entered and in which the accounts of all persons accountable to the town shall be kept. Each fund shall be separated. All accounts of the town shall be kept correctly and plainly.

(Code 1979, § 2-31)

Sec. 2-148. Monthly financial statement.

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

(Code 1979, § 2-32)

Secs. 2-149—2-165. Reserved.

DIVISION 5. TOWN CLERK†

Sec. 2-166. Clerk of the council.

The clerk shall be the clerk of the council.

(Code 1979, § 2-33)

Charter reference—Duty of clerk of the council to call special meetings, § 4.

***Charter reference**—Appointment, term, compensation, etc., of treasurer, § 6.

Cross references—Treasurer to administer and enforce business chapter, § 26-1; taxation, ch. 66.

†Charter reference—Appointment, term, compensation, etc., of clerk, § 6.

Sec. 2-167. Journal of council proceedings; attestation and publication of ordinances, papers, proceedings ordered published.

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

(Code 1979, § 2-34)

Sec. 2-168. Additional books and records.

In addition to the books of account and records provided for in this division, the clerk shall keep such other books and records as may be necessary to the discharge of the functions of his office.

(Code 1979, § 2-35)

Sec. 2-169. Examination of books and papers.

The books and papers of the clerk shall, at all times, be subject to examination by the town manager, the mayor, any member of the council or any committee of the council.

(Code 1979, § 2-36)

Sec. 2-170. Custody of town seal.

The clerk shall be custodian of the corporate seal of the town.

(Code 1979, § 2-37)

Sec. 2-171. Execution of deeds for conveyance or exchange of town property and other instruments requiring use of seal.

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

(Code 1979, § 2-3)

Sec. 2-172. Ordinance book—Entering ordinances.

The clerk shall enter in a book copies of all ordinances passed by the town council. The book in which ordinances are thus entered shall be known as the general ordinance book and shall be indexed.

(Code 1979, § 2-38)

Sec. 2-173. Same—Notation of amending or repealing ordinances.

The clerk shall write on the first page of every ordinance, entered in the book mentioned in section 2-172, if the same has been amended or repealed, as the case may be, the words "amended" or "repealed," with a reference to the page of the ordinance book where the amending or repealing ordinance can be found.

(Code 1979, § 2-39)

Sec. 2-174. Numbering of ordinances.

All ordinances of the town shall be consecutively numbered in annual series, the number of a particular ordinance to consist of the year in which passed and the consecutive number of the ordinance.

(Code 1979, § 2-40)

Secs. 2-175—2-190. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-191—2-205. Reserved.

DIVISION 2. PLANNING COMMISSION*

Sec. 2-206. Creation.

A town planning commission is hereby created.

(Code 1979, § 15-1)

Sec. 2-207. Composition; appointment and term of members.

The planning commission shall be composed of five members, who shall be appointed by the town council, at least half of whom shall be residents of the town and owners of real property qualified by knowledge and experience to make decisions on questions of community growth and development. One member of the commission may be a member of the town council, and one member may be a member of the administrative branch of government of the town. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed unless the town council, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission shall serve staggered terms of four years each.

(Code 1979, § 15-2; Ord. No. 89-15, § 1, 11-14-89)

Sec. 2-208. Functions, powers, duties and limitations.

The planning commission shall have the functions, powers and duties, and be subject to the limitations, which are prescribed by law, particularly those provided for in Code of Virginia, §§ 15.1-437 et seq., and 15.1-446.1 et seq.

(Code 1979, § 15-3)

Secs. 2-209—2-225. Reserved.

*State law reference—Planning commissions, Code of Virginia, §§ 15.1-427 et seq., 15.1-437 et seq.

ARTICLE V. FINANCE***Sec. 2-226. Deposit of funds.**

All funds belonging to the town shall be deposited in such banks as have offices within the corporate limits of the town by the treasurer in the name of the "Town of Pearisburg."
(Code 1979, § 2-2)

Sec. 2-227. Drawing of checks.

All checks drawn on any account of the town shall be signed by such officials and employees of the town as council may authorize by resolution from time to time.
(Code 1979, § 2-20)

Sec. 2-228. Annual budget.

With the assistance of department heads, the town manager shall prepare and submit an annual budget (including a compensation and pay plan) to the council by June 1 of each year.

Sec. 2-229. Annual audit.

There shall be an annual audit of the financial and administrative affairs of the town by a qualified and competent certified public accountant. The audit shall be due by January 1 of each year.
(Code 1979, § 2-1)

State law reference—Audit of local government records, etc., Code of Virginia, § 15.1-167.

*Cross reference—Taxation, ch. 66.

Chapters 3—5

RESERVED

Chapter 6

ADVERTISING*

- Sec. 6-1. Unauthorized tearing down, altering or mutilating of advertisements or posters.

***Cross references**—Alcoholic beverages, ch. 10; amusements and entertainments, ch. 14; buildings and building regulations, ch. 22; businesses, ch. 26; peddlers and solicitors, ch. 54; streets, sidewalks and other public places, ch. 62.

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

Sec. 6-1. Unauthorized tearing down, altering or mutilating of advertisements or posters.

No unauthorized person shall tear down an advertisement or poster put up with the consent of the owner of the property whereon the same is posted or shall alter or mutilate such advertisement or poster.

(Code 1979, § 14-5)

Chapters 7—9

RESERVED

Chapter 10

ALCOHOLIC BEVERAGES*

Sec. 10-1. Licenses.

***Cross references**—Advertising, ch. 6; amusements and entertainments, ch. 14; businesses, ch. 26; taxation, ch. 66; traffic and vehicles; ch. 70.

State law references—Alcoholic Beverage Control Act, Code of Virginia, tit. 4.1; local regulations, Code of Virginia, § 4.1-128.

Sec. 10-1. Licenses.

(a) Persons licensed by the state alcoholic beverage control board to sell alcoholic beverages in the town shall pay annual license taxes to the town as follows:

- (1) For every winery license, \$1,000.00.
- (2) For each brewery license, \$1,000.00.
- (3) For each bottler's license, \$500.00.
- (4) For each wholesale beer license, \$75.00.
- (5) For each retail on-premises wine and beer license for a hotel, restaurant or club, and for each retail off-premises wine and beer license, \$37.50.
- (6) For each retail on-premises beer license for a hotel, restaurant or club, \$25.00.
- (7) For each banquet license, \$5.00.
- (8) For each fruit distiller's license, \$1,500.00.

(b) The town shall not issue any town license to any person unless such person shall hold or shall secure simultaneously therewith the proper state license. If any person shall hold any such town license without at the same time holding the proper state license, such town license shall, during the period when such person does not hold the proper state license, confer no rights, powers or privileges upon such person.

(c) The licenses required by this section are in addition to any other licenses required by the town of retail merchants, wholesale merchants, restaurants, hotels and other businesses. In computing license taxes for wholesale and retail merchants and restaurants, purchases of alcoholic beverages by wholesale merchants and sales of alcoholic beverages by retail merchants and restaurants shall be included in the gross purchases and sales, the same as if the alcoholic beverages were nonalcoholic; provided, that in ascertaining the liability of a beer wholesaler to the town wholesale merchants' license and tax and in computing the town wholesale merchants' license tax on such beer wholesaler, purchases of beer up to the amount of beer purchases which would be necessary to produce a town wholesale merchants' license tax equal to the wholesale beer license tax paid by such wholesaler under this section shall be disregarded; provided, further, that in ascertaining the liability of a wholesale wine distributor to the town wholesale merchants' license tax and in computing the town wholesale merchants' license tax on such wholesale wine distributor, purchases of wine up to the amount of wine purchased which would be necessary to produce a town wholesale merchants' license tax equal to the wholesale wine distributor's license tax paid by such wholesale wine distributor under this section shall be disregarded.

(d) No town alcoholic beverage license shall be imposed on any wholesaler or distributor for the privilege of delivering alcoholic beverages in the town on orders previously taken when such wholesaler or distributor maintains no place of business in the town.

(e) For the purposes of this section, the terms "beer," "wine" and "alcoholic beverages" shall have the meanings ascribed to them by Code of Virginia, § 4.1-100.

(Code 1979, § 9-19(a)(1)—(4), (6)—(9), (b)—(e))

Chapters 11—13

RESERVED

Chapter 14

AMUSEMENTS AND ENTERTAINMENTS*

Article I. In General

Secs. 14-1—14-30. Reserved.

Article II. Pool Rooms; Billiard Rooms; Bowling Alleys

- Sec. 14-31. Betting, gambling.
- Sec. 14-32. Hours when closing required.
- Sec. 14-33. Minors prohibited, alcoholic beverages.

***Charter reference**—Powers of town as to the holding of shows, carnivals, etc., § 14.

Cross references—Advertising, ch. 6; alcoholic beverages, ch. 10; animals, ch. 18; businesses, ch. 26; environment, ch. 30; library, ch. 42; offenses and miscellaneous provisions, ch. 46; parks and recreation, ch. 50.

State law references—Authority of council to protect property and preserve peace and good order, Code of Virginia, § 15.1-137; certain premises deemed common nuisance, Code of Virginia, §§ 18.2-258, 18.2-258.01; charitable gaming, Code of Virginia, § 18.2-340.15 et seq.; minors in public places of amusement, Code of Virginia, §§ 18.2-432, 40.1-100; public dancehalls, Code of Virginia, § 18.2-433.

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. POOL ROOMS; BILLIARD ROOMS; BOWLING ALLEYS

Sec. 14-31. Betting, gambling.

It shall be unlawful for any person to bet, wager or play at any game for money or other thing of value in any pool room, billiard room or bowling alley or game room within the town. (Code 1979, § 17-1; Ord. No. 97-03, § 1, 3-11-97)

Sec. 14-32. Hours when closing required.

Every pool room, billiard room, bowling alley, and game room shall be closed at 12:00 midnight and remain closed until 6:00 a.m. the following day. (Code 1979, § 17-2; Ord. No. 97-03, § 1, 3-11-97)

Sec. 14-33. Minors prohibited, alcoholic beverages.

No person under the age of 21 years shall frequent, play in, or loiter in or be permitted by the proprietor thereof, or his agent, to frequent, play or loiter in any establishment containing pool tables, billiard tables, or electronic games where any alcoholic beverages are sold. (Code 1979, § 17-3; Ord. No. 97-03, § 1, 3-11-97)

Charter reference—Authority for above section, § 16.

Cross reference—Offenses and miscellaneous provisions, ch. 46.

State law reference—Minors in public places of amusement, Code of Virginia, §§ 18.2-432, 40.1-100.

Chapters 15—17

RESERVED

Chapter 18

ANIMALS*

Article I. In General

- Sec. 18-1. Definitions.
- Sec. 18-2. Allowing animals to run at large.
- Sec. 18-3. Breaking into or opening pound.
- Sec. 18-4. Keeping animals in such manner as to cause a nuisance.
- Sec. 18-5. Keeping hogs or hog pens.
- Sec. 18-6. Keeping a slaughterhouse.
- Sec. 18-7. Noisy animals and fowl.
- Sec. 18-8. Trapping, hunting birds or wildfowl.
- Sec. 18-9. Dangerous animals prohibited.
- Secs. 18-10—18-35. Reserved.

Article II. Dogs

- Sec. 18-36. Administration and enforcement of article; rules and regulations; authority of town manager.
- Sec. 18-37. Display of county dog license tag required.
- Sec. 18-38. Female dogs in heat; confinement required.
- Sec. 18-39. Proper care and control required; nuisance prohibited.
- Sec. 18-40. Dogs running at large prohibited; duty of town manager as to dogs found running at large.
- Sec. 18-41. Kennels.
- Sec. 18-42. Violations; penalty.

***Cross references**—Amusements and entertainments, ch. 14; businesses, ch. 26; environment, ch. 30; traffic and vehicles, ch. 70.

State law references—Comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.; offenses involving animals, Code of Virginia, §§ 3.1-796.128, 18.2-403.1 et seq.; inoculation of cats against rabies, Code of Virginia, § 15.1-28.5; ordinances prohibiting cruelty to animals, Code of Virginia, § 15.1-29.1:1; regulation of animals by municipalities, Code of Virginia, § 15.1-870; diseased animals, dead animals, etc., Code of Virginia, §§ 18.2-323, 18.2-510; hunting near public schools and public parks, Code of Virginia, § 29.1-527; estrays, Code of Virginia, § 55-202 et seq.

ARTICLE I. IN GENERAL**Sec. 18-1. Definitions.**

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

Nuisance birds means blackbirds, red-winged blackbirds, grackles, cowbirds, pigeons, and starlings, or any other species so declared by regulations of the state board of agriculture and consumer services when causing or about to cause economic losses in the town; becoming detrimental to the public health and welfare; defacing or defiling public or private property; or otherwise creating a public nuisance.

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.1-1012(1).

Sec. 18-2. Allowing animals to run at large.

It shall be unlawful for any person to allow any hog, pig, goat, ox, cow, calf, horse, mule, colt or other livestock to run at large in the town.

(Code 1979, § 4-3)

State law reference—Estrays, Code of Virginia, § 55-202 et seq.

Sec. 18-3. Breaking into or opening pound.

No person shall break into or open, or aid or assist in breaking into or opening, any pound, building or enclosure in which animals seized for running at large have been placed. No person shall prevent such an animal running at large from being seized.

(Code 1979, § 4-4)

Sec. 18-4. Keeping animals in such manner as to cause a nuisance.

No person shall pen up or confine cows, horses, mules or other animals in any place within the town in such a manner that will cause it to be a nuisance.

(Code 1979, § 4-5)

Cross reference—Nuisances, § 30-31 et seq.

Sec. 18-5. Keeping hogs or hog pens.

It shall be unlawful for any person to keep in the town any hog or hog pen.

(Code 1979, § 4-6)

Sec. 18-6. Keeping a slaughterhouse.

It shall be unlawful for any person to have or keep a slaughterhouse or butcher pen in the town.

(Code 1979, § 4-7)

Sec. 18-7. Noisy animals and fowl.

It shall be unlawful for any person to keep or permit on his premises or in any public place any animal or fowl which by its actions causes objectionable noise and disturbs the public peace and rest.

(Code 1979, § 4-8)

Cross reference—Noise, § 30-81 et seq.

Sec. 18-8. Trapping, hunting birds or wildfowl.

It shall be unlawful for any person to trap, hunt, shoot or molest, or attempt to trap, hunt, shoot or molest, in any manner any bird or wildfowl or to rob bird nests or wildfowl nests; however, if nuisance birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the town, and no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such number and in such manner as is deemed advisable by the town manager under the supervision of the chief of police.

(Code 1979, § 4-9)

State law reference—Nuisance Bird Law, Code of Virginia, § 3.1-1011 et seq.

Sec. 18-9. Dangerous animals prohibited.

(a) It shall be unlawful to keep, harbor or own or in any way possess within the corporate limits of the town any dangerous animal.

(b) As used in this section, "dangerous animal" is defined as follows:

- (1) Any animal other than domestic dogs and cats, which in its wild state is carnivorous or which because of its nature or physical makeup is capable of inflicting serious physical harm or death to human beings, including, but not limited to, members of the cat family; and reptiles which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors; and fish which present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup; and all bears, wolves, wolverines, badgers, lions, tigers, leopards and panthers.
- (2) Any animal having poisonous bites.
- (3) A canine or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, or a canine or canine crossbreed which has:
 - a. Killed a person;
 - b. Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or
 - c. Continued to exhibit the behavior which resulted in a previous finding by a court that it is dangerous, provided that its owner has been given notice of that finding.

(d) Any person keeping, owning or harboring a dangerous animal shall notify the town manager in writing. Failure to comply will be prima facie evidence that such dangerous animal was not kept, owned or harbored within the town as of July 14, 1987.

(f) Upon the complaint of any person that a person owns or is keeping or harboring a dangerous animal on premises within the town, the chief of police shall forthwith cause the matter to be investigated; and if after such investigation the facts indicate that such person is in fact the owner or is keeping or harboring any such dangerous animal, he shall forthwith send written notice to such person, to be delivered via certified mail or personally served by a police officer, requiring such person to safely remove such animal from the town within three days of the date of such notice. Notice, as herein provided, shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, or has escaped and is at large or presents an immediate danger to the public, in which case the chief of police shall cause the animal to be immediately seized and impounded, according to subsection (g) below, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(g) The chief of police shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to subsection (f) above or with the regulations set forth by the town manager in subsection (e) above. Upon seizure and impoundment, the animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, harbor or keep such animals. If during the course of seizing and impounding any such animal the animal poses a risk of serious physical harm or death to any

person, such person or persons authorized by the chief of police may render such animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible then the animal may be killed.

(h) Any reasonable cost incurred by the chief of police in seizing, impounding and for confining any dangerous animal, pursuant to the provisions of subsection (g) above, shall be charged against the owner, keeper or harbinger of such animal and shall be collected by the town.

(i) Any person who violates this section shall, upon conviction therefor, be guilty of a class 3 misdemeanor.

(j) Notwithstanding the provisions of this section, Code of Virginia, § 3.1-796.93:1, shall apply to dangerous dogs and vicious dogs, as defined therein.
(Ord. No. 87-05, § 1, 7-14-87)

Secs. 18-10—18-35. Reserved.

ARTICLE II. DOGS*

Sec. 18-36. Administration and enforcement of article; rules and regulations; authority of town manager.

The town manager shall administer and enforce the provisions of this article and shall promulgate such rules and regulations pursuant to this article as are necessary to the administration and enforcement of this article.
(Code 1979, § 4-10)

Sec. 18-37. Display of county dog license tag required.

It shall be unlawful for the owner to permit any dog six months old or over to be off the premises of the owner without a collar or harness to which is fastened a county dog license tag, except that the collar or harness may be removed temporarily when:

- (1) The dog is engaged in lawful hunting;
- (2) The dog is competing in a dog show;
- (3) The dog has a skin condition which would be exacerbated by the wearing of a collar;
- (4) The dog is confined; or
- (5) The dog is under the immediate control of its owner.

(Code 1979, § 4-11)

State law reference—Dogs to wear tags, Code of Virginia, § 3.1-796.92.

***State law reference**—Comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.

Sec. 18-38. Female dogs in heat; confinement required.

Every female dog in heat shall be confined in a building, secure enclosure or on the owner's property in such a manner that such female dog cannot come into contact with another dog, except for planned breeding.

(Code 1979, § 4-12)

Sec. 18-39. Proper care and control required; nuisance prohibited.

No person shall fail to exercise proper care and control of any dog owned or kept by him to prevent such dog from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby by biting or viciously charging in a frightening manner, upsetting refuse storage containers and scattering refuse or garbage, chasing vehicles, habitually attacking other domestic animals, using property beyond the premises of the owner or custodian of such dog for evacuation of bowels or bladder, or causing an offensive odor are declared to be a nuisance to the health, safety and welfare of the citizens of the town.

(Code 1979, § 4-13)

Sec. 18-40. Dogs running at large prohibited; duty of town manager as to dogs found running at large.

(a) It shall be unlawful for an owner or custodian of a dog in the town to allow his dog to run at large within the town. For the purpose of this section a dog shall be deemed to be running at large while roaming, running or being off the property of its owner or custodian, and not under its owner's or custodian's immediate control.

(b) The town manager may cause to be captured any dog running at large in violation of this section.

(Code 1979, § 4-14)

State law reference—Authority of town to prohibit dogs from running at large, Code of Virginia, § 3.1-796.93.

Sec. 18-41. Kennels.

(a) Any person engaged in the business of breeding, buying, selling or harboring dogs, whether incidental to his primary occupation or not (referred to in this section as operating a kennel), shall not construct, erect or maintain any kennel, structure or assemblage of fencing or other materials for the purpose of confining dogs except to the rear of the main structure of the owner's property and to the rear of the main structure of abutting properties and within the side and rear building lines for accessory structures provided in the zoning ordinance; but in no case shall such structure or assemblage be constructed, erected or maintained closer than ten feet from any side property line.

(b) Any person operating a kennel shall maintain such kennel facilities in a clean and sanitary manner, shall dispose of all animal waste in a sanitary manner, shall store feed so as

not to attract rodents, and shall confine female dogs with litter and pregnant female dogs in such a manner that such dogs cannot come into contact with persons outside the kennel structure.

(Code 1979, § 4-15)

Editor's note—The zoning ordinance is on file in the town hall.

Sec. 18-42. Violations; penalty.

Whenever any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, the violation of any such provision of this article, unless otherwise provided, shall be a class 4 misdemeanor.

(Code 1979, § 4-16)

Chapters 19—21

RESERVED

Chapter 22

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Secs. 22-1—22-30. Reserved.

Article II. Building Code

Sec. 22-31. Uniform Statewide Building Code—Applicability to town.
Sec. 22-32. Same—Building permit required; fees.
Sec. 22-33. Removal and repair of buildings and other structures.
Secs. 22-34—22-60. Reserved.

Article III. Swimming Pools

Sec. 22-61. Definitions.
Sec. 22-62. Fencing required.
Sec. 22-63. Penalty.

***Charter reference**—Powers of town as to a building code and construction regulations, § 15.

Cross references—Advertising, ch. 6; businesses, ch. 26; environment, ch. 30; authority of certain officers with respect to nuisances, § 30-61; fire prevention and protection, ch. 34; streets, sidewalks and other public places, ch. 62; numbering of houses and buildings, § 62-71 et seq.; taxation, ch. 66; utilities, ch. 74; vegetation, ch. 78.

State law references—Access to and use of buildings by handicapped, Code of Virginia, § 2.1-517; dangerous buildings and other structures, Code of Virginia, § 15.1-11.2; regulations concerning the building of houses, Code of Virginia, § 15.1-15(1); fences around swimming pools, Code of Virginia, § 15.1-29; display of numbers on buildings, Code of Virginia, § 15.1-29.11; buildings, monuments and lands of local governments, Code of Virginia, § 15.1-257 et seq.; buildings for municipal functions, purposes, etc., Code of Virginia, § 15.1-846; light, ventilation and sanitation of buildings and premises, Code of Virginia, § 15.1-869; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; local licensing of certain contractors, Code of Virginia, § 54.1-1117.

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. BUILDING CODE

Sec. 22-31. Uniform Statewide Building Code—Applicability to town.

(a) The town hereby adopts by reference the Virginia Uniform Statewide Building Code (2012 Edition) as amended, the provisions of which are adopted and shall control all matters concerning the design, construction, alteration, addition, enlargement, repair, removal, demolition, conversion, use, location, occupancy and maintenance of buildings, and all other functions which pertain to the installation of systems vital to buildings and structures and their service equipment as defined by the Virginia Uniform Statewide Building Code, and shall apply to buildings or structures in the town.

(b) These codes, copies of which are and shall remain on file in the office of the building official, shall control all matters concerning design, construction, alteration, addition, enlargement, repair, removal, demolition, conversion, use, location, occupancy and maintenance of all buildings and structures in the town, and all other functions which pertain to the installation of systems vital to all buildings and structures in their service equipment as defined by these codes, and shall apply to existing and proposed structures in the town.

(Code 1979, § 5-6; Ord. No. 93-02, § 1, 6-8-93; Ord. No. 93-11, § 1, 8-10-93; Ord. No. 94-03, § 1, 5-10-94; Ord. No. 00-02, § 1, 6-13-00; Ord. No. 03-03, § 1, 12-9-03; Ord. No. 09-01, § 1, 6-9-09; Ord. No. 11-03, §§ 1(A), (B), 5-10-11; Ord. No. 14-04, §§ 1(A), (B), 8-12-14)

Sec. 22-32. Same—Building permit required; fees.

No permit to begin work for new construction, alteration, removal, demolition or other building operations shall be issued until the fees prescribed in this section have been paid to the town treasurer, nor shall an amendment to a permit requiring an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid. Furthermore, should construction begin without first obtaining the necessary permit, the fees shall be one and a half times these rates.

- (1) *Zoning permit*—A certificate of zoning compliance must be acquired for designated building permits at an additional fee of \$30.00.
- (2) *Plan review for new residential construction including additions or alterations of 750 square feet or greater*—\$0.01 per square foot, with a minimum charge of \$25.00.
New commercial/industrial/retail construction including additions and alterations, \$0.01 per square foot, with a minimum charge of \$50.00.
- (3) *Additions, including porches, decks, and carports*—\$0.14 per square foot, with a minimum charge of \$30.00 (see subsection (1), above).
- (4) *Demolition*—\$35.00.

- (5) *Doublewide manufactured homes*—\$0.12 per square foot (including basements, garages, decks, etc.), with a minimum charge of \$50.00.
 - (6) *Electrical service*—\$40.00.
 - (7) *Garages (detached) and outbuildings*—\$0.10 per square foot, with a minimum charge of \$20.00 (see subsection (1), above).
 - (8) *Mechanical and heat pumps*—\$30.00.
 - (9) *Remodeling*—\$0.14 per square foot, with a minimum charge of \$30.00.
 - (10) *Reroofing or residing*—\$30.00, or \$50.00 if both are done at the same time.
 - (11) *New residential*—\$0.14 per square foot (including basements, garages, decks, etc.), with a minimum charge of \$45.00 (see subsection (1), above).
 - (12) *Singlewide manufactured home*—\$75.00 (see subsection (1), above).
 - (13) *Swimming pools*—\$0.14 per square foot, with a minimum charge of \$30.00 (see subsection (1), above).
 - (14) *Erection of sign or structure*—\$0.14 per square foot of signage, with a minimum charge of \$20.00 (see subsection (1), above).
 - (15) *Moving structure from one position to another on the same lot or from one lot to another*—a minimum charge of \$20.00.
 - (16) *New commercial/industrial/retail construction and additions*—\$0.20 per square foot of finished floor area, with a minimum charge of \$30.00.
 - (17) *Temporary certificate of occupancy*—\$25.00; final certificate of occupancy, \$50.00.
 - (18) *Plumbing*—\$40.00.
- (Code 1979, § 5-7; Ord. No. 92-09, § 1, 6-9-92; Ord. No. 93-01, § 1, 2-9-93; Ord. No. 97-09, § 1, 6-23-97; Ord. No. 06-04, § 1, 6-27-06; Ord. No. 14-01, § 1, 6-24-14)

Sec. 22-33. Removal and repair of buildings and other structures.

(a) Owners of real property within the town shall remove, repair, or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town.

(b) If an owner fails to do so, the building official may send the owner notice of his or her obligations under this section. Such notice shall be:

- (1) In writing, mailed by certified mail, return receipt requested, sent to the last known address of the property owner; and
- (2) Published in a newspaper having general circulation in the locality in accordance with the applicable provisions of Code of Virginia, §§ 15.2-1426, 15.2-1427.

(c) The town through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town if the owner and lienholder of the property fails to do so within 30 days following the later of the return of the certified mail receipt or newspaper publication. However, if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice, the town may take action to prevent unauthorized access to the building within seven days of such notice. Repair of the structure may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.

(d) In the event the town, through its own agents or employees removes, repairs or secures any building, wall or any other structure pursuant to this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.

(e) Every charge authorized by this section 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 Code of Virginia, title 58.1, chapter 39, articles 3 and 4, as amended. 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.

(f) Notwithstanding the foregoing, with the written consent of the property owner, the town may, through its agents or employees, demolish or remove a derelict nonresidential building or structure provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust or mortgage and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the first lienholder or the first lienholder's authorized agent. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the first lienholder or the first lienholder's authorized agent is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subsection (d). In the event the consent of the first lienholder or the first lienholder's authorized agent is not obtained, such lien shall be subordinate to that first lien but shall otherwise be subject to subsection (e).

(g) The remedies provided by this section are in addition to, and not in lieu of, any other remedy provided by general law or by the Virginia Uniform Statewide Building Code. (Ord. No. 15-10, § 1, 12-8-15)

Secs. 22-34—22-60. Reserved.

ARTICLE III. SWIMMING POOLS**Sec. 22-61. 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:

Fence means a close-type vertical barrier not less than four feet in height above ground surface. A woven steel wire, chain link, picket or solid board type fence or a fence of similar construction that will prevent the smallest of children from getting through shall be construed as within this definition.

Swimming pool means any outdoor manmade structure constructed from material other than natural earth or soil designed or used to hold water for the purpose of providing a swimming or bathing place for any person or any such structure for the purpose of impounding water therein to a depth of more than two feet.

(Code 1979, § 14-27)

Cross reference—Definitions generally, § 1-2.

Sec. 22-62. Fencing required.

It shall be unlawful for any person to construct, maintain, use, possess or control any swimming pool on any property in the town without having completely around such swimming pool a fence as defined in section 22-61. Every gate in such fence shall be capable of being securely fastened at a height of not less than four feet above ground level, and it shall be unlawful for any such gate to be allowed to remain unfastened while the pool is not in use. Such fence shall be constructed so as to come within two inches of the ground at the bottom and shall be at least five feet from the edge of the pool at any point.

(Code 1979, § 14-28)

State law reference—Authority for above section, Code of Virginia, § 15.1-29.

Sec. 22-63. Penalty.

Violation of this article shall be punishable by a fine of not more than \$300.00 or confinement in jail for not more than 30 days, either or both.

Chapters 23—25

RESERVED

Chapter 26

BUSINESSES*

Article I. In General

- Sec. 26-1. Reserved.
- Sec. 26-2. Reserved.
- Sec. 26-3. Yard sales and garage sales.
- Secs. 26-4—26-30. Reserved.

Article II. Licenses

- Sec. 26-31. Definitions.
- Sec. 26-32. License requirement.
- Sec. 26-33. Situs of gross receipts.
- Sec. 26-34. Limitations and extensions.
- Sec. 26-35. Appeals and rulings.
- Sec. 26-36. Recordkeeping and audits.
- Sec. 26-37. Exclusions and deductions from "gross receipts."
- Sec. 26-38. License fee and tax.
- Sec. 26-39. Overriding conflicting ordinances.
- Secs. 26-40—26-75. Reserved.

Article III. Schedule of License Taxes

Division 1. Reserved

- Secs. 26-76—26-92. Reserved.

Division 2. Public Service Corporations

- Sec. 26-93. When taxes payable by public service companies.

***Cross references**—Collection of delinquent charges, § 2-105; advertising, ch. 6; alcoholic beverages, ch. 10; amusements and entertainments, ch. 14; animals, ch. 18; buildings and building regulations, ch. 22; environment, ch. 30; peddlers and solicitors, ch. 54; license to transport refuse, § 58-101; taxation, ch. 66; traffic and vehicles, ch. 70; utilities, ch. 74; vegetation, ch. 78.

State law references—Sale of ice cream and similar products, state preemption, Code of Virginia, § 3.1-562.4; certification to operate or maintain boiler or pressure vessel, Code of Virginia, § 15.1-11.6; sanitation in tattoo parlors, Code of Virginia, § 15.1-28.3; door-to-door vendors, Code of Virginia, §§ 15.1-37.3:1, 15.1-37.3:2; funding the construction or repair of rental property, Code of Virginia, § 15.1-37.3:9; municipal franchises, Code of Virginia, § 15.1-307 et seq.; dangerous, offensive or unhealthful business in municipality, Code of Virginia, § 15.1-865; regulation of auctions, peddlers, weights and measures, Code of Virginia, § 15.1-866; licenses and permits, Code of Virginia, § 15.1-906; going-out-of-business sales, Code of Virginia, §§ 18.2-223, 18.2-224; licensing of bail bondsmen, Code of Virginia, § 19.2-152.1; regulation of precious metals dealers, Code of Virginia, § 54.1-4111; records of firearms dealers, Code of Virginia, § 54.1-4200 et seq.; local license taxes, Code of Virginia, § 58.1-3700 et seq.

PEARISBURG CODE

- Sec. 26-94. Reserved.
- Sec. 26-95. Telegraph companies.
- Sec. 26-96. Telephone companies.
- Sec. 26-97. Reserved.
- Secs. 26-98—26-105. Reserved.

Article IV. Dealers in Certain Secondhand Merchandise

- Sec. 26-106. License required; application; investigation; issuance.
- Sec. 26-107. Licensee to maintain register; reporting; inspection of register.
- Sec. 26-108. Examination of merchandise by law enforcement officers.
- Sec. 26-109. Purchases from minors prohibited.
- Sec. 26-110. Exemptions.
- Sec. 26-111. Penalty for violation of article.
- Sec. 26-112. Applicability of state law.

ARTICLE I. IN GENERAL**Sec. 26-1. Reserved.**

Editor's note—Ord. No. 96-11, adopted December 10, 1996, deleted former § 26-1, relative to treasurer to administer and enforce chapter. The provisions of former § 26-1 derived from Code 1979, § 9-16.

Sec. 26-2. Reserved.

Editor's note—Ord. No. 96-11, adopted December 10, 1996, deleted former § 26-2, relative to compliance with chapter. The provisions of former § 26-2 derived from Code 1979, § 9-18.

Sec. 26-3. Yard sales and garage sales.

(a) The term "yard sale" or "garage sale" as used in this section refers to the display or sale of tangible personal property conducted by the owner or occupant of such property. The term "yard sale" or "garage sale" does not apply to the incidental sale of one or two items of personal property when such sale is not part of a general sale of a number of items of personal property.

(b) *Regulations.* All yard sales and garage sales shall be subject to the following rules and regulations:

- (1) *Permits.* No person shall conduct any yard sale or garage sale without first obtaining a permit to do so from the town clerk. The fee for such permit will be \$2.00. The permit shall be conspicuously displayed upon the premises during the sale.
- (2) *Consignment sales prohibited.* In conducting any yard sale or garage sale, no one shall accept or take in for sale any goods from any commercial business or enterprise on a consignment basis.
- (3) *Limitations.* No permit shall be issued for a yard sale or garage sale on the same property or to the same individual or other persons residing at the same location in excess of three times per calendar year. No sale shall be allowed to continue for more than two consecutive days, and such sale shall be conducted during daylight hours only.
- (4) *Exemptions.* The provisions of this section shall not be applicable to:
 - a. Sales conducted by a corporation, church, association, United Way, fund or foundation organized and operated for religious, charitable, scientific, literary, community or educational purposes, of tangible personal property to obtain money for some charitable purpose when such sale is conducted upon property owned by an organization of this nature.
 - b. Sales conducted pursuant to an order of a court or persons acting in accordance with their powers and duties as public officials.

(c) *Penalties.* The violation of any provision of this section shall be a class 3 misdemeanor. Each day's continued violation of this section shall be a separate offense. (Code 1979, § 14-29; Ord. No. 16-05, § 1, 9-13-16)

Secs. 26-4—26-30. Reserved.

ARTICLE II. LICENSES*

Sec. 26-31. Definitions.

For the purposes of this article, unless otherwise required by the context:

Affiliated group means:

- (a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:
 - (i) Stock possessing at least 80 percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and
 - (ii) The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - (i) At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and
 - (ii) More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

***Editor's note**—Ord. No. 96-11, adopted December 10, 1996, deleted former §§ 26-31—26-46 relative to business licenses, and re-enacted §§ 26-31—26-39 to read as herein set out. The provisions of former §§ 26-31—26-46 derived from Code 1979, §§ 9-1—9-15, 9-17.

When one or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official means the treasurer of the town.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of Code of Virginia, § 58.1-3715.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Contractor shall have the meaning prescribed in the Code of Virginia, § 58.1-3714.B, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the

service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this article.

Broker shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

Commodity shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.

Dealer for purposes of this article shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Security for purposes of this article shall have the same meaning as in the Securities Act (§ 13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities. Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables

Chattel mortgage financing

Consumer financing

Credit card services

Credit Unions

Factors

Financing accounts receivable

Industrial loan companies

Installment financing

Inventory financing

Loan or mortgage brokers

Loan or mortgage companies

Safety deposit box companies

Security and commodity brokers and services

Stockbroker

Working capital financing

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Code of Virginia Ch. 37 of Title 58.1.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this article, or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia Title 58.1.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Real estate services shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

Appraisers of real estate

Escrow agents, real estate

Fiduciaries, real estate

Lessors of real property

Real estate agents, brokers and managers

Real estate selling agents

Rental agents for real estate

Retailer or retail merchant shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Services shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

Wholesaler or wholesale merchant shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.
(Ord. No. 96-11, § 1B, 12-10-96)

Sec. 26-32. License requirement.

(a) Every person engaging in the town in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in the town, (ii) such person does not maintain a definite office anywhere but does maintain an abode in the town, which abode for the purposes of this article shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in the Code of Virginia, §§ 58.1-3717, 3718, or 3728, respectively, or is a contractor subject to Code of Virginia, § 58.1-3715, or is a public service corporation subject to Code of Virginia, § 58.1-3731. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

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

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 31.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(e) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days the treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

Acted responsibly means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

Events beyond the taxpayer's control include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty days from (i) the date of the payment that created the refund, or (ii) the due date of the tax, whichever is later.

(g) No license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance, and admissions taxes owed by the business or person applying for the business license have been paid.

(h) It shall be a first class misdemeanor for any person or entity to engage in any business for which a license is required by this chapter without first obtaining such license.

(Ord. No. 96-11, § 1C, 12-10-96; Ord. No. 97-10, § 1, 9-9-97)

Sec. 26-33. Situs of gross receipts.

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

- (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715.
- (2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
- (3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

- (4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule [and the affected jurisdictions are unable to reach an apportionment agreement], except as to circumstances set forth in the Code of Virginia, § 58.1-3709, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll.

Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the town solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

(Ord. No. 96-11, § 1D, 12-10-96)

Sec. 26-34. Limitations and extensions.

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

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

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

(Ord. No. 96-11, § 1E, 12-10-96)

Sec. 26-35 Appeals and rulings.

(a) Any person assessed with a licensing tax under this article as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the town (e.g., the name and address to which an application should be directed).

(b) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 26-32(f) of this article, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the town (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

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

(d) On receipt of a notice of intent to file an appeal to the tax commissioner under subsection (c) above, the assessing official shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request

for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 26-32(f), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection (b) above.

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

(Ord. No. 96-11, § 1F, 12-10-96)

Sec. 26-36. Recordkeeping and audits.

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

(Ord. No. 96-11, § 1G, 12-10-96)

Sec. 26-37. Exclusions and deductions from "gross receipts."

(a) *General rule.* Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

- (1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.
- (2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the

factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

- (3) Any amount representing returns and allowances granted by the business to its customer.
 - (4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.
 - (5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.
 - (6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.
 - (7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.
 - (8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.
- (b) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:
- (1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.
 - (2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

(Ord. No. 96-11, § 1H, 12-10-96)

Sec. 26-38. License fee and tax.

Every person or business subject to licensure under the article shall be assessed and required to pay annually a fee for the issuance of such license in the amount of \$30.00, or a tax on gross receipts as follows, whichever is greater:

1. For contractors and persons constructing for their own account for sale, .16 cents per \$100.00 of gross receipts;
2. For retailers, .20 cents per \$100.00 of gross receipts;
3. For financial, real estate and professional services, .28 cents per \$100.00 of gross receipts;
4. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this article or otherwise by law, .36 cents per \$100.00 of gross receipts;
5. For wholesalers, .05 cents per \$100.00 of purchases;
6. For carnivals, circuses and speedways, \$50.00 for each performance held in this jurisdiction, or per day;
7. For fortune tellers, clairvoyants and practitioners of palmistry, \$300.00 per year;
8. For massage parlors, \$300.00 per year;
9. For itinerant merchants or peddlers, \$200.00 per year;
10. For photographers with no established place of business, \$50.00 per year;
11. For savings and loan associations and credit unions, \$50.00 per year; and
12. For direct sellers as defined in the Code of Virginia, § 58.1-3719.1 with total annual sales in excess of \$4,000.00, .20 cents per \$100.00 of total annual retail sales or .05 cents per \$100.00 of total annual wholesale sales, whichever is applicable.

(Ord. No. 96-11, § 1I, 12-10-96)

Sec. 26-39. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by this governing body, whether or not compiled in the Code of this town, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within the town.

(Ord. No. 96-11, § 1A, 12-10-96)

Secs. 26-40—26-75. Reserved.

ARTICLE III. SCHEDULE OF LICENSE TAXES

DIVISION 1. RESERVED*

Secs. 26-76—26-92. Reserved.

DIVISION 2. PUBLIC SERVICE CORPORATIONS

Sec. 26-93. When taxes payable by public service companies.

Notwithstanding the provisions of section 26-37, license taxes of public service companies shall be due and payable on or before September 1 of each year.

(Code 1979, § 9-31)

Sec. 26-94. Reserved.

Editor's note—Ord. No. 04-05, § 1, adopted September 14, 2004, repealed section 26-94 in its entirety, which pertained to heat, light and power companies, and derived from the Code of 1979, § 9-32.

Sec. 26-95. Telegraph companies.

Every person providing telegraph service within the town shall pay an annual license tax of 0.5 percent of the gross receipts of such company for the preceding calendar year.

(Code 1979, § 9-33)

Sec. 26-96. Telephone companies.

Each company providing telephone service within the town shall pay an annual license tax of 0.5 percent of the gross receipts of such company for the preceding calendar year. Charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation.

(Code 1979, § 9-34; Ord. No. 99-01, § 1, 4-13-99)

Sec. 26-97. Reserved.

Editor's note—Ord. No. 04-05, § 1, adopted September 14, 2004, repealed section 26-97 in its entirety, which pertained to gas companies, and derived from the Code of 1979, § 9-35.

Secs. 26-98—26-105. Reserved.

***Editor's note**—Ord. No. 96-11, § 2, adopted December 10, 1996, deleted the provisions of former § 26-76—26-85, which pertained to schedule of license taxes, as derived from Ord. No. 86-02, §§ 1, 2, adopted March 11, 1986; Ord. No. 87-04, § 1, adopted July 14, 1987.

ARTICLE IV. DEALERS IN CERTAIN SECONDHAND MERCHANDISE**Sec. 26-106. License required; application; investigation; issuance.**

(a) No person may deal in or be in the business of purchasing secondhand or used silver, gold, platinum, pewter, silver-plated or gold-plated flatware, tableware or other similar household items, coins, watches, jewelry, gems or other semiprecious stones without first having obtained a license from the town as provided in this article.

(b) Applicants for a license under this section shall file with the town clerk a sworn application on a form to be furnished by the town clerk, which shall give the following information:

- (1) Name and permanent home address of the applicant.
- (2) Address at which the business is to be operated.
- (3) A brief description of the nature of the business.
- (4) A statement of whether or not the applicant has been convicted of any crime, of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(c) In the case of partnerships, firms or corporations, the foregoing information shall be required for each officer and principal stockholder of such partnerships, firms and corporations.

(d) Upon receipt of such application, the chief of police shall cause to be made an investigation of the applicant's business responsibility and personal character. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall advise the town clerk, who shall issue the license.

(e) The license is a personal privilege and is not transferable. The license shall be valid only for business at the premises listed on the application, and such license shall expire one year from the date of issuance. The license shall at all times be posted in public view by the licensee on his business premises.

(f) Any false statement made on the application for license will automatically disqualify the applicant.

(Code 1979, § 9-36)

Sec. 26-107. Licensee to maintain register; reporting; inspection of register.

(a) Every person purchasing the items listed in section 26-106 shall keep at his place of business a register in which he shall record, with respect to each purchase of such items, the following information:

- (1) A complete and accurate description of the goods, articles or things purchased, including the number of items;
- (2) The time and date of receiving the same;
- (3) The amount of money paid for the same; and
- (4) The name and complete and accurate address of the person selling the goods, articles or things, which information shall be taken from a valid driver's license or special identification card issued by the state department of motor vehicles, together with a particular description of such person.

(b) A report of the information required by this section, covering all purchases during the preceding week, shall be mailed to the chief of police every Monday.

(c) The register required to be maintained by this section shall be open to inspection by any federal, state or local law enforcement officer during business hours.
(Code 1979, § 9-37)

Sec. 26-108. Examination of merchandise by law enforcement officers.

Every person who is a dealer in or in the business of purchasing any of the items enumerated in section 26-106 and every person in the employ of such person shall admit to his premises during business hours any federal, state or local law enforcement officer to examine any item purchased and to search for and to take into possession any article known by him to be missing or known or believed by him to have been stolen.
(Code 1979, § 9-38)

Sec. 26-109. Purchases from minors prohibited.

No person who is a dealer in or in the business of purchasing any of the items enumerated in section 26-106 shall purchase, buy or receive, directly or indirectly, any such items from any person under 18 years of age.
(Code 1979, § 9-39)

Sec. 26-110. Exemptions.

The requirements of this article shall not be applicable to persons licensed to do business as antique dealers, auctioneers or jewelry stores.
(Code 1979, § 9-40)

Sec. 26-111. Penalty for violation of article.

Violation of any provision of this article shall be a class 2 misdemeanor, and each day of operation without the required license shall constitute a separate violation of this article.
(Code 1979, § 9-41)

Sec. 26-112. Applicability of state law.

In addition to the requirements of this article, the provisions of Code of Virginia, § 54.1-4100 et seq., shall be in force in the town.

Chapters 27—29

RESERVED

Chapter 30

ENVIRONMENT*

Article I. In General

Secs. 30-1—30-30. Reserved.

Article II. Nuisances

Division 1. Generally

- Sec. 30-31. Article is supplemental to other provisions of this Code relating to nuisances.
- Sec. 30-32. Nuisances prohibited within town.
- Sec. 30-33. Certain nuisances enumerated.
- Sec. 30-34. *Responsibility of property owners, occupants and others.*
- Secs. 30-35—30-60. Reserved.

Division 2. Abatement

- Sec. 30-61. Authority of certain officers to make inspections; duty of certain town officers.
- Sec. 30-62. Notice to cease and desist when activity constitutes nuisance.
- Sec. 30-63. Notice to abate condition constituting nuisance; appeal.
- Sec. 30-64. Recourse of town when notice to abate nuisance is ignored.
- Sec. 30-65. Article does not prohibit arrest for committing or maintaining nuisance.
- Secs. 30-66—30-80. Reserved.

Article III. Noise

- Sec. 30-81. *Making of loud noises prohibited.*
- Sec. 30-82. Enumeration of certain acts declared to be loud.
- Secs. 30-83—30-110. Reserved.

Article IV. Erosion and Sediment Control

- Sec. 30-111. Title, purpose, and authority.
- Sec. 30-112. Definitions.

***Cross references**—Amusements and entertainments, ch. 14; animals, ch. 18; buildings and building regulations, ch. 22; businesses, ch. 26; fire prevention and protection, ch. 34; offenses and miscellaneous provisions, ch. 46; solid waste, ch. 58; vegetation, ch. 78.

State law references—Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.; stormwater management, Code of Virginia, §§ 10.1-603.3, 15.1-292.4; local air pollution ordinances, Code of Virginia, § 10.1-1321; municipal abatement of nuisances, Code of Virginia, § 15.1-14(5); action for abatement of nuisance or the costs thereof, Code of Virginia, § 15.1-29.21; drainage, condemnation for drainage systems, Code of Virginia, § 15.1-283; extraterritorial powers in prevention of water pollution, Code of Virginia, § 15.1-292; contracts relating to prevention of water pollution, Code of Virginia, § 15.1-318; municipal power to have nuisances removed, collection of costs, Code of Virginia, § 15.1-867; nuisances generally, Code of Virginia, tit. 48.

PEARISBURG CODE

- Sec. 30-113. Local erosion and sediment control program.
- Sec. 30-114. Regulated land-disturbing activities; submission and approval of plans; contents of plans.
- Sec. 30-115. Permits; fees; bonding.
- Sec. 30-116. Monitoring, reports and inspections.
- Sec. 30-117. Penalties, injunctions and other legal actions.
- Sec. 30-118. Appeals and judicial review.
- Secs. 30-119—30-145. Reserved.

Article V. Air Pollution

Division 1. Generally

- Sec. 30-146. Definitions.
- Sec. 30-147. Statement of purpose.
- Sec. 30-148. General authority of town manager; duties as air pollution control officer.
- Sec. 30-149. Variances.
- Sec. 30-150. Exempt conduct; approved combustion control devices.
- Sec. 30-151. Penalty for violation of article.
- Secs. 30-152—30-165. Reserved.

Division 2. Open Burning

- Sec. 30-166. General prohibition; conditions applicable when permitted under section 30-167.
- Sec. 30-167. When permitted.

ARTICLE I. IN GENERAL

Secs. 30-1—30-30. Reserved.

ARTICLE II. NUISANCES***DIVISION 1. GENERALLY**

Sec. 30-31. Article is supplemental to other provisions of this Code relating to nuisances.

Various nuisances are defined and prohibited in other provisions of this Code, and it is the intent of the town council in enacting this article to make it supplemental to those other provisions in which nuisances are defined and prohibited; and the provisions of this article relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided.

(Code 1979, § 13-1)

Sec. 30-32. Nuisances prohibited within town.

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the town at any place within the town.

(Code 1979, § 13-2)

Sec. 30-33. Certain nuisances enumerated.

(a) The following acts when committed, or conditions when existing within the town, are hereby defined and declared to be nuisances:

- (1) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.
- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthful, injurious or disturbing to the public.
- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthful, injurious or disturbing to the public.

***Cross references**—Keeping animals in such manner as to cause a nuisance, § 18-4; inoperative motor vehicles on private property, § 46-3.

- (4) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or disturbance of the public.
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or disturbance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or disturbance to the public.
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair.
- (7) All stables, cattle yards, hog, sheep or cow pens or yards or structures for poultry, permitted by the owner thereof or the person responsible therefor to be harboring or breeding places for rodents, or otherwise to be in such a condition as to become offensive, disturbing or injurious to the public or to persons in the neighborhood thereof.
- (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.
- (9) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law, or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.

(b) The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state is, when committed, omitted or existing within the town hereby declared to constitute a nuisance.

(Code 1979, § 13-3)

Sec. 30-34. Responsibility of property owners, occupants and others.

Each owner, lessee, tenant, occupant or person in charge of any real property within the town, and each agent or representative of any such person, is hereby charged with responsibility for the maintenance and use of such real property in such manner that no use of or activity or condition upon or within such real property shall constitute a nuisance; and all such persons are hereby charged with the duty of observing all of the provisions of this article; but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the town.

(Code 1979, § 13-4)

Secs. 30-35—30-60. Reserved.

DIVISION 2. ABATEMENT*

Sec. 30-61. Authority of certain officers to make inspections; duty of certain town officers.

(a) The county health officer, the chief of police, the chief of the fire department and the town building official, their deputies and assistants, are hereby authorized to make inspections from time to time of all portions of the town to determine whether any condition exists or activity is being carried on which constitutes a nuisance; and the chief of police, the chief of the fire department and the town building official shall make or cause to be made such investigation upon complaint made in writing by any responsible person.

(b) The officers mentioned in subsection (a) of this section shall have the right to enter upon private premises at reasonable times for the purposes herein specified, upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance; and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with law.

(Code 1979, § 13-5)

Cross references—Buildings and building regulations, ch. 22; fire prevention and protection, ch. 34; law enforcement, ch. 38.

Sec. 30-62. Notice to cease and desist when activity constitutes nuisance.

If at any time a town officer shall find that an activity or practice which constitutes a nuisance is occurring within the town, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

(Code 1979, § 13-7)

Sec. 30-63. Notice to abate condition constituting nuisance; appeal.

If at any time a town officer shall find that a condition which constitutes a nuisance exists within the town, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than ten days; and it shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided, that any owner, occupant or person in charge may, within two days from the service thereof, appeal to the town council, in which case the terms of such notice shall be stayed pending action of the town council, which shall be final; provided further, that if the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent

*State law reference—Municipal abatement of nuisances, Code of Virginia, § 15.1-14(5).

hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

(Code 1979, § 13-8)

Sec. 30-64. Recourse of town when notice to abate nuisance is ignored.

(a) Upon the failure of any person to whom notice has been given pursuant to section 30-63 to comply with the terms of such notice, or with the terms imposed by the town council on appeal, as the case may be, the officer giving such notice shall forthwith direct the appropriate town officer to remedy the condition which is the subject of such notice, and the expense incurred by the town in so doing shall be charged to the addressee of such notice, to be collected as the town taxes or in any other manner authorized by law.

(b) Abatement by the town of any condition which constitutes a nuisance and reimbursement to the town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

(Code 1979, § 13-9)

Sec. 30-65. Article does not prohibit arrest for committing or maintaining nuisance.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

(Code 1979, § 13-10)

Secs. 30-66—30-80. Reserved.

ARTICLE III. NOISE*

Sec. 30-81. Making of loud noises prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud unusual noise or any noise that disturbs, injures or endangers the comfort, repose, health, peace and safety of others within the town.

(Code 1979, § 12-1)

Sec. 30-82. Enumeration of certain acts declared to be loud.

The following acts among others are hereby declared to be loud, disturbing noises and a public nuisance in violation of section 30-81; but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to

*Cross reference—Noisy animals and fowl, § 18-7.

disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation.

- (2) *Loudspeakers or amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing of sound which is cast upon the public streets or other public places for the public to any building or structure; the using, operating or permitting to be used or operated any motor vehicle or horse-drawn vehicle having mounted thereon or attached thereto any sound amplifier equipment for the purpose of advertising. This subsection shall not be construed to prohibit the use of loudspeakers between 9:00 a.m. and 4:00 p.m., in connection with an auction sale held pursuant to a permit from the town manager.
- (3) *Yelling, shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity.
- (4) *Loading and unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, crates and containers. Such creation of loud and excessive noise in connection with loading and unloading any vehicle shall be deemed to include the operation of any mechanical equipment, including the engine of the vehicle or any other mechanical equipment attached to the vehicle or its trailer, particularly between the hours of 10:00 p.m. and 7:00 a.m.
- (5) *Construction or repairing of buildings.* The creation of a loud and excessive noise in the erection (including excavation), demolition, alteration or repairing of any building other than between the hours of daylight and 11:00 p.m. except in case of urgent necessity in the interest of public health and safety.
- (6) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institute of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (7) *Operation of mechanical equipment in residential areas.* The creation of a loud and excessive noise by virtue of the operation of mechanical equipment, including the engine of any motor vehicle, between the hours of 10:00 p.m. and 7:00 a.m. except in the case of urgent necessity in the interest of public health or safety. This prohibition

shall not be deemed to apply to the normal operation of motor vehicles or other motorized equipment on the streets of the town, but shall apply however to any such vehicles which may be parked upon the streets or otherwise.

(Code 1979, § 12-2; Ord. No. 84-38, § 12-2, 9-11-84)

State law reference—Municipal abatement of nuisances, Code of Virginia, § 15.1-14(5).

Secs. 30-83—30-110. Reserved.

ARTICLE IV. EROSION AND SEDIMENT CONTROL***Sec. 30-111. Title, purpose, and authority.**

(a) This article shall be known as the "Erosion and Sediment Control Ordinance of the Town of Pearisburg." The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the town.

(b) This article is authorized by Code of Virginia, § 10.1-560 et seq., known as the Erosion and Sediment Control Law.

(Ord. No. 96-04, § 1(6-1), 6-11-96; Ord. No. 08-01, § 1, 1-8-08)

Sec. 30-112. 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:

Agreement in lieu of a plan means a contract between the plan-approving authority and the owner that specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Board means the state soil and water conservation board.

Certified inspector means an employee or agent of a program authority who holds a certificate of competence from the board in the area of project inspection or is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer means an employee or agent of a program authority who holds a certificate of competence from the board in the area of plan review, is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.

Certified program administrator means an employee or agent of a program authority who holds a certificate of competence from the board in the area of program administration or is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing means any activity which removes the vegetative ground cover, including but not limited to root mat removal or topsoil removal.

***State law reference**—Erosion and Sediment Control Law, Code of Virginia, § 10.1-560 et seq.

Conservation plan, erosion and sediment control plan or plan means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County means the County of Giles.

Department means the department of conservation and recreation.

Development means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

Director means the director of the department of conservation and recreation.

District or soil and water conservation district refers to the Skyline Soil and Water Conservation District.

Erosion and sediment control plan or plan means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

Excavating means any digging, scooping or other methods of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

Grading means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including but not limited to clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;

- (3) Installation, maintenance or repairs of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, article 2, (§ 10.1-604 et seq.) of chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of chapter 11 (§ 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163.
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas less than 10,000 square feet in size;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles; and Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
- (11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

Land disturbing permit means a permit issued by the town for the clearing, filling, excavating, grading or transporting of land, or for any combination thereof, or for any purpose set forth herein.

Local erosion and sediment control program or program means an outline of the various methods employed by the town to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bank full storm event within its banks and allows larger flows to access its bank full bench and its floodplain.

Owner means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property.

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Permittee means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the state, any interstate body, or any other legal entity.

Plan-approving authority means the town engineer or other person designated by the town manager responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority means the town which has adopted a soil erosion and sediment control program approved by the board.

Responsible land disturber means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

- (1) Holds a responsible land disturber certificate of competence;
- (2) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review;
- (3) Holds a current contractor certificate of competence for erosion and sediment control;
or
- (4) Is licensed in the state as a professional engineer, architect, certified landscape architect or land surveyor pursuant to the Code of Virginia, article 1 § 54.1-400 et seq. of chapter 4 of title 54.1.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

State erosion and sediment control program or state program means the program administered by the state soil and water conservation board pursuant to the state code, including regulations designed to minimize erosion and sedimentation.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the state or within its jurisdictions.

Town means the incorporated Town of Pearisburg.

Transporting means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

(Ord. No. 96-04, § 1(6-2), 6-11-96; Ord. No. 08-01, § 1, 1-8-08; Ord. No. 08-04, § 1, 7-8-08)

Cross reference—Definitions generally, § 1-2.

Sec. 30-113. Local erosion and sediment control program.

(a) Pursuant to Code of Virginia, § 10.1-562, the town hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state soil and water conservation board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. These regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the "Virginia Erosion and Sediment Control Handbook," as amended from time to time.

(b) Before adopting or revising regulations, the town shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the town is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the town proposes or revises regulations that are more stringent than the state program. In addition, in accordance with the Code of Virginia, § 10.10-561, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

In accordance with the Code of Virginia, § 10.1-561, any land-disturbing activity that provides for storm water management intended to address any flow rate capacity and

velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to:

- (1) Detain the water quality volume and to release it over 48 hours;
- (2) Detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and
- (3) Reduce the allowable peak flow rate resulting from the 1.5-, two-, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

(c) Pursuant to Code of Virginia, § 10.1-561.1, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the town shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(d) The town hereby designates the town engineer or other person designated by the town manager as the plan-approving authority.

(e) The program and regulations provided for in this article shall be made available for public inspection at the office of the town engineer or other person designated by the town manager.

(Ord. No. 96-04, § 1(6-3), 6-11-96; Ord. No. 08-01, § 1, 1-8-08)

Sec. 30-114. Regulated land-disturbing activities; submission and approval of plans; contents of plans.

(a) Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the town engineer or other person designated by the town manager for the town an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(b) The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the "Virginia Erosion and Sediment Control Handbook" are to be used by the applicant when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the

adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.

(c) The plan-approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § 10.1-561, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this article.

(d) The plan shall be acted upon within 45 days from receipt thereof by either approving the plan in writing or by disapproving the plan in writing and giving specific reasons for its disapproval. When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(e) An approved plan may be changed by the plan-approving authority when:

- (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
- (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.

- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(f) In order to prevent further erosion, the town may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

(g) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

In accordance with the procedure set forth by Code of Virginia, § 10.1-563(E), any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the department of environmental quality, the marine resources commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the board.

(h) Whenever electric and telephone utility companies or railroad companies undertake any of the activities included in subsections (h)(1) and (2) of this section, they shall be considered exempt from the provisions of this article.

- (1) Construction, installation and maintenance of electric and telephone utility lines; and
- (2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Projects not included in subsections (h)(1) and (2) of this section shall comply with the requirements of the town erosion and sediment control program, pursuant to Code of Virginia, § 10.1-563(D).

(i) State agency projects are exempt from the provisions of this article except as provided for in the Code of Virginia, § 10.1-564.

(Ord. No. 96-04, § 1(6-4), 6-11-96; Ord. No. 08-01, § 1, 1-8-08)

Sec. 30-115. Permits; fees; bonding.

(a) *Plan required.* Agencies authorized under any other law to issue grading, building or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) *Permit.* No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this article, and has paid the fees and posted the required bond.

(c) *Fees.* An administrative fee for projects shall be paid to the town at the time of submission of the erosion and sediment control plan. The fee shall be determined as follows:

- (1) Less than five acres, \$150.00 plus \$25.00 per acre
- (2) From five to 25 acres, \$200.00 plus \$25.00 per acre
- (3) More than 25 acres, \$300.00 plus \$25.00 per acre
- (4) For each resubmittal after review: \$100.00
- (5) Agreement in lieu of plan: \$25.00

(d) *Requirements for issuance of permit.* No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(e) *Bond.*

- (1) All applicants for permits shall provide to the town a performance bond, cash escrow or an irrevocable letter of credit acceptable to the town manager, to ensure that measures could be taken by the town at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity. Should it be necessary for the town to take such conservation action, the town may collect from the applicant the amount of the bond or other security held. These shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative cost and inflation, which shall not exceed 25 percent of the cost of the conservation action.
- (2) Within 60 days of adequate stabilization, as determined by the town manager, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(f) *Requirements supplemental.* These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(Ord. No. 96-04, § 1(6-5), 6-11-96; Ord. No. 06-07, § 1, 6-27-06; Ord. No. 08-01, § 1, 1-8-08; Ord. No. 14-03, § 1, 6-24-14)

State law reference—Similar provisions, Code of Virginia, § 10.1-565.

Sec. 30-116. Monitoring, reports and inspections.

(a) *Monitoring required.* The town may require the person responsible for carrying out the plan to monitor and maintain the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) *Inspections.*

- (1) The town engineer or other person designated by the town manager shall periodically inspect the land-disturbing activity in accordance with § 4VAC50-30-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. Periodic inspections are required on all projects by the program authority. The program authority shall provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds. The program authority shall require monitoring and reports from the person responsible for carrying out the plan; the owner, permittee or person responsible for carrying out the plan shall be given notice of the inspection.
- (2) If the town engineer or other person designated by the town manager determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
- (3) The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and, upon conviction, shall be subject to the penalties provided by this article.

(c) *Order to stop activities.*

- (1) Upon determination of a violation of this article, the town engineer or other person designated by the town manager may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.
- (2) If land-disturbing activities have commenced without an approved plan, the town engineer or other person designated by the town manager may, in conjunction with or

subsequent to a notice to comply as specified in this article, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

- (3) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the state, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.
- (4) The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the county.
- (5) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the town engineer or other person designated by the town manager may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of town.
- (6) The owner may appeal the issuance of an order to the circuit court of the county.
- (7) Any person violating or failing, neglecting or refusing to obey an order issued by the town engineer or other person designated by the town manager may be compelled in a proceeding instituted in the circuit court of the county. To obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.
- (8) Nothing in this section shall prevent the town engineer or other person designated by the town manager from taking any other action authorized by this article.

(Ord. No. 08-01, § 1, 1-8-08)

State law reference—Monitoring, reports and inspections, Code of Virginia, § 10.1-566.

Sec. 30-117. Penalties, injunctions and other legal actions.

- (a) Violators of this article shall be guilty of a class 1 misdemeanor.
- (b) Any person who violates any provision of this article shall, upon a finding of the circuit court of the county, be assessed a civil penalty. The civil penalty for any one violation shall be \$100.00, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations

arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.

Note: The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section. Refer to Code of Virginia, § 10.1-562 J. The town engineer or other person designated by the town manager may apply to the circuit court of the county.

(c) The town engineer or other person designated by the town manager, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of the county to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless:

- (1) He has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property; and
- (2) neither the person who has violated the local program nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(d) In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the town in a civil action for damages.

(e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the town. Any civil penalties assessed by a court shall be paid into the treasury of the town; except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, the town may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (e).

(g) The state's attorney shall, upon request of the town or the permit-issuing authority, take legal action to enforce the provisions of this article.

(h) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(Ord. No. 96-04, § 1(6-7), 6-11-96; Ord. No. 08-01, § 1-8-08; Ord. No. 08-04, § 1, 7-8-08)

State law reference—Similar provisions, Code of Virginia, § 10.1-569.

Sec. 30-118. Appeals and judicial review.

(a) Any applicant under the provision of this article who is aggrieved by any action of the town or its agent in disapproving plans submitted pursuant to this article shall have the right to apply for and receive a review of such action by the town council provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the town council shall be heard at the next regularly scheduled town council public hearing provided that the town council and other involved parties have at least 30 days' prior notice. In reviewing the agent's actions, the town council shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the town council may affirm, reverse or modify the action. The town council's decision shall be final, subject only to review by the circuit court of the county.

(b) Final decisions of the town under this article shall be subject to review by the circuit court of the county. Provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(Ord. No. 96-04, § 1(6-8), 6-11-96; Ord. No. 08-01, § 1, 1-8-08)

State law reference—Appeals, Code of Virginia, § 10.1-568.

Secs. 30-119—30-145. Reserved.

ARTICLE V. AIR POLLUTION***DIVISION 1. GENERALLY****Sec. 30-146. Definitions.**

The following definitions taken from the state air pollution control board regulations, as amended, apply to this article:

Air pollution means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people of life or property.

Air pollution emergency episode means meteorological conditions, generally temperature inversion, that reduces the effective volume of air in which the contaminants are diluted and as a result air pollution may reach levels that would cause imminent and substantial endangerment to the health of persons.

Board means the state air pollution control board.

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney.

Owner has no connotation other than that customarily assigned to the term "person" but shall include bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals.

Person means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Refuse includes garbage, rubbish and trade wastes:

- (1) *Garbage* means animal and vegetable matter such as that originating in houses, kitchens, restaurants, hotels, produce markets, food service or processing establishments, greenhouses, hospitals, clinics or veterinary facilities.
- (2) *Rubbish* means solids not considered to be highly flammable or explosive, such as but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, yard trimmings, furniture, metal food containers, glass, crockery, masonry and other similar materials.
- (3) *Trade waste* means all solid or liquid material resulting from construction, building operations or the prosecution of any business, trade or industry, such as but not limited to plastic products, chemicals, cinders and other forms of solid or liquid waste materials.

***Editor's note**—Ord. No. 73-56A, from which this article is derived, was approved by the state air pollution control board on February 4, 1974.

Source means any and all points of origin of emission of air contaminants, whether privately or publicly owned or operated, or person contributing to the emission of air contaminants. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, and heating and power plants or stations, buildings and other structures of all types.

(Code 1979, § 3-1)

Cross reference—Definitions generally, § 1-2.

Sec. 30-147. Statement of purpose.

There is hereby established an air pollution control program for the purpose of preserving and improving air quality for the town so as to protect health, safety and welfare, and to prevent injury to human, plant and animal life or to property. All provisions of this article are intended to be as strict as the state board regulations.

(Code 1979, § 3-2)

Sec. 30-148. General authority of town manager; duties as air pollution control officer.

(a) The town manager shall administer and enforce the provisions of this article and shall promulgate such additional rules as are necessary to the administration and enforcement of this article.

(b) The town manager shall act as air pollution control officer for the town, and in this capacity he shall:

- (1) Conduct such studies and investigations relating to air pollution control as are deemed necessary for the abatement, control or prevention of air pollution, or request such studies and investigations from other cooperating air pollution control agencies and governments.
- (2) Advise, consult and cooperate with other local governmental units or agencies of the state and federal governments in matters relating to air pollution, including the reporting to the state board such data as may be required in carrying out its responsibilities under the Code of Virginia, 1950, as amended, and the Clean Air Act. Such reports will include but are not limited to monitoring data, surveillance programs, procedures for investigations of complaints, variance hearings, and status of control programs.

(Code 1979, § 3-3)

State law reference—Air pollution control board, Code of Virginia, § 10.1-1300 et seq.

Sec. 30-149. Variances.

The town council may grant a variance to any of the provisions of this article or other town ordinances relating to air pollution control provided a public hearing is held before doing so,

and further provided that such approved variance is not in violation of state board regulations. Notice of public hearing on applications for variance must be advertised at least 15 days prior to the date of the hearing in a newspaper of general circulation in the town.

(Code 1979, § 3-4)

Sec. 30-150. Exempt conduct; approved combustion control devices.

(a) The provisions of this article shall not apply to open burning using devices specifically designed to provide controlled conditions reducing the emission of contaminants resulting from combustion. All such devices and their location shall be approved by the state board prior to installation. Standards of combustion devices will conform with the rules and regulations of the state board.

(b) Salamanders or other devices providing good combustion may be used outdoors for warming workers.

(c) When alternate means of disposal are not economical or practical, and when it is in the best interest of the citizens of the town, the town manager may permit open burning to dispose of debris caused by natural disasters under conditions prescribed by the state board.

(d) Cooking of food for human consumption using fuels customarily associated with this activity shall be exempt from the requirements of this article.

(Code 1979, § 3-5)

Sec. 30-151. Penalty for violation of article.

Any owner violating any provision of this article, or failing, neglecting or refusing to comply with any order of the town manager lawfully issued as herein provided shall upon conviction be guilty of a misdemeanor and shall be liable to a fine of not more than \$2,500.00 for each violation within the discretion of the court.

(Code 1979, § 3-6)

Secs. 30-152—30-165. Reserved.

DIVISION 2. OPEN BURNING

Sec. 30-166. General prohibition; conditions applicable when permitted under section 30-167.

(a) No owner shall cause, suffer, allow or permit open burning of refuse, including garbage, rubbish, trade waste or leaves, except as provided in section 30-167; however, such exceptions shall not allow the burning of rubber tires, asphaltic materials, crank case oil, impregnated wood, or similar materials which produce smoke. No salvage operation shall be conducted by open burning.

(b) Open burning under the exceptions stated in section 30-167 does not exempt or excuse any owner from the consequences, damages or injuries which might result from such conduct,

nor does it excuse or exempt any owner from complying with applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with section 30-167.

(c) All open burning permitted under section 30-167 shall not be commenced and shall be immediately terminated upon declaration of an alert, warning or emergency stage of the air pollution emergency episode by the state board to prevent a hazard to or an unreasonable burden upon public health or welfare.

(d) No owner shall cause, suffer, allow or permit the discharge from open burning of any air contaminant, uncombined water or other materials which may cause or contribute to a traffic hazard, even though the open burning is conducted in compliance with section 30-167. (Code 1979, § 3-7; Ord. No. 89-06, § 1, 4-11-89)

Sec. 30-167. When permitted.

Open burning is permitted as follows:

- (1) The town manager may approve, upon the request of an owner or an appropriate public official, civil or military, acting within the scope of the specific duties of his office, such categories of open burning as:
 - a. Elimination under controlled conditions of a hazard which constitutes a threat to the public health, safety or welfare and cannot be remedied by other means.
 - b. Destruction of deteriorated or unused explosives, munitions and hazardous chemicals when other means of disposal are not available.
 - c. Burning under controlled conditions of brush only with prior permission of the town manager.
- (2) For training and instruction of:
 - a. Public firefighters under the supervision of a designated fire marshal or fire chief; or
 - b. Industrial in-house firefighting personnel with the clearance from the town fire chief.
- (3) For traditional recreational purposes and traditional ceremonial occasions when a campfire or bonfire is appropriate using fuels customarily associated with this activity.
- (4) For forest management when such burning is undertaken in the bona fide exercise of forest management practices as recommended by the state department of forestry; and provided that:
 - a. The owner shall notify the state forester prior to the burning.
 - b. The location of the burning shall be 1,000 feet from any occupied building unless the building occupant has given prior permission.

- c. The fire is attended at all times so as to minimize the possibility of contaminant emission.
 - (5) For agricultural practices approved by the town manager provided the following conditions are met:
 - a. The town manager is notified prior to the burning.
 - b. The location of the burning shall be 1,000 feet from any occupied building unless the occupants have given prior permission.
 - c. The fire shall be attended so as to minimize the possibility of contaminant emission.
 - d. No other means of disposal is available.
 - (6) For land clearing, including original development of agricultural and forestry lands, provided the following conditions are met:
 - a. The town manager is notified prior to the burning.
 - b. Tree trunks of felled ordinarily saleable timber with a diameter greater than four inches shall be disposed of by means other than burning. Stumps to be burned must contain no more than two feet of tree trunk.
 - c. The fire shall be attended at all times to minimize the possibility of contaminant emissions.
- (Code 1979, § 3-8; Ord. No. 89-06, § 1, 4-11-89)

Chapters 31—33

RESERVED

Chapter 34

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 34-1—34-30. Reserved.

Article II. Fire Department

Sec. 34-31. Established; composition.
Sec. 34-32. Establishment and maintenance of fire lines.
Sec. 34-33. Junior firefighter program.
Secs. 34-34—34-60. Reserved.

Article III. Fire Prevention

Division 1. Generally

Sec. 34-61. Blasting.
Sec. 34-62. Storing explosives for a period of more than five hours.
Secs. 34-63—34-80. Reserved.

Division 2. Fireworks

Sec. 34-81. Manufacture, sale, use.
Sec. 34-82. Permit required for special displays.
Sec. 34-83. Exceptions to application of division.

***Cross references**—Administration, ch. 2; official safety program units, § 2-1; buildings and building regulations, ch. 22; environment, ch. 30; authority of certain officers with respect to nuisances, § 30-61; law enforcement, ch. 38; parks and recreation, ch. 50; solid waste, ch. 58; traffic and vehicles, ch. 70; authority of fire department officials to direct traffic, § 70-8; utilities, ch. 74; vegetation, ch. 78.

State law references—Municipal regulation of the keeping of combustibles, Code of Virginia, § 15.1-14(6); guarding against danger from accidents by fire, Code of Virginia, § 15.1-15(4); smoke detectors, Code of Virginia, § 15.1-29.9; municipal regulation of explosives, inflammable substances and fireworks, Code of Virginia, § 15.1-865; municipal regulation of the making of fires, Code of Virginia, § 15.1-872; local fire departments and fire companies, Code of Virginia, § 27-6.1 et seq.; local fire marshals, Code of Virginia, § 27-30 et seq.; relief for firefighters, Code of Virginia, § 27-39 et seq.; effect of Statewide Fire Prevention Code, Code of Virginia, § 27-97; explosives, Code of Virginia, § 59.1-137 et seq.; fireworks, Code of Virginia, § 59.1-142 et seq.

ARTICLE I. IN GENERAL

Secs. 34-1—34-30. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 34-31. Established; composition.

(a) Pursuant to Code of Virginia, § 27-6.1, there is hereby established the Pearisburg Fire Department, which shall be subject to the supervision of the town manager and also subject to such rules, regulations and orders as the town manager may choose to prescribe from time to time.

(b) The fire department shall be composed of volunteers, who shall develop organizational bylaws, which shall include rules of membership, status of membership, parliamentary procedure and a table of organization of the department.

(c) The fire chief and such other volunteer personnel as may be approved by the organizational structure shall be elected annually from the ranks of the active volunteer membership. The election of the fire chief shall be subject to confirmation by the town manager, and only upon such confirmation shall the fire chief assume his official duties.

(d) Under the supervision of the town manager, the fire chief shall have immediate direction and control of the department including all of its personnel, its equipment and all buildings assigned to the fire department for its use.

(Ord. No. 93-10, § 1, 7-13-93)

Sec. 34-32. Establishment and maintenance of fire lines.

The fire chief shall establish fire lines where needed during any fire, and the chief of police shall be responsible for maintaining such lines until the emergency has passed.

(Code 1979, § 8-2)

Sec. 34-33. Junior firefighter program.

Pursuant to the provisions of the Code of Virginia, § 40.1-79.1 and subject to any restrictions adopted by the town fire department, the town hereby authorizes any minor who is 16 years or older and who is a resident of the town, to participate fully in all activities of the Pearisburg fire department, provided such minor has obtained written parental or legal guardian approval in advance of such participation, and further provided that such minor, in advance of such participation, has attained certification under National Fire Protection Association NFPA 1001, Level One, fire fighter standards as administered by the state department of fire programs.

(Ord. No. 05-01, § 1, 3-8-05)

Secs. 34-34—34-60. Reserved.

ARTICLE III. FIRE PREVENTION

DIVISION 1. GENERALLY

Sec. 34-61. Blasting.

No person shall blast or carry on any blasting operations without having first secured therefor a permit from the town manager. Blasting or blasting operations conducted pursuant to a permit shall be carried on subject to such conditions as may be expressed in the permit. (Code 1979, § 8-3)

Sec. 34-62. Storing explosives for a period of more than five hours.

It shall be unlawful for any person to store or house any dynamite, dynamite caps or other explosives in the town for a period of more than five hours at any time. (Code 1979, § 8-4)

Secs. 34-63—34-80. Reserved.

DIVISION 2. FIREWORKS*

Sec. 34-81. Manufacture, sale, use.

Except as authorized in this division, no person shall manufacture, sell, transfer, give, store, possess, use, explode or set off, or cause to be exploded or set off, any fireworks of any manner, make or description in the town. (Code 1979, § 8-5)

Sec. 34-82. Permit required for special displays.

(a) The town manager shall adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks. Written application for a permit to display fireworks shall be made to the town manager stating the time, place, type of fireworks and circumstances under which they are proposed to be displayed. Upon approval of an application to display fireworks, the town manager shall issue a permit for the display.

(b) Every such display shall be handled by a competent operator, who is experienced in displaying the type of fireworks to be displayed, as approved by the chief of police, and shall be of such character and so located, discharged or fired as in the opinion of the chief of police shall not be hazardous to property or endanger any person.

(c) No permit shall be issued until the applicant is under the protection of an insurance policy providing minimum limits of at least \$100,000.00 for bodily injury or death of any one person in any one accident and \$300,000.00 for bodily injury or death of more than one person

*State law reference—Fireworks, Code of Virginia, § 59.1-142 et seq.

in any one accident, and \$50,000.00 for damage to or destruction of property in any one accident. Such insurance shall become available for the payment of any damage arising from the neglect of the applicant, or his agents or employees.

(d) Unfired fireworks and trash that remain after the display is concluded shall be immediately disposed of in a safe manner approved by the town manager and chief of police. (Code 1979, § 8-6; Ord. No. 84-40, § 8-6, 12-11-84)

Sec. 34-83. Exceptions to application of division.

This division shall not apply to sparklers, fountains, Pharoah's serpents, or caps for pistols; nor shall it apply to pinwheels commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of such property. (Code 1979, § 8-7)

Chapters 35—37

RESERVED

Chapter 38

LAW ENFORCEMENT*

- Sec. 38-1. Town sergeant to be chief of police.
- Sec. 38-2. Supervision.
- Sec. 38-3. Appointment of special police.
- Sec. 38-4. When search warrants required.
- Sec. 38-5. Issuance and service of summons in place of warrant.
- Sec. 38-6. Use of county jail.

***Charter reference**—Powers and duties of mayor or town manager with reference to police force, § 20.

Cross references—Administration, ch. 2; official safety program units, § 2-1; authority of certain officers with respect to nuisances, § 30-61; fire prevention and protection, ch. 34; offenses and miscellaneous provisions, ch. 46; traffic and vehicles, ch. 70; authority of police in direction of traffic, § 70-7.

State law references—Police and public order, Code of Virginia, § 15.1-131 et seq.; city jail, Code of Virginia, § 15.1-257; local correctional facilities, Code of Virginia, § 53.1-68 et seq.; work forces, Code of Virginia, §§ 15.1-904, 53.1-128.

Sec. 38-1. Town sergeant to be chief of police.

The town sergeant shall be the chief of police.

(Code 1979, § 16-3)

Charter reference—Appointment, term, compensation, bond, powers and duties of town sergeant, § 7.

Sec. 38-2. Supervision.

The town manager shall have general supervision of the chief of police and all other police officers of the town. The chief of police shall receive orders from and be directly under the control of the town manager.

(Code 1979, § 16-1)

Sec. 38-3. Appointment of special police.

The town manager shall have the power to appoint special police when in his judgment it is necessary to do so.

(Code 1979, § 16-2)

Sec. 38-4. When search warrants required.

(a) No officer of the law or any other person shall search any place, thing or person except by virtue of and under a warrant issued by a proper officer. Any officer or other person searching any place, thing or person otherwise than by virtue of and under a search warrant shall be guilty of a misdemeanor. Any officer or person violating the provisions of this section shall be liable to any person aggrieved thereby in both compensatory and punitive damages. Any officer found guilty of a second offense under this section shall, upon conviction thereof, in addition to the penalty hereinbefore provided, immediately forfeit his office; and such conviction shall be deemed to create a vacancy in such office to be filled according to law.

(b) Any officer empowered to enforce the game laws may without a search warrant enter for the purpose of enforcing such laws, any freight yard or room, passenger depot, baggage room or warehouse, storage room or warehouse, train, baggage car, passenger car, express car, pullman car or freight car of any common carrier, or any boat, automobile or other vehicle; but nothing contained in this subsection shall be construed to permit a search of any occupied berth or compartment on any passenger car or boat or any baggage, bag, trunk, box or other closed container without a search warrant.

(Code 1979, § 1-9)

State law reference—Similar provisions, Code of Virginia, § 19.2-59.

Sec. 38-5. Issuance and service of summons in place of warrant.

(a) Whenever any person is detained by or in the custody of an arresting officer for a violation of any town ordinance or of any provision of this Code, except as otherwise provided in Code of Virginia, tit. 46.2, or Code of Virginia, § 18.2-266, as amended, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him

in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such a person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

(b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction, who shall proceed according to provisions of Code of Virginia, § 19.2-82.

(c) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of Code of Virginia, § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

(d) Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this section, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail in lieu of issuing the summons, who shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he may determine proper.

(e) Notwithstanding the above, if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, the officer may take such person before a magistrate or other issuing authority of the county and request the issuance of a warrant.

(Code 1979, § 1-10)

State law reference—Similar provisions, Code of Virginia, § 19.2-74.

Sec. 38-6. Use of county jail.

The county jail may be used as the town jail.

(Code 1979, § 1-11)

Chapters 39—41

RESERVED

Chapter 42

LIBRARY*

Article I. In General

- Sec. 42-1. Definition.
- Sec. 42-2. Part of administrative organization of town.
- Sec. 42-3. Appointment, removal of librarian and employees.
- Sec. 42-4. Disbursement of appropriations.
- Secs. 42-5—42-24. Reserved.

Article II. Library Advisory Board

- Sec. 42-25. Definitions.
- Sec. 42-26. Creation; designation.
- Sec. 42-27. Composition; appointment and term of members; vacancies.
- Sec. 42-28. Compensation of members.
- Sec. 42-29. Removal of members.
- Sec. 42-30. Organization; election and term of officers.
- Sec. 42-31. Bylaws, rules and regulations.
- Sec. 42-32. When meetings held; prerequisite to transaction of business; minutes.
- Sec. 42-33. Duties generally.
- Sec. 42-34. Fiscal year; reports; submission of annual budget and program.
- Sec. 42-35. Disposition and disbursement of funds received from sources other than appropriations by council.
- Sec. 42-36. Review of actions.

***Cross references**—Administration, ch. 2; amusements and entertainments, ch. 14; parks and recreation, ch. 50.

State law reference—Local and regional libraries, Code of Virginia, § 42.1-33 et seq.

ARTICLE I. IN GENERAL**Sec. 42-1. Definition.**

For the purpose of this chapter, the word "library" shall be taken to mean the Pearisburg Public Library and any branches thereof.

(Code 1979, § 19-1)

Cross reference—Definitions generally, § 1-2.

Sec. 42-2. Part of administrative organization of town.

The library shall be within and part of the administrative organization of the town and subject to the same administrative control as the other town departments.

(Code 1979, § 19-2)

Sec. 42-3. Appointment, removal of librarian and employees.

Appointment or employment and removal or discharge of the librarian and the other library employees shall be under the same regulations as apply to other town employees.

(Code 1979, § 19-3)

Sec. 42-4. Disbursement of appropriations.

Funds appropriated by the town council to the library shall be disbursed as are other appropriations by the town council.

(Code 1979, § 19-4)

Cross reference—Town council, § 2-31 et seq.

Secs. 42-5—42-24. Reserved.**ARTICLE II. LIBRARY ADVISORY BOARD****Sec. 42-25. 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:

Library board means "The Library Advisory Board of the Town of Pearisburg, Virginia."
(Code 1979, § 19-5)

Cross reference—Definitions generally, § 1-2.

Sec. 42-26. Creation; designation.

There is hereby created a library advisory board, which board shall be designated "The Library Advisory Board of the Town of Pearisburg, Virginia."

(Code 1979, § 19-5)

Sec. 42-27. Composition; appointment and term of members; vacancies.

(a) Membership of the library board shall consist of not over 14 members, not more than 11 of which may be representatives of civic organizations and others as the town council may designate, and one member from the town council, the librarian of the public library, and the town manager. The last two members shall be members ex officio.

(b) The members of the library board shall be appointed by the town council, and the represented organizations may recommend their respective representatives to the council.

(c) The terms of office shall be as follows: All appointments at expiration of terms shall be for staggered terms of three years. The term of the councilmanic member shall be subject to tenure in that office.

(d) Appointments to fill vacancies shall be for the remainder of the unexpired term. The terms of ex officio members shall correspond to the terms in their respective offices.
(Code 1979, § 19-6)

Sec. 42-28. Compensation of members.

The members of the library board shall serve, as such, without compensation.
(Code 1979, § 19-7)

Sec. 42-29. Removal of members.

Any member of the library board may be removed from office by two-thirds vote of the total number of the town council, for inefficiency, neglect of duty or malfeasance in office.
(Code 1979, § 19-8)

Sec. 42-30. Organization; election and term of officers.

The members of the library board shall organize by electing a chairman, a secretary and such other officers as may be necessary. Elected officers' terms shall be for a period of one year or until their successors are elected. Elections shall be held in August of each year, and terms of office shall begin on and date from September 1 of each year.
(Code 1979, § 19-9)

Sec. 42-31. Bylaws, rules and regulations.

The library board shall have the power to make bylaws, rules and regulations, not inconsistent with the provisions of the Charter and state laws, to carry out the specified duties and responsibilities of the board.
(Code 1979, § 19-10)

Sec. 42-32. When meetings held; prerequisite to transaction of business; minutes.

The library board shall hold regular and special meetings at such times and places as may be fixed by the board. A majority of the members of the board voting in the affirmative shall

be required for the transaction of any business by the board. The secretary shall keep minutes of all meetings and preserve them for the examination of the town council when so desired by the council.

(Code 1979, § 19-11)

Sec. 42-33. Duties generally.

The library board shall advise the council on the organization and operation of the library, including purchase of books, improvements to the library, acceptance of gifts to the library and such other duties as the town council may specify.

(Code 1979, § 19-12)

Sec. 42-34. Fiscal year; reports; submission of annual budget and program.

(a) The fiscal year of the library board shall conform to that of the town; however, the board may make reports and take actions at such times and for such periods as may be required by state and other agencies.

(b) The library board shall make full and complete annual reports to the town council and other reports from time to time as necessary or required by the council. Annually, at such time as the town council designates, the library board shall submit for the consideration and approval of the town council a detailed recommended budget and program of the following fiscal year.

(Code 1979, § 19-13)

Sec. 42-35. Disposition and disbursement of funds received from sources other than appropriations by council.

Funds received by the library board from sources other than appropriations by the town council shall be accounted for and deposited with the town treasurer to the credit of the board and shall be disbursed in accordance with the approved annual budget as are other town disbursements. Funds received by the board by gift shall, if so provided, be disbursed as may be directed by the terms of the gift; however, if the gift contains no terms as to disposition, the money shall be placed in a special account for the purchase of reading material only.

(Code 1979, § 19-14)

Sec. 42-36. Review of actions.

All actions of the library board shall be subject to review by the town council.

(Code 1979, § 19-15)

Chapters 43—45

RESERVED

Chapter 46

OFFENSES AND MISCELLANEOUS PROVISIONS*

Article I. In General

- Sec. 46-1. Attempts to commit misdemeanors.
- Sec. 46-2. Begging on street.
- Sec. 46-3. Inoperative motor vehicles on private property.
- Sec. 46-4. Curfew for minors.
- Sec. 46-5. Urination and defecation in public.
- Secs. 46-6—46-30. Reserved.

Article II. Weapons

- Sec. 46-31. Discharging firearms.
- Sec. 46-32. Discharging air rifles, air pistols, air guns.
- Sec. 46-33. Discharging arrow or other missile.
- Secs. 46-34—46-39. Reserved.

Article III. Obscenity

- Sec. 46-40. Obscene defined.
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- Sec. 46-51. Indecent exposure.
- Sec. 46-52. Public nudity generally.

***Charter reference**—Power of town to exercise police powers, §§ 16, 19.

Cross references—Amusements and entertainments, ch. 14; frequenting of pool rooms by minors, § 14-33; environment, ch. 30; law enforcement, ch. 38.

State law references—Attempts to commit misdemeanors, how punished, Code of Virginia, § 18.2-27; extortion and other threats, Code of Virginia, § 18.2-59 et seq.; threats to bomb or damage buildings or means of transportation, false information as to danger to such buildings, etc., punishment, venue, Code of Virginia, § 18.2-83; petit larceny defined, how punished, Code of Virginia, § 18.2-96; impersonating officer, Code of Virginia, § 18.2-174; defrauding hotels, motels, campgrounds, boardinghouses, etc., Code of Virginia, § 18.2-188; calling or summoning ambulance or firefighting apparatus without just cause, maliciously activating fire alarms in public buildings, venue, Code of Virginia, § 18.2-212; disorderly conduct in public places, Code of Virginia, § 18.2-415; use of profane, threatening or indecent language over public airways, Code of Virginia, § 18.2-427.

ARTICLE I. IN GENERAL**Sec. 46-1. Attempts to commit misdemeanors.**

Every person who attempts to commit an offense which is a misdemeanor under the provisions of this Code or other ordinance of the town shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt. In no event shall the punishment for an attempt to commit an offense exceed the maximum punishment had the offense been committed.

(Code 1979, § 14-8)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-27, 18.2-28.

Sec. 46-2. Begging on street.

It shall be unlawful for any person to beg upon any of the streets in the town.

(Code 1979, § 14-9)

Cross reference—Peddlers and solicitors, ch. 54.

Sec. 46-3. Inoperative motor vehicles on private property.

(a) No person shall keep, except within a fully enclosed structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such as defined in Code of Virginia, § 46.2-100, which is inoperative. As used in this section, an "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(b) The owners of property zoned for residential, commercial or agricultural purposes shall, upon the written demand of the chief of police, remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. The town through its own agents or employees may remove such inoperative motor vehicles, trailers or semitrailers whenever the owner of the premises, after reasonable notice, has failed to do so.

(c) In the event that the town through its own agents or employees removes any such motor vehicles, trailers or semitrailers after having given such reasonable notice, the town may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

(d) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the town as taxes and levies are collected; and every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the town.

(Code 1979, § 14-16; Ord. No. 88-04, § 1, 9-13-88)

Cross references—Nuisances, § 30-31 et seq.; traffic and vehicles, ch. 70.

State law reference—Authority for above section, Code of Virginia, § 15.1-11.1.

Sec. 46-4. Curfew for minors.

It shall be unlawful for any person under 18 years of age to be upon the public streets or alleys of the town or upon any public place, whether or not private property, between the hours of 11:00 p.m. and 6:00 a.m. unless accompanied by the parent or guardian of such person; and it shall be unlawful for any parent or guardian of such person to permit such person to violate the provisions of this section. Failure to comply with this section shall be a class 4 misdemeanor.

(Ord. No. 83-33, § 1, 7-12-83)

State law reference—Curfew for minors, Code of Virginia, § 15.1-33.4.

Sec. 46-5. Urination and defecation in public.

It shall be unlawful for any person to urinate or defecate in or on any sidewalk, street, or in any public place, or in any place where others are present, unless such urination or defecation be in a bathroom, restroom, or other facility specifically designed for such purpose. Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor.

(Ord. No. 12-06, § 1, 8-14-12)

Secs. 46-6—46-30. Reserved.

ARTICLE II. WEAPONS

Sec. 46-31. Discharging firearms.

(a) If any person discharges or causes to be discharged any firearm of any kind, make or description, within the town, he shall be guilty of a class 3 misdemeanor.

(b) This section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.

(Code 1979, § 29-2; Ord. No. 84-39, § 29-2, 12-11-84)

State law reference—Similar provisions, Code of Virginia, § 18.2-280.

Sec. 46-32. Discharging air rifles, air pistols, air guns.

(a) No person shall discharge any air rifle, air pistol or air gun of any make, kind or description, within the town.

(b) Any person violating this section shall be guilty of a class 3 misdemeanor.
(Code 1979, § 29-3; Ord. No. 84-39, § 29-3, 12-11-84)

Sec. 46-33. Discharging arrow or other missile.

(a) No person shall, anywhere within the town, discharge an arrow, shot, stone, gravel, bullet or any similar thing from any bow, gravel shooter or other similar instrument.

(b) This section shall not be applicable to an indoor archery range operated as a business and licensed under the requirements of chapter 26 as a personal service.

(c) Any person violating this section shall be guilty of a class 3 misdemeanor.
(Code 1979, § 29-4; Ord. No. 84-39, § 29-4, 12-11-84; Ord. No. 89-12, § 1, 9-12-89)

Secs. 46-34—46-39. Reserved.

ARTICLE III. OBSCENITY

Sec. 46-40. Obscene defined.

The word "obscene" where it appears in this article 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.
(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-41. Exceptions.

Nothing contained in this article shall be construed to apply to:

- (1) The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning supported by public appropriation;
- (2) The purchase distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning supported by public appropriation;
- (3) The exhibition or performance of any play, drama, tableau or motion picture by any theatre, museum of fine arts, school or institution of higher learning supported by public appropriation.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-42. Obscene items enumerated.

Obscene items shall include:

- (1) Any obscene book; or
- (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker drawing, photograph, film, negative, slide, motion picture, videotape, recording; or
- (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.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-43. Production, publication, sale, possession, etc., of obscene items.

It shall be unlawful for any person knowingly to:

- (1) Prepare any obscene item for the purpose 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.

For the purposes of this section, "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 (1) person to another.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-44. Obscene exhibitions and performances.

It shall be unlawful for any person knowingly to:

- (1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene, provided that no employee of any person or legal entity operating a theatre, garden, building, structure, room or place which presents such obscene exhibition performance shall be subject to prosecution under this section if the employee is not the manager of the theatre or an officer of such entity and has no financial interest such theatre other than receiving salary and wages; or
- (2) Own, lease or manage any theatre, garden, building, structure, room or place and lease, let, lend or permit such theatre, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theatre, garden, building, structure, room or place.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-45. Advertising, etc., obscene items, exhibitions or performances.

It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in section 46-42, or of any obscene performance or exhibition proscribed in section 46-44, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-46. Placards, posters, bills, etc.

It shall be unlawful for any person knowingly to expose, place, display, post, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster banner, bill, writing or picture which is obscene or which advertises or promotes any obscene item proscribed in section 46-42 or any obscene exhibition or performance proscribed in section 46-44, or knowingly to permit the same to be displayed on property belonging to or controlled by him.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-47. Coercing acceptance of obscene articles or publications.

It shall be unlawful for any person as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication to require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications or by reason of the return thereof.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-48. Employing or permitting minor to assist in offense.

It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this article.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-49. Photographs, slides and motion pictures.

Every person shall be guilty of a class 3 misdemeanor who knowingly:

- (1) Photographs himself or any other person for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or
- (2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-50. Showing previews of certain motion pictures.

It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-51. Indecent exposure.

No person shall intentionally make an obscene display or exposure of his or her person or the private parts thereof in any public place or in any place where others are present, nor shall he or she procure another to so expose himself or herself. No person shall be deemed to be in violation of this section for breast-feeding a child in any public place or any place where others are present.

(Ord. No. 01-01, § 1, 2-13-01)

Sec. 46-52. Public nudity generally.

(a) As used in this section, "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

(b) It shall be unlawful for any person to knowingly, voluntarily and intentionally appear in public, or in a public place or in a place open to the public or open to public view, in a state of nudity or to employ, encourage or procure another person to appear so.

(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama, as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise, such as a hotel, motel, bar, nightclub, restaurant, tavern or hall.

(Ord. No. 01-01, § 1, 2-13-01)

Chapters 47—49

RESERVED

Chapter 50

PARKS AND RECREATION*

Article I. In General

Sec. 50-1. Disbursement of funds appropriated by town council.
Secs. 50-2—50-30. Reserved.

Article II. Recreation Commission

Sec. 50-31. Creation.
Sec. 50-32. Duties of commission.
Sec. 50-33. Disposition, disbursement of funds.
Sec. 50-34. Reports; minutes.

***Charter reference**—Powers of town as to playgrounds and other recreational facilities, § 12.

Cross references—Administration, ch. 2; amusements and entertainments, ch. 14; fire prevention and protection, ch. 34; library, ch. 42.

State law references—Municipal parks and playgrounds, Code of Virginia, § 15.1-15(2), (3); local systems of public recreation and playgrounds, Code of Virginia, § 15.1-271 et seq.; local liability in the operation of recreational facilities, Code of Virginia, § 15.1-291; municipal regulation of public swimming pools, lakes, etc., Code of Virginia, § 15.1-858; municipal regulation of use of parks, playgrounds, etc., Code of Virginia, § 15.1-871; general authority for municipal parks, playgrounds, etc., Code of Virginia, § 15.1-874; Park Authorities Act, Code of Virginia, § 15.1-1228 et seq.; Public Recreational Facilities Authorities Act, Code of Virginia, § 15.1-1271 et seq.

ARTICLE I. IN GENERAL**Sec. 50-1. Disbursement of funds appropriated by town council.**

Funds appropriated by the town council for the recreational facilities of the town shall be disbursed as are other appropriations of the town council.

(Code 1979, § 20-2)

Secs. 50-2—50-30. Reserved.**ARTICLE II. RECREATION COMMISSION*****Sec. 50-31. Creation.**

There is hereby created a recreation commission for the town. The commission shall be composed of five members, appointed by the town council from the qualified voters of the town. The term of office shall be for five years with initial appointments being for one to five years so that terms are staggered and one member subject to appointment each year. Vacancies occurring other than by expiration of term shall be filled by appointment by the town council for the unexpired term. The members of the commission shall serve as such without pay. The members of the commission shall meet as required at least on a quarterly basis.

(Ord. No. 96-06, § 1, 6-11-96)

State law reference—Recreation board authorized, Code of Virginia, § 15.1-272.

Sec. 50-32. Duties of commission.

(a) The recreation commission shall act in an advisory capacity with the duty of planning recreational facilities on properties designated by the town council for such purpose. The commission shall act in an advisory capacity with the duty of planning and reviewing activities and programs.

(b) The recreation commission shall be responsible for coordination of volunteers and may undertake special fund-raising activities for special recreation projects. All such fund-raising activity shall be subject to review and approval by the town council.

(Ord. No. 96-06, § 1, 6-11-96)

Sec. 50-33. Disposition, disbursement of funds.

Funds received by the recreation commission from such special fund-raising activity shall be deposited with the town treasurer to the credit of the recreation department for the use of and at the direction of the town council; however, funds received by the commission as a gift or gifts shall, if so provided, be disbursed as directed by the donor of the gift.

(Ord. No. 96-06, § 1, 6-11-96)

***Cross reference**—Administration, ch. 2.

Sec. 50-34. Reports; minutes.

The recreation commission shall make full and complete annual reports to the town council. The recreation commission shall keep minutes of all meetings.

(Ord. No. 96-06, § 1, 6-11-96)

Chapters 51—53

RESERVED

Chapter 54

PEDDLERS AND SOLICITORS*

Article I. In General

Secs. 54-1—54-30. Reserved.

Article II. Solicitors

- Sec. 54-31. "Solicitor" defined.
- Sec. 54-32. Registration required.
- Sec. 54-33. Permits.
- Sec. 54-34. Prohibited acts.
- Sec. 54-35. Exceptions.

***Cross references**—Advertising, ch. 6; businesses, ch. 26; begging on street, § 46-2; streets, sidewalks and other public places, ch. 62; taxation, ch. 66; traffic and vehicles, ch. 70.

State law references—Regulation of certain vendors and peddlers, Code of Virginia, §§ 15.1-37.3:1 et seq., 15.1-866; solicitation of contributions, Code of Virginia, § 57-48 et seq.; licensing of peddlers, Code of Virginia, § 58.1-3717 et seq.

ARTICLE I. IN GENERAL

Secs. 54-1—54-30. Reserved.

ARTICLE II. SOLICITORS

Sec. 54-31. "Solicitor" defined.

The term "solicitor" means a person who goes from door to door visiting multifamily or single-family dwellings for the following purposes:

- (1) To sell any goods, wares, merchandise or services or accept subscriptions or orders therefor.
- (2) To accept or request donations for any charitable purpose.

(Code 1979, § 23-1)

Cross reference—Definitions generally, § 1-2.

Sec. 54-32. Registration required.

All persons, before entering into or upon residential premises within the town for the purpose of soliciting, shall register with the town clerk and furnish the following information:

- (1) The name, local and permanent addresses, age, race, weight, height, color of hair and eyes, and any other distinguishing physical characteristics of the applicant.
- (2) The nature or purpose for which solicitations will be made and the nature of the goods, wares, merchandise or services offered for sale.
- (3) The name and permanent address of the employer or organization represented.
- (4) A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so, the nature of the offense, when and where convicted, and the penalty or punishment assessed therefor.

(Code 1979, § 23-2)

Sec. 54-33. Permits.

(a) *Issuance; display required.* Upon furnishing the information required under section 54-32, the applicant shall be issued a permit unless the information furnished in compliance with this article shows that the applicant has been convicted of a crime involving moral turpitude. A permit issued under this article shall be good for one year from the date of issuance unless earlier revoked as provided in this article. Every solicitor shall carry his permit with him at all times while engaged in soliciting and shall display the same to any person who shall demand to see the same while he is so engaged.

(b) *Fees.* A fee of \$10.00 to cover the costs of investigation of the applicant and processing of the application shall be paid to the town manager when the application is filed and shall not be returnable under any circumstances.

(Code 1979, §§ 23-3, 23-4)

Sec. 54-34. Prohibited acts.

No person shall:

- (1) Enter into or upon any residential premises in the town under false pretenses to solicit for any purpose or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.
- (2) Remain in or on any residential premises after the owner or occupant has requested any such person to leave.
- (3) Enter upon any residential premises for soliciting when the owner or occupant has displayed a "No Soliciting" sign on such premises.
- (4) Engage in the practice of soliciting in the town without a permit as provided for in this article.
- (5) Knowingly give false information or fail to provide correct information in obtaining a permit.

(Code 1979, § 23-5)

Sec. 54-35. Exceptions.

The provisions of this article shall not apply to:

- (1) Any person who visits any residence or apartment at the request or invitation of the owner or occupant thereof.
- (2) Unpaid members of any civic or charitable organization who have an approved means of identification provided by the organization represented.
- (3) Persons soliciting subscriptions to any newspaper for home delivery within the town.
- (4) Route delivery persons who make deliveries at least once a week to regular customers and whose solicitation is only incidental to their regular deliveries.
- (5) Persons selling fresh farm products.
- (6) Persons licensed under the provisions of Code of Virginia, tit. 38.2.
- (7) Persons exempted by Code of Virginia, § 57-63.

(Code 1979, § 23-6)

Chapters 55—57

RESERVED

Chapter 58

SOLID WASTE*

Article I. In General

Secs. 58-1—58-30. Reserved.

Article II. Disposition of Refuse

Division 1. Generally

- Sec. 58-31. Definitions.
- Sec. 58-32. When refuse to be collected by town.
- Sec. 58-33. Preparation of wastepaper, rags or other material for collection.
- Sec. 58-34. Interfering with contents of containers set out for collection; interfering with town employees.
- Sec. 58-35. Throwing or sweeping refuse into street.
- Sec. 58-36. Dumping cinders on street.
- Sec. 58-37. Dumping garbage or offensive material for filling.
- Sec. 58-38. Accumulation of refuse as public nuisance.
- Sec. 58-39. Correction by town of certain conditions.
- Sec. 58-40. Enforcement of article; right of entry.
- Secs. 58-41—58-55. Reserved.

Division 2. Collection from Householders

- Sec. 58-56. Containers for refuse to be provided; requirements as to containers.
- Sec. 58-57. Setting out refuse containers for collection; town employees not to enter houses for collecting refuse.
- Sec. 58-58. Containers for cinders to be provided; requirements as to containers; collection of hot cinders.
- Sec. 58-59. Replacement of worn containers.
- Sec. 58-60. Collection charges inside the town; penalty for late payment.
- Secs. 58-61—58-75. Reserved.

***Cross references**—Administration, ch. 2; monthly report by town manager, § 2-107; environment, ch. 30; fire prevention and protection, ch. 34; throwing or depositing obnoxious or unsightly matter into street, alley or sidewalk, § 62-8; utilities, ch. 74; vegetation, ch. 78.

State law references—Local contracts for the supply of solid waste to resource recovery facilities, Code of Virginia, § 10.1-1412; removal of trash, garbage, weeds, etc., Code of Virginia, § 15.1-11; solid waste management facility siting approval, Code of Virginia, § 15.1-11.02; separation of solid waste, Code of Virginia, § 15.1-11.5; prohibiting placement of leaves or grass clippings in landfills, Code of Virginia, § 15.1-11.5:1; ordinances requiring recycling reports, Code of Virginia, § 15.1-11.5:2; local recycling and waste disposal, Code of Virginia, § 15.1-11.5:3; regulation of garbage and refuse pickup and disposal services, certain local contracts for such services, Code of Virginia, §§ 15.1-28.01, 15.1-28.02, 15.1-28.1; local solid and hazardous waste management, Code of Virginia, § 15.1-282; municipal garbage and refuse disposal, Code of Virginia, § 15.1-857; dumping trash, etc., on public highway, right-of-way or private property, Code of Virginia, § 33.1-346.

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Division 3. Collection from Business Establishments

- Sec. 58-76. Bins or other containers for trash to be provided.
- Sec. 58-77. Restaurants and similar establishments to provide containers for garbage.
- Sec. 58-78. Preparation by business establishments of cartons for collection.
- Sec. 58-79. Preparation by grocery stores having bins of spoiled perishables for collection.
- Sec. 58-80. Containers for the collection of cinders.
- Sec. 58-81. Repair of storage rooms or containers and replacement of containers.
- Sec. 58-82. Collection charges inside town.
- Sec. 58-83. Collection charges outside the town.
- Secs. 58-84—58-100. Reserved.

Division 4. Transportation of Garbage and Rubbish

- Sec. 58-101. License.
- Sec. 58-102. Vehicle specifications.
- Secs. 58-103—58-120. Reserved.

Article III. Litter

- Sec. 58-121. Definitions.
- Sec. 58-122. Littering prohibited; penalties.
- Sec. 58-123. Allowing escape of load material; penalty.
- Sec. 58-124. Areas surrounding commercial establishments and institutions.
- Sec. 58-125. Keeping residential property clean.
- Sec. 58-126. Construction and demolition sites.
- Sec. 58-127. Handbills and advertising material.
- Sec. 58-128. Penalty for violation of article.
- Sec. 58-129. Indiscriminate dumping or discarding of litter and solid waste.
- Sec. 58-130. Cleanup of premises by government authorization.
- Sec. 58-131. Litter receptacles.
- Sec. 58-132. Providing adequate litter receptacles.
- Sec. 58-133. Enforcement of litter laws; prosecution; presumption.

ARTICLE I. IN GENERAL

Secs. 58-1—58-30. Reserved.

ARTICLE II. DISPOSITION OF REFUSE**DIVISION 1. GENERALLY**

Sec. 58-31. Definitions.

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

Business establishments includes operators of restaurants, cafes, hotels, department stores, furnishing stores, business offices, shops, garages, service stations and any other establishment that may cater to the general public.

Cinders includes ashes, clinkers and any other incombustible residue from heaters or furnaces.

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

Householder includes occupants of dwelling houses, apartment houses, cabins and house trailers.

Refuse includes trash and garbage.

Trash includes paper, cardboard, floor sweepings, bottles, broken glass, drugs, discarded clothing and any other dry items that may be rejected.

(Code 1979, § 21-1)

Cross reference—Definitions generally, § 1-2.

Sec. 58-32. When refuse to be collected by town.

The town will cause to be collected weekly all refuse from all residents and from all business houses daily or on a schedule as to be required to make effective collection. Such collection shall be done by authorized employees, agents, or contractors of the town.

(Code 1979, § 21-2; Ord. No. 97-02, § 1, 3-11-97)

Sec. 58-33. Preparation of wastepaper, rags or other material for collection.

Except as otherwise provided in this article, all wastepaper, rags, old shoes or clothing and material that is liable to be blown or scattered about the streets shall be securely tied in bundles and deposited in the required receptacle, with cover.

(Code 1979, § 21-3)

Sec. 58-34. Interfering with contents of containers set out for collection; interfering with town employees.

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

(b) No person shall interfere with, hinder or obstruct the employees, agents or contractors of the town in the collection or removal of any materials set out for collection or removal under this article.

(Code 1979, § 21-4)

Sec. 58-35. Throwing or sweeping refuse into street.

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

(Code 1979, § 21-5)

Sec. 58-36. Dumping cinders on street.

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

(Code 1979, § 21-6)

Sec. 58-37. Dumping garbage or offensive material for filling.

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

(Code 1979, § 21-7)

Sec. 58-38. Accumulation of refuse as public nuisance.

(a) It shall constitute a public nuisance for any person to allow refuse to accumulate on the premises for which he is responsible in a manner that would become offensive or insanitary.

(b) It shall constitute a public nuisance for any person to allow refuse from their container or bin to spread onto their property or that of another by blowing winds where such would be preventable by a properly closed lid, fence or other means of containment.

(Code 1979, § 21-8; Ord. No. 96-07, § 1, 6-11-96)

Sec. 58-39. Correction by town of certain conditions.

When any person is in violation of sections 58-35—58-38 and has received proper notice of such violation, the town may remove the offending material; and the violator shall pay the town the cost of removing it. The cost of such removal shall have no bearing on or connection with any punishment that may be imposed for such violation.

(Code 1979, § 21-9)

Sec. 58-40. Enforcement of article; right of entry.

Except as otherwise provided in this article, the sanitarian and the town manager, either or both, shall enforce this article and, for that purpose, may visit the premises or building of any resident, householder, hotel, restaurant, storekeeper or business house in the town at any reasonable time to make inspection thereof.

(Code 1979, § 21-10)

Secs. 58-41—58-55. Reserved.**DIVISION 2. COLLECTION FROM HOUSEHOLDERS****Sec. 58-56. Containers for refuse to be provided; requirements as to containers.**

(a) The town shall cause its employees, agents, or contractors to collect garbage and refuse from all residences within the town limits.

(b) All residential and apartment unit owners with garbage and refuse to be collected by the town shall provide one or more metal or plastic containers with a capacity of not more than 32 gallons, and with tight-fitting lids that shall be kept thereon at all times, except when the container is being filled or emptied.

(c) Apartment unit owners may provide an approved type of trucklift container for garbage and refuse.

(Code 1979, § 21-11; Ord. No. 90-06, § 2(21-11), 12-11-90; Ord. No. 97-02, § 1, 3-11-97)

Sec. 58-57. Setting out refuse containers for collection; town employees not to enter houses for collecting refuse.

(a) Household holders shall place all refuse containers outside at one location adjacent to the curb or on the right-of-way adjacent to the street, so as to be readily accessible to the collection crew. Containers shall be clear and away from any object, vehicle or other property that may sustain damage during or interfere with collection. Town employees shall not be permitted to enter private property for the purpose of collecting refuse. Exception to this may be granted by the town manager to any person deemed physically unable to move refuse to the curb. All such persons seeking exemption shall petition the town manager providing evidence of physical disability and verifying that no other person in the household can assist before such exemption is granted. An additional monthly fee of \$3.00 shall be charged for this service.

(b) The town will collect items set out to the curb on a schedule to be set by the town manager. (Code 1979, § 21-12; Ord. No. 90-06, § 2(21-12), 12-11-90; Ord. No. 93-13, § 1, 9-14-93; Ord. No. 94-01, § 2(21-12), 3-8-94; Ord. No. 97-02, § 1, 3-11-97)

Sec. 58-58. Containers for cinders to be provided; requirements as to containers; collection of hot cinders.

Householders shall provide separate containers for the collection of cinders with a capacity of not more than 21 gallons and with tight-fitting covers that shall be kept thereon at all times, except when such containers are being filled or emptied. Cinders will not be collected while they are warm or hot.

(Code 1979, § 21-13; Ord. No. 90-06, § 2(21-13), 12-11-90)

Sec. 58-59. Replacement of worn containers.

Householders shall replace worn and battered refuse and cinder containers when notified by the town manager or his duly authorized agent.

(Code 1979, § 21-14; Ord. No. 90-06, § 2(21-14), 12-11-90)

Sec. 58-60. Collection charges inside the town; penalty for late payment.

A charge, payable monthly, shall be paid by all households and apartment dwellers within the town corporate limits as the charge for refuse collection and disposal services; provided that in apartments where bins are provided such charge shall be paid by the apartment house owner. Such charge shall be approved by the town.

(Code 1979, § 21-15; Ord. No. 83-31, § 1, 6-24-83; Ord. No. 87-02, § 1, 6-16-87; Ord. No. 90-06, § 2(21-15), 12-11-90; Ord. No. 92-08, § 1, 6-9-92; Ord. No. 93-04, § 1, 6-8-93; Ord. No. 93-13, § 2, 9-14-93; Ord. No. 97-02, § 1, 3-11-97)

Secs. 58-61—58-75. Reserved.

DIVISION 3. COLLECTION FROM BUSINESS ESTABLISHMENTS

Sec. 58-76. Bins or other containers for trash to be provided.

(a) Business establishments, including apartment complexes, shall provide trash storage rooms, bins, dumpsters with approved lids, or other approved containers for the purpose of storing trash until their trash collection day. It shall be illegal for any person to utilize such bins and dumpsters for the disposal of trash without the express written permission of the owner of such unless that person is a tenant, occupant or agent of the owner or occupant of the building for which the bin or dumpster is provided.

(b) All bins and containers shall have lids that can be securely closed to prevent weather conditions or animals from spreading litter and rain from entering the container. Such lids are to be closed at all times.

(c) Notices of violation of this section shall be issued to violators unless circumstances warrant other action, in which event the usual procedure of summons or arrest shall apply. The amount due shall be added to the next monthly utility bill from the town. The penalty for such a violation shall be \$25.00. Notice of violation may be issued by the police department and/or the code enforcement department.

(d) Any violation of this section shall be punishable as a class 2 misdemeanor.
(Ord. No. 93-14, §§ 1, 2, 10-12-93; Ord. No. 96-07, § 1, 6-11-96)

Sec. 58-77. Restaurants and similar establishments to provide containers for garbage.

Business establishments such as restaurants, cafes and other eating establishments where perishable items are served to the public shall provide metal or plastic containers for garbage with covers and with a capacity of not more than 30 gallons or shall provide an approved type of truck lift container.

(Code 1979, § 21-18; Ord. No. 90-06, § 3(21-18), 12-11-90)

Sec. 58-78. Preparation by business establishments of cartons for collection.

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

(Code 1979, § 21-19)

Sec. 58-79. Preparation by grocery stores having bins of spoiled perishables for collection.

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

(Code 1979, § 21-20)

Sec. 58-80. Containers for the collection of cinders.

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

(Code 1979, § 21-21)

Sec. 58-81. Repair of storage rooms or containers and replacement of containers.

Business establishments shall repair trash storage rooms or bins or replace refuse containers when notified by the town manager or his agents.

(Code 1979, § 21-22)

Sec. 58-82. Collection charges inside town.

Business establishments, including apartments with bulk containers shall be charged for refuse collection and disposal services according to the schedule of monthly fees as approved by the town.

(Code 1979, § 21-23; Ord. No. 90-06, § 4, 12-11-90; Ord. No. 93-13, § 3, 9-14-93; Ord. No. 94-04, 6-14-94; Ord. No. 94-08, § 1, 8-9-94; Ord. No. 97-02, § 1, 3-11-97)

Sec. 58-83. Reserved.

Editor's note—Ord. No. 96-02, § 1, adopted March 11, 1997, deleted the provisions of former § 58-83, which pertained to collection charges outside the town, as derived from the Code 1979, § 21-24.

Secs. 58-84—58-100. Reserved.

DIVISION 4. TRANSPORTATION OF GARBAGE AND RUBBISH

Sec. 58-101. License.

(a) *Required.* It shall be unlawful for any person to convey or transport refuse upon any public street within the town without having first procured a license therefor for each vehicle used for such purpose.

(b) *Application; fee; vehicle approval.* Application for a license required by this division shall be made to the town treasurer. The fee for such license shall be as provided in chapter 26. No license shall be issued for any vehicle unless such vehicle shall conform to the specifications provided in section 58-102 and until it shall have been approved as conforming thereto by the town manager.

(c) *Revocation.* Any license issued under the provisions of this division may be revoked by the town manager upon the violation by the licensee of any provision of this division.

(d) This section shall not apply to vehicles owned and operated by the town or by the Giles County Public Service Authority.

(Code 1979, §§ 21-25—21-27; Ord. No. 97-02, § 1, 3-11-97)

Cross reference—Businesses, ch. 26.

Sec. 58-102. Vehicle specifications.

It is unlawful for any person to convey or transport refuse upon any public street within the town unless such refuse is conveyed or transported in a vehicle equipped with a body and cover, metal or canvas, enclosing the entire bed or body in which refuse is to be conveyed or transported and approved by the town manager. Such vehicle shall be equipped and constructed so as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle; and such vehicle shall at all times, except when being loaded or unloaded, be completely and securely covered.

(Code 1979, § 21-28)

Secs. 58-103—58-120. Reserved.

ARTICLE III. LITTER***Sec. 58-121. 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:

Institution means any public or private establishment which educates, instructs, treats for health purposes, or otherwise performs a service or need for the community, region, state or nation.

Litter means all waste materials, including but not limited to bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, disposable packages or containers thrown or deposited as prohibited herein, but not including the properly disposed of waste of the primary processes of mining, logging, saw-milling, farming or manufacturing.

Litter receptacle means a container with a capacity of not less than ten gallons, constructed and/or placed for use as a depository for litter.

Person means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.

Private property means property owned by any person as defined herein, including but not limited to yards, grounds, driveways, entranceways or passageways, parking areas, storage areas, any body of water, vacant land and recreation facilities.

Public property means any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds or other bodies of water.

Vehicle means every device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracks, or used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated on any public highway, or purposes other than crossing such public highway, or along such highway between two tracts of the owner's land.

(Ord. No. 85-1, art. I, § 2, 1-8-85)

Cross reference—Definitions generally, § 1-2.

***State law references**—Litter control and recycling, Code of Virginia, § 10.1-1414 et seq.; dumping trash, etc., on highway, right-of-way or private property, Code of Virginia, § 33.1-346.

Sec. 58-122. Littering prohibited; penalties.

(a) It shall be unlawful for any person to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within the town, including but not restricted to any street, sidewalk, park, body of water, or vacant or occupied lot, except in public litter receptacles, or in authorized private litter receptacles provided for public use, or in an area designated by the state department of health as a permitted disposal site.

(b) Any person convicted of violating this section shall be guilty of a class 2 misdemeanor. In addition to or in lieu of the foregoing penalty, any person convicted of violating this section may be directed by the court to pick up litter at locations which may be assigned by the court and/or in whatever amounts and/or for whatever length of time as may be deemed appropriate by the court.

(c) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; however, such presumption shall be rebuttable by competent evidence.

(Ord. No. 85-1, art. II, § 1, 1-8-85)

Sec. 58-123. Allowing escape of load material; penalty.

No vehicle shall be driven or moved on any highway unless the vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. However, sand or any substance for increasing traction during times of snow and ice may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway by the state or local government agency having that responsibility. Any person operating a vehicle from which any glass or objects have fallen or escaped which could constitute an obstruction or damage a vehicle or otherwise endanger travel upon a public highway shall immediately cause the highway to be cleaned of all glass or objects and shall pay any costs therefor. Violation of this section shall constitute a class 1 misdemeanor.

(Ord. No. 85-1, art. II, § 2, 1-8-85)

State law reference—Similar provisions, Code of Virginia, § 10.1-1424.

Sec. 58-124. Areas surrounding commercial establishments and institutions.

It shall be the duty of each proprietor and each operator of any business, industry or institution to keep the adjacent and surrounding area clear and free of litter. These areas include but are not restricted to public and private sidewalks, roads and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots which are owned or leased by the establishment or institution.

(Ord. No. 85-1, art. III, § 1, 1-8-85)

Sec. 58-125. Keeping residential property clean.

(a) It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter.

(b) This section shall not be deemed to prohibit the accumulation of litter awaiting the next regular scheduled refuse or garbage collection if such property is served by regularly scheduled garbage, refuse or litter collection. Such collection shall be deemed to be regular if such collection regularly occurs once per week or more frequently.

(Ord. No. 85-1, art. III, § 2, 1-8-85)

Sec. 58-126. Construction and demolition sites.

(a) It shall be unlawful for any owner, agent or contractor to permit the accumulation of litter before, during or after completion of any construction or demolition project.

(b) It shall be the duty of the owner, agent or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain to prevent scattering other bulk litter on a daily basis. All litter shall be removed from such site not less than once per week.

(Ord. No. 85-1, art. III, § 3, 1-8-85)

Sec. 58-127. Handbills and advertising material.

It shall be unlawful for any person distributing commercial handbills, leaflets, flyers, or any other advertising and information material to distribute material in such a manner that it litters either public or private property.

(Ord. No. 85-1, art. III, § 4, 1-8-85)

Sec. 58-128. Penalty for violation of article.

Except as otherwise provided, any person convicted of violating any section of this article shall be punished by a fine of \$50.00. The offender may pay the fine in lieu of appearing in court pursuant to Code of Virginia, § 19.2-254.2.

(Ord. No. 85-1, art. III, § 5, 1-8-85)

Sec. 58-129. Indiscriminate dumping or discarding of litter and solid waste.

(a) It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture, and any other material or equipment, on public or private property, except by written consent of the owner of the private property, or except in receptacles provided for public use for the deposit of the material, or except in an area designated by the state department of health as a permitted disposal site.

(b) Any person violating this section shall be guilty of a class 2 misdemeanor. In addition to or in lieu of the foregoing penalty, any person convicted of violating this section may be

directed by the court to pick up litter at locations which may be assigned by the court and/or in whatever amounts and/or for whatever length of time as may be deemed appropriate by the court.

(Ord. No. 85-1, art. IV, § 1, 1-8-85)

Sec. 58-130. Cleanup of premises by government authorization.

(a) Ten calendar days after due notice is given to any owner, agent, occupant or lessee of any private property to remove litter from the premises, the town is authorized to remove the litter from the private property and charge and collect the costs for such removal from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state and local taxes.

(b) Execution of the notice to remove litter shall be in writing and shall be in the form of a letter sent by registered mail to the mailing address of the owner of record as recorded in the office of the county commissioner of revenue.

(Ord. No. 85-1, art. V, § 1, 1-8-85)

State law reference—Similar provisions, Code of Virginia, § 15.1-11.

Sec. 58-131. Litter receptacles.

Use of receptacles.

(1) It shall be unlawful to deposit any item or items, except litter, in any receptacle placed for public use as a depository for litter. Any item or items, including litter, which are specifically prohibited in written form on or around the receptacle from being placed in the receptacle, shall not be so placed or deposited in the receptacle.

(2) It shall be unlawful for any person to scavenge or remove any item or items which have been discarded as litter in any litter receptacle unless a written notice of permission has been obtained from an authorized enforcement officer of the town.

(3) Any person convicted of violating this subsection shall be punished by a fine of \$50.00. The offender may pay the fine in lieu of appearing in court pursuant to Code of Virginia, § 19.2-254.2, as amended.

(Ord. No. 85-1, art. VI, § 1, 1-8-85)

Sec. 58-132. Providing adequate litter receptacles.

(a) It shall be the duty of any person owning or operating any establishment or public place to provide receptacles adequate to contain the litter generated at that establishment.

(b) The penalty established for violation of this section is \$50.00 for each day of violation. The offender shall receive a ticket from the enforcement officer for any violation of this section. The offender may pay the fine in lieu of appearing in court pursuant to Code of Virginia, § 19.2-254.2, as amended.

(Ord. No. 85-1, art. VI, § 2, 1-8-85)

Sec. 58-133. Enforcement of litter laws; prosecution; presumption.

(a) Law enforcement officers of the town are hereby empowered to issue citations to, or arrest, persons violating any provision of this article, and may serve and execute all warrants and other process issued by the court in enforcing the provisions of this article.

(b) The officers of the following town departments shall be empowered to issue citations only: public works, sanitation, and building and zoning.

(c) Prosecution for a violation of any provision of this article may be initiated by any law enforcement officer or private citizen.

(Ord. No. 85-1, art. VII, § 1, 1-8-85)

Chapters 59—61

RESERVED

Chapter 62

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

- Sec. 62-1. Acceptance of streets for care and maintenance.
- Sec. 62-2. Specifications for work on streets by town forces.
- Sec. 62-3. Removal of snow and ice from sidewalks.
- Sec. 62-4. Porticoes, porches, doors or steps projecting into or upon sidewalk.
- Sec. 62-5. Gates and doors upon sidewalks to open inward.
- Sec. 62-6. Boxes, crates obstructing sidewalks.
- Sec. 62-7. Removal of ground, dirt or stone from street or alley.
- Sec. 62-8. Throwing or depositing obnoxious or unsightly matter into street, alley or sidewalk.
- Sec. 62-9. Placing building materials upon street, alley or sidewalk.
- Sec. 62-10. Use of sidewalks during erection, repair or demolition of building or wall.
- Sec. 62-11. Trees or other plants projecting over streets or sidewalks.
- Sec. 62-12. Occupation or use of streets, parks, public places without consent of council.
- Sec. 62-13. Construction, repair of driveways.
- Secs. 62-14—62-40. Reserved.

Article II. Excavations

- Sec. 62-41. Permit required.
- Sec. 62-42. Deposits; acquiescence in provisions of article.
- Sec. 62-43. Duty to prosecute work without delay.
- Sec. 62-44. Replacing surface.
- Sec. 62-45. Guarding by lights and barriers; responsibility for damages caused by excavation.
- Sec. 62-46. Article not applicable to work done by town.
- Secs. 62-47—62-70. Reserved.

Article III. Numbering of Houses and Buildings

- Sec. 62-71. Compliance with article.
- Sec. 62-72. Town manager to ascertain and determine numbers and inform owners of buildings.
- Sec. 62-73. Duty of owner of house upon receipt of notice of number.

***Charter references**—Powers of town as to encroachments upon streets, etc., § 17; powers of town as to pipes in streets, § 18.

Cross references—Administration, ch. 2; advertising, ch. 6; buildings and building regulations, ch. 22; peddlers and solicitors, ch. 54; traffic and vehicles, ch. 70; utilities, ch. 74; vegetation, ch. 78.

State law references—Streets, alleys, sidewalks, etc., generally, Code of Virginia, §§ 15.1-14(1), (9), 15.1-363 et seq., 15.1-888 et seq.; limited access streets in cities and towns, Code of Virginia, § 15.1-16; bicycle trails or paths, Code of Virginia, § 15.1-16.2; official map, Code of Virginia, § 15.1-458 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.

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- Sec. 62-74. Duty of owner of building other than house upon receipt of notice of number.
- Sec. 62-75. Unauthorized tampering with numbers.

ARTICLE I. IN GENERAL**Sec. 62-1. Acceptance of streets for care and maintenance.**

(a) Except as otherwise provided, no street shall be accepted for care and maintenance by the town unless such new street has been graded and surfaced as provided in this section and dedicated by the recording of a plat drawn to scale showing such street, in the office of the clerk of the circuit court of the county, at the expense of the owner of the property; and no such acceptance shall take place until the plat of the street has been accepted and approved by the council.

(b) Except as otherwise provided, before new streets can be accepted by the town for care and maintenance, such streets shall meet the requirements of the state department of transportation.

(Code 1979, § 24-1)

Sec. 62-2. Specifications for work on streets by town forces.

The town manager shall have authority to prescribe regulations for work done on town streets by the town forces.

(Code 1979, § 24-2)

Sec. 62-3. Removal of snow and ice from sidewalks.

(a) The tenant or occupant, and in case there shall be no tenant or occupant, the owner, or any person having the care of any building or lot of land abutting on any curbed or paved sidewalk shall, during the first eight hours of daylight following the time when snow or ice ceases to fall or form, cause the same to be removed from such curbed or paved sidewalk.

(b) It shall be unlawful for any tenant or occupant, the owner, or any person having the care of any building or lot of land to remove snow from such building or lot of land by removing the snow to any sidewalk or street.

(Code 1979, § 24-3)

Sec. 62-4. Porticoes, porches, doors or steps projecting into or upon sidewalk.

It shall be unlawful for any person to construct or place, or cause to be constructed or placed, any portico, porch, door or step that shall project into or upon any sidewalk or paved walkway along any street in the town; however, this shall not be construed to apply to awnings and signs.

(Code 1979, § 24-4)

Sec. 62-5. Gates and doors upon sidewalks to open inward.

Every gate or door built or constructed in any fence, garden or yard wall, upon or within two feet of the line of any public sidewalk on any street in the town, shall be hung so as to open inward.

(Code 1979, § 24-5)

Sec. 62-6. Boxes, crates obstructing sidewalks.

It shall be unlawful for any persons to place or permit to remain upon the streets, alleys or sidewalks adjoining their premises any boxes, crates or other things that will cause the streets, alleys or sidewalks to be obstructed.

(Code 1979, § 24-6)

Sec. 62-7. Removal of ground, dirt or stone from street or alley.

It shall be unlawful for any person to dig up or carry away from any street or alley, within the town, any ground, dirt or stone without the written permission of the town manager.

(Code 1979, § 24-7)

Sec. 62-8. Throwing or depositing obnoxious or unsightly matter into street, alley or sidewalk.

It shall be unlawful for any person to throw obnoxious or unsightly matter into or upon any street or public place of the town, or to permit or suffer the same to be done by any person in his employment, or to throw, place, drop or cause to be put, any coal, ashes, dirt or filth of any kind or any lumber, wood, stone or other like obstruction into or upon any street or public place in the town. This section shall not be construed to apply to building material placed on the street, sidewalk or alley pursuant to section 62-9.

(Code 1979, § 24-8)

Cross reference—Solid waste, ch. 58.

Sec. 62-9. Placing building materials upon street, alley or sidewalk.

No person shall place building materials upon the street, sidewalk or alley for use in connection with construction work unless he shall have first obtained a permit from the town manager to do so and unless he shall place such materials in the space assigned and in the manner directed by the town manager.

(Code 1979, § 24-9)

Sec. 62-10. Use of sidewalks during erection, repair or demolition of building or wall.

When any building or wall is being erected, repaired or demolished, the sidewalks in front thereof may, subject to section 62-9, be occupied and used by the contractor or builder in connection with such work for such period of time as may be reasonable provided that reasonable means are taken for the protection and safe passage of pedestrians and vehicular traffic.

(Code 1979, § 24-10)

Sec. 62-11. Trees or other plants projecting over streets or sidewalks.

It shall be unlawful for any person owning or occupying property abutting a street or sidewalk to allow any trees, plants or shrubs growing on such property to project over the street or sidewalk in such manner as to obstruct or interfere with the safe passage of vehicles or pedestrians.

(Code 1979, § 24-11)

Sec. 62-12. Occupation or use of streets, parks, public places without consent of council.

Any person who shall undertake to occupy or use any of the streets, parks, bridges or any other public place or public property or any other public easement of any description in the town in a manner not permitted to the general public, without having first legally obtained the consent of the council, shall, upon conviction thereof, be punished as provided in section 1-10. Such occupancy or use shall be deemed a nuisance, and the court trying the case involving the same shall have the power to cause such nuisance to be abated.

(Code 1979, § 24-12)

Sec. 62-13. Construction, repair of driveways.

The town manager shall have the authority to regulate work done in the right-of-way of town streets in connecting driveways to town streets. Before beginning construction of new driveways or altering the grade existing driveways, a permit shall be applied for and plans approved. It shall be the sole determination of the town manager or his designee as to whether a drainpipe is required. All such connections and alterations shall be inspected and approved by the town and built according to specifications approved by the town. The responsibility of all labor and materials necessary to connect driveways to streets is solely the applicants. This section shall not apply to repairs, sealing or patching where existing grades are not changed. The cost of a permit shall be \$10.00.

(Ord. No. 92-13, § 1, 9-8-92; Ord. No. 02-04, § 1, 10-8-02)

Secs. 62-14—62-40. Reserved.

ARTICLE II. EXCAVATIONS**Sec. 62-41. Permit required.**

No person, unless specially authorized by the council, shall take up or remove any portion of the surface of the sidewalk or street, or excavate in any public street of the town without a written permit from the town manager, who shall not refuse such permit to any applicant except for cause; but in case of refusal the applicant may appeal to the council.

(Code 1979, § 24-13)

Sec. 62-42. Deposits; acquiescence in provisions of article.

(a) Before a permit as required in section 62-41 is granted, the town manager shall require a deposit sufficient to pay for resurfacing the street to be disturbed, the amount of such deposit to be determined by the town manager.

(b) Every person who shall make application for such a permit shall be deemed to have assented thereby to all the provisions and terms of this article, including the right of the town to collect the actual cost of replacing the pavement, sidewalk or street surface in the manner above directed.

(Code 1979, § 24-14)

Sec. 62-43. Duty to prosecute work without delay.

It shall be the duty of every person to whom a permit, as required in section 62-41, shall have been granted, to institute at once and prosecute without delay the work for which such permit was obtained, and promptly, on its completion, give written notice thereof to the town manager.

(Code 1979, § 24-15)

Sec. 62-44. Replacing surface.

No pavement, sidewalk or street surface shall be replaced, after being taken up, pursuant to a permit as required in section 62-41, by any person except under the direction of the town manager. If the applicant fails to resurface the street disturbed promptly and in a manner approved by the town manager, the town manager is authorized to cause such work to be done at the expense of the applicant.

(Code 1979, § 24-16)

Sec. 62-45. Guarding by lights and barriers; responsibility for damages caused by excavation.

Any person to whom a permit, as required in section 62-41, is granted shall place guards or barriers around the excavation in question and shall protect it by warning lights at night, and shall be responsible for damages to person or property caused by such excavations until taken in charge by the town manager.

(Code 1979, § 24-17)

Sec. 62-46. Article not applicable to work done by town.

The provisions of this article shall not apply to work done by town forces under the supervision of the town manager.

(Code 1979, § 24-18)

Secs. 62-47—62-70. Reserved.

ARTICLE III. NUMBERING OF HOUSES AND BUILDINGS*

Sec. 62-71. Compliance with article.

The numbering of houses and buildings in the town shall be in accordance with this article.

(Code 1979, § 24-19)

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

Sec. 62-72. Town manager to ascertain and determine numbers and inform owners of buildings.

The town manager shall ascertain and determine the proper number for each house or building in the town, in accordance with the plan adopted by the town council, and shall inform the owner of each house or building of the number so ascertained and determined.

(Code 1979, § 24-20)

Sec. 62-73. Duty of owner of house upon receipt of notice of number.

Within 30 days after the owner of a house or building receives notification of the number of the house or building from the town manager, as provided in section 62-72, he shall cause such number to be securely inscribed and fixed or permanently mounted or posted in a conspicuous place on the front of his house. The number shall be in plain Arabic figures not less than three inches in height and 2¼ inches in width.

(Code 1979, § 24-21)

Sec. 62-74. Duty of owner of building other than house upon receipt of notice of number.

Within 30 days after the owner of a building other than a house receives notification of the number of such building from the town manager, as provided in section 62-72, he shall cause such number to be securely inscribed and fixed or permanently mounted or posted conspicuously above the front door of each principal entranceway, including street entrances to second floor apartments and offices. The number shall be in plain Arabic figures not less than three inches in height and 2¼ inches in width.

(Code 1979, § 24-22)

Sec. 62-75. Unauthorized tampering with numbers.

It shall be unlawful for any person, without the permission of the owner of the house or building or the town manager, to remove, deface, alter or destroy the number affixed to any house or building in the town.

(Code 1979, § 24-23)

Chapters 63—65

RESERVED

Chapter 66

TAXATION*

Article I. In General

Secs. 66-1—66-30. Reserved.

Article II. Property Taxes

- Sec. 66-31. Annual assessment; valuation of property.
- Sec. 66-32. Tax tickets; bills for taxes.
- Sec. 66-33. When taxes due and payable; penalty.
- Sec. 66-34. Interest.
- Sec. 66-35. Classification of certain household goods and personal effects for taxation; exemption.
- Sec. 66-36. Business license taxation.
- Sec. 66-37. Exemption from taxation of certified solar energy equipment, facilities or devices.
- Sec. 66-38. Tax rate for motor vehicles owned by disabled veteran.
- Secs. 66-39—66-75. Reserved.

Article III. Bank Franchise Tax

- Sec. 66-76. Imposed.
- Sec. 66-77. Filing of return and payment of tax.
- Sec. 66-78. Penalty upon bank for failure to comply with article.
- Secs. 66-79—66-120. Reserved.

Article IV. Meals Tax

- Sec. 66-121. Definitions.
- Sec. 66-122. Levy.
- Sec. 66-123. Collection of tax by seller.
- Sec. 66-124. Collections in trust for town.
- Secs. 66-125, 66-126. Reserved.
- Sec. 66-127. Penalty and interest.
- Sec. 66-128. Reserved.
- Sec. 66-129. Report of taxes collected; remittance; preservation of records.

***Cross references**—Administration, ch. 2; collection of delinquent charges, § 2-105; town treasurer, § 2-146 et seq.; finance, § 2-226 et seq.; alcoholic beverages, ch. 10; buildings and building regulations, ch. 22; businesses, ch. 26; peddlers and solicitors, ch. 54.

State law references—Amount of municipal taxes and assessments to be collected, Code of Virginia, § 15.1-841; 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.; town bank franchise tax, Code of Virginia, § 58.1-1209; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

PEARISBURG CODE

- Sec. 66-130. Reserved.
- Sec. 66-131. Advertising payment or absorption of tax prohibited.
- Sec. 66-132. Reserved.
- Sec. 66-133. Exemptions; limits on application.
- Secs. 66-134, 66-135. Reserved.
- Sec. 66-136. Penalty for violation of article.
- Secs. 66-137—66-170. Reserved.

Article V. Consumer Utility Taxes

- Sec. 66-171. Definitions.
- Sec. 66-172. Electric utility consumer tax.
- Sec. 66-173. Local natural gas utility consumer tax.
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Article VI. Transient Occupancy Tax

- Sec. 66-180. Definitions.
- Sec. 66-181. Tax imposed; amount.
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- Sec. 66-185. Penalty and interest for non-remittance.
- Sec. 66-186. Failure to collect and report tax.
- Sec. 66-187. Records; inspection by treasurer.
- Sec. 66-188. Cessation of business; tax due immediately.
- Sec. 66-189. Exceptions for governmental employees on official business.
- Sec. 66-190. Exceptions for transients at places of lodging at public institutions.
- Sec. 66-191. Violations; how punishable.
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Article VII. Cigarette Tax

- Sec. 66-200. Definitions.
- Sec. 66-201. Levy; amount.
- Sec. 66-202. Decals; duties of treasurer generally.
- Sec. 66-203. Inspection of records, premises, etc.
- Sec. 66-204. Seizure and disposition of untaxed cigarettes.
- Sec. 66-205. Duties of dealers, agents and sellers generally.
- Sec. 66-206. Disposition of revenue.
- Sec. 66-207. Violations.
- Sec. 66-208. Criminal penalties.
- Secs. 66-209—66-229. Reserved.

ARTICLE I. IN GENERAL

Secs. 66-1—66-30. Reserved.

ARTICLE II. PROPERTY TAXES

Sec. 66-31. Annual assessment; valuation of property.

(a) The council shall, annually, before June 30, fix the tax rates on all real and personal property 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, the assessments of real and personal property as recorded in the records of the commissioner of revenue of the county shall be utilized for the value of such property in the town.

(b) Pursuant to Code of Virginia, § 58.1-3292, all new buildings substantially completed or fit for use, occupancy and enjoyment prior to November of the year of completion shall be assessed when so completed or fit for use, occupancy and enjoyment, and the town adopts the records of the commissioner of revenue of the county as entered into the books of the commissioner as the fair market value of such building, provided, however, that no such partial assessment shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property, 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 partial 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.

(c) Pursuant to Code of Virginia, § 58.1-3222, upon application of the owner as hereinafter provided, abatement of levies on buildings which are razed or destroyed or damaged by a fortuitous happening beyond the control of the owner shall be permitted, provided that no such abatement, however, shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than \$500.00. Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for 30 days or more during the calendar year. The tax on such razed destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year. Application for such abatement shall be

made by or on behalf of the owner of the building within six months of the date on which the building was razed, destroyed or damaged, and shall be made to the commissioner of the revenue the county.

(Code 1979, § 7-1; Ord. No. 07-01, § 1, 3-10-07)

Sec. 66-32. Tax tickets; bills for taxes.

On or before February 15 of each year, the treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the state department of taxation and shall send by mail to each taxpayer a bill for such taxes.

(Code 1979, § 7-2)

Sec. 66-33. When taxes due and payable; penalty.

Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in section 66-32 are sent. Any person failing to satisfy such tax bill on or before March 15 following the mailing thereof shall incur a penalty of ten percent of the total taxes due.

(Code 1979, § 7-3)

Sec. 66-34. Interest.

Interest at the rate of eight percent per annum shall be collected upon the principal and penalty from June 30 of each year next after taxes were assessed under section 66-31.

(Code 1979, § 7-4)

Sec. 66-35. Classification of certain household goods and personal effects for taxation; exemption.

(a) Notwithstanding any provision of Code of Virginia, § 58.1-3503, household goods and personal effects are hereby defined as separate items of taxation and classified as follows:

- (1) Bicycles.
- (2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
- (3) Pianos, organs and all other musical instruments; phonographs, record players, and records to be used therewith; and radio and television instruments and equipment.
- (4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.
- (5) Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.
- (6) Sporting and photographic equipment.
- (7) Clothing and objects of apparel.

- (8) All other tangible personal property used by an individual or a family or household incident to maintaining an abode. This classification shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

All of the above classes of household goods and personal effects shall be exempt from taxation.

(b) Notwithstanding any provision set forth in subsection (a) of this section, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located. For purposes of this subsection, "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

(Code 1979, § 7-5)

State law reference—Authority, Code of Virginia, § 58.1-3504.

Sec. 66-36. Business license taxation.

(a) *Purpose; definitions; relation to other ordinances.*

- (1) The purpose of this section 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.
- (2) Terms used in this section that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Code of Virginia, § 58.1-3523, as amended.
- (3) To the extent that the provisions of this section conflict with any prior ordinance or provision of this Code, this section shall control.

(b) *Method of computing and reflecting tax relief.*

- (1) 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.
- (2) The town shall, by resolution set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the Commonwealth.
- (3) 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.

(c) *Allocation of relief among taxpayers.*

- (1) 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 annual budget relating to PPTRA relief.
- (2) Relief shall be allocated in such as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000.00 or less.
- (3) Relief with respect to qualifying vehicles with assessed values of more than \$1,000.00 shall be provided at a percentage, annually fixed and applied to the first \$20,000.00 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The percentage shall be established annually as a part of the adopted budget for the town.

(d) *Transitional provisions.*

- (1) 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.
- (2) Penalty and interest with respect to bills issued pursuant to subsection (1) shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in the tax assessment ordinance adopted by the town from the original due date of the tax.

(Ord. No. 05-04, 12-13-2005)

Sec. 66-37. Exemption from taxation of certified solar energy equipment, facilities or devices.

(a) Pursuant to Code of Virginia, § 58.1-3661, certified solar energy equipment, facilities or devices as defined herein shall exempt from taxation.

(b) As used in this section, the following definitions shall apply:

Local certifying authority means the Giles County Building Department. Certifications shall be made pursuant to regulations promulgated by the Virginia Board of Housing and Community Development setting forth criteria for certifiable solar energy equipment.

Solar energy equipment, facilities or devices means any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity.

(c) Any person residing in the Town of Pearisburg may proceed to have solar energy equipment, facilities or devices certified as exempt, wholly or partially, from taxation by applying to the Giles County Building Department. Whenever the Giles County Commissioner of Revenue has received a certificate from the Giles County Building Department approving an application for exemption from taxation of solar energy equipment, facilities or devices, and whenever the commissioner of revenue has determined the value of such qualifying solar energy equipment, facilities or devices, then such solar energy equipment, facilities or devices shall be exempt from taxation. The exemption provided by this section shall be determined by applying the Town of Pearisburg real estate tax rate to the value of such solar energy equipment, facilities or devices and subtracting such amount, wholly, from the total real property tax due on the real property to which such solar energy equipment, facilities or devices are attached. This exemption shall be effective beginning in the next succeeding tax year after the commissioner of revenue determines the value of such solar energy equipment, facilities or devices, and shall be permitted for a term of five years. For assessments of new construction, the exemption shall be first effective when such real estate is first assessed, but not prior to the date of such application for exemption.

(d) It shall be presumed for purposes of the administration of ordinances pursuant to this section, and for no other purposes, that the value of such qualifying solar energy equipment, facilities and devices is not less than the normal cost of purchasing and installing such equipment, facilities and devices.

(Ord. No. 14-05, §§ 1—5, 11-10-14)

Sec. 66-38. Tax rate for motor vehicles owned by disabled veteran.

One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services shall be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property. To qualify for such separate classification, the veteran shall provide a written statement to the commissioner of revenue of Giles County, Virginia, or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of Code of Virginia, § 46.2-100.

(Ord. No. 2017-02, § 1, 6-27-17)

State law reference—Similar provisions, Code of Virginia, § 58.1-3506(19).

Secs. 66-39—66-75. Reserved.

ARTICLE III. BANK FRANCHISE TAX

Sec. 66-76. Imposed.

(a) Pursuant to the provisions of Code of Virginia, § 58.1-1200 et seq., there is hereby imposed upon each bank located within the boundaries of the town a tax on net capital equaling 80 percent of the state rate of franchise tax set forth in Code of Virginia, § 58.1-1204.

(b) In the event any bank located within the boundaries of the town also has offices that are located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1979, § 7-6)

Sec. 66-77. Filing of return and payment of tax.

(a) On or after January 1 of each year, but not later than March 1 of any year, all banks whose principal offices are located within the town shall prepare and file with the commissioner of revenue a return as provided by Code of Virginia, § 58.1-1207 in duplicate, which shall set forth the tax on net capital computed pursuant to Code of Virginia, § 58.1-1200 et seq. The commissioner of revenue shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) In the event that the principal office of a bank is located outside the corporate boundaries of the town and such bank has branch offices located within the town, in addition to filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the commissioner of revenue of the county a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212.

(c) Each bank, on or before June 1 of each year, shall pay into the treasurer's office of the town all taxes imposed pursuant to this article.

(Code 1979, § 7-7)

Sec. 66-78. Penalty upon bank for failure to comply with article.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this article shall be subject to a penalty of five percent of the tax due. If the commissioner of the revenue is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with Code of Virginia, § 58.1-15.

(Code 1979, § 7-8)

State law reference—Penalty upon bank for failure to comply with law, Code of Virginia, § 58.1-1216.

Secs. 66-79—66-120. Reserved.

ARTICLE IV. MEALS TAX***Sec. 66-121. Definitions.**

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

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

***Editor's note**—Ord. No. 00-03, § 1, adopted June 13, 2000 repealed in their entirety the provisions of chapter 66, article IV of this Code and replaced them with the similar provisions as currently set out herein. Former chapter 66, article IV encompassed §§ 66-121—66-136 and derived from the Code of 1979, §§ 7-7, 7-8; and Ord. No. 93-08, § 1(7-9—7-24), adopted June 15, 1993. The reserved sections in this newly revised article IV were reserved per Ord. No. 00-03.

State law reference—Excise tax on meals, Code of Virginia, § 58.1-3840 et seq.

Collector. The treasurer or designee.

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

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

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

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

(Ord. No. 00-03, § 1, 6-13-00)

Cross reference—Definitions generally, § 1-2.

Sec. 66-122. Levy.

There is hereby imposed and levied by the town on each person a tax at the rate of four percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. There shall be no tax if the total amount paid is \$0.50 or less; on larger amounts a fractional cent of tax due shall be rounded to the next higher cent.

(Ord. No. 00-03, § 1, 6-13-00)

Sec. 66-123. Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; Provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(Ord. No. 00-03, § 1, 6-13-00)

Sec. 66-124. Collections in trust for town.

All tax collections shall be deemed to be held in trust for town.
(Ord. No. 00-03, § 1, 6-13-00)

Secs. 66-125, 66-126. Reserved.**Sec. 66-127. Penalty and interest.**

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this article within the time and in the amount required, there shall be added to the tax by the treasurer a penalty in the amount of ten percent of the tax, and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such were due and payable,
(Ord. No. 00-03, § 1, 6-13-00)

Sec. 66-128. Reserved.**Sec. 66-129. Report of taxes collected; remittance; preservation of records.**

It shall be the duty of every person required by this article to pay to the town the taxes imposed by this article to make a report thereof setting forth such information as the treasurer may prescribe and require. This information shall include all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The treasurer 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 article, and to make transcripts of all or any parts thereof. Every seller shall make a report to the town treasurer for each calendar month, showing the amount of charges collected for meals and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the treasurer and shall be signed by the seller. They shall be delivered to the treasurer on or before the 20th day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the town.
(Ord. No. 00-03, § 1, 6-13-00)

Sec. 66-130. Reserved.**Sec. 66-131. Advertising payment or absorption of tax prohibited.**

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.
(Ord. No. 00-03, § 1, 6-13-00)

Sec. 66-132. Reserved.

Sec. 66-133. Exemptions; limits on application.

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

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

- (1) Donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature.
- (2) Food sold in bulk. For the purpose of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
- (3) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
- (4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
- (5) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended except hot food or hot food products ready for immediate consumption. For the purpose of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory-sealed beverages. This subsection shall not affect provisions set forth in subsections (d)(3), (4) and (5) of this section.

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

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

- (1) Food and beverages furnished by food establishments to employees as part of the compensation when no charge is made to the employee.
- (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

- (3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
 - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.
 - (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
 - (6) Food and beverages sold on an occasional basis, by a non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organizations exclusively for non-profit educational, charitable, benevolent or religious purposes.
 - (7) Food and beverages sold through vending machines.
- (Ord. No. 00-03, § 1, 6-13-00)

Secs. 66-134, 66-135. Reserved.

Sec. 66-136. Penalty for violation of article.

(a) Any person willfully failing or refusing to file a return as required under this article 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 the article shall be guilty of a Class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, 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) Each violation of or failure to comply with this article 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 article.

(Ord. No. 00-03, § 1, 6-13-00)

Secs. 66-137—66-170. Reserved.

ARTICLE V. CONSUMER UTILITY TAXES***Sec. 66-171. Definitions.**

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

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Code of Virginia § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means any individual, corporation, company or other entity.

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

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

(Ord. No. 00-06, §§ 1, 2, 10-10-00)

Cross reference—Definitions generally, § 1-2.

Sec. 66-172. Electric utility consumer tax.

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

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

***Editor's note**—Ord. No. 00-06, § 1, adopted October 10, 2000 repealed in their entirety the provisions of chapter 66, article V of this Code and replaced them with the similar provisions as currently set out herein. Former chapter 66, article V encompassed §§ 66-171—66-177 and derived from Ord. No. 84-36, §§ 1—7, adopted June 12, 1984.

State law reference—Consumer utility taxes, Code of Virginia, § 58.1-3812 et seq.

(2) Non-residential consumers. Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

- a. *Commercial consumers.* Such tax shall be the 20 percent of the minimum monthly charge imposed by the service provider plus the rate of \$.01770 not to exceed \$6.00 monthly.
- b. *Industrial consumers* Such tax shall be the 20 percent of the minimum monthly charge imposed by the service provider plus the rate of \$.01450 on each kWh delivered monthly not to exceed \$6.00 monthly.

(3) The conversion of tax pursuant to this article to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(b) *Exemptions.* The following consumers of electricity are exempt from the tax imposed by this section 66-172.

- a. The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance of tax.* The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia § 58.1-3814, paragraphs 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 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.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year or approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

- (i) The kWh will be divided by 2;
- (2) A monthly tax will be calculated using the rates set forth above;
- (3) The tax determined by subsection (d)(2) of this section shall be multiplied by 2;
- (4) The tax in subsection (d)(3) of this section may not exceed twice the monthly "maximum tax".

(Ord. No. 00-06, §§ 1, 2, 10-10-00)

Sec. 66-173. Local natural gas utility consumer tax.

(a) *Established.* 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 § 58.1-3814J., as follows:

- (1) Residential consumers. Such tax shall be the 20 percent of the minimum monthly charge imposed by the service provider plus the rate of \$0.1863 on each CCF or fraction thereof delivered monthly to such consumer by a pipeline distribution company or a gas utility, not to exceed \$2.00 monthly.
- (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 and industrial consumers.* Such tax shall be the 20 percent of the minimum monthly charge imposed by the service provider plus the rate of \$0.15566 on each CCF or fraction thereof delivered monthly to such consumer by a pipeline distribution company or a gas utility, not to exceed \$6.00 monthly.
- (3) The conversion of tax pursuant to this ordinance to monthly CCF delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(b) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section 66-173:

- (1) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *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 Code of Virginia § 58.1-3814, paragraphs H. and I., and Code of Virginia § 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.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year or approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

- (1) The CCF will be divided by 2;
 - (2) A monthly tax will be calculated using the rates set forth above;
 - (3) The tax determined by subsection (d)(2) of this section shall be multiplied by 2;
 - (4) The tax in subsection (d)(3) of this section may not exceed twice the monthly "maximum tax".
- (Ord. No. 00-06, §§ 1, 2, 10-10-00)

Sec. 66-174. Penalties.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this article, and any officer, agent or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than \$100.00 nor more than \$2,500.00, or by imprisonment in jail for not more than 60 days, or by both such fine and imprisonment. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

(Ord. No. 00-06, §§ 1, 2, 10-10-00)

Secs. 66-175—66-179. Reserved.

ARTICLE VI. TRANSIENT OCCUPANCY TAX*

Sec. 66-180. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicated a different meaning:

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

Lodging means room or space furnished any transient.

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

***State law reference**—Excise tax on transient rooms, Code of Virginia, §§ 58.1-3819, 58.1-3840.

Treasurer means the treasurer of the town and any of his duly authorized agents.
(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-181. Tax imposed; amount.

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

(Ord. No. 08-06, § 1, 8-12-08; Ord. No. 09-03, § 1, 6-23-09)

Sec. 66-182. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this 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 article shall be deemed to be held in trust by the person required to collect such taxes until the same shall have been remitted to the treasurer.

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-183. Report of collection and remittance of tax.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-184. Discount.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-185. Penalty and interest for non-remittance.

(a) If any person shall fail or refuse to report and remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such taxes were due and payable.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-186. Failure to collect and report tax.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-187. Records; inspection by treasurer.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and 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 treasurer shall have the right to inspect such records at all reasonable times.

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-188. Cessation of business; tax due immediately.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-189. Exceptions for governmental employees on official business.

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

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-190. Exceptions for transients at places of lodging at public institutions.

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

- (1) Any person obtaining lodging at such places in connection with or as a part of any bona fide educational conference or program arranged by such public institution; or
- (2) Any person who is an invited guest of the public institution where such payment was made by the public institution.

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-191. Violations; how punishable.

(a) Any person willfully failing or refusing to file a return as required under this article 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 the article shall be guilty of a class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia § 58.1-3906, or any other person required to collect, account for, or pay over the transient occupancy tax imposed under this article, 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) Each violation of or failure to comply with this article 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 article.

(Ord. No. 08-06, § 1, 8-12-08)

Sec. 66-192. Effective date.

This article shall take effect and be enforced beginning January 1, 2009.

(Ord. No. 08-06, § 2, 8-12-08)

Secs. 66-193—66-199. Reserved.**ARTICLE VII. CIGARETTE TAX****Sec. 66-200. 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:

Agent means every local dealer and other person who shall be authorized by the treasurer to purchase and affix decals to packages of cigarettes under the provisions of this article.

Cigarette any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with any other ingredient, if the wrapper cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette by any other name. Dealer means every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

Dealer means every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

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

Treasurer means the treasurer of the town and every person duly authorized by him to serve as his representative.

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

Purchaser means every person to whom the title to any cigarettes is transferred by a seller within the town.

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

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

(Ord. No. 2016-02, 6-21-16)

Sec. 66-201. Levy; amount.

There is levied and imposed by the town, in addition to any and all other taxes which may be or have been imposed, a tax to be paid and collected as provided in this article on each and every sale made in the town of cigarettes in the kind and manner required in this article; and the rate or amount of tax levied or imposed on cigarettes shall be at the rate of \$0.10 per pack of cigarettes.

(Ord. No. 2016-02, 6-21-16)

Sec. 66-202. Decals; duties of treasurer generally.

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

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

(c) The treasurer is further authorized and empowered to:

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

(2) Delegate his powers to agents or others, including the police officers of the town.
(Ord. No. 2016-02, 6-21-16)

Sec. 66-203. Inspection of records, premises, etc.

The treasurer is empowered to examine books, records, invoices and papers related to purchases, sales, etc., of cigarettes, and to examine all cigarettes in and upon any premises where they are placed, stored, sold, offered for sale or displayed for sale by a seller.

(Ord. No. 2016-02, 6-21-16)

Sec. 66-204. Seizure and disposition of untaxed cigarettes.

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

tax due together with a penalty in the amount of 50 percent and the cost incurred in such proceedings. The seizure and sale of any cigarettes shall not be deemed to relieve any person of any other penalties provided in this article.

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

- (1) They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part;
- (2) They are in transit and are accompanied by a bill of lading or other document indicating:
 - a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or District of Columbia destination has been paid and the cigarettes bear the tax decals of that state or District of Columbia;
 - b. A consignee or purchaser in the commonwealth but outside the town who does not possess a state sales and use tax certificate, a state retail cigarette license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or
- (3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made; however, this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the town that those cigarettes are temporarily within the town and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

(Ord. No. 2016-02, 6-21-16)

Sec. 66-205. Duties of dealers, agents and sellers generally.

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

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

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

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

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

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

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

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

(Ord. No. 2016-02, 6-21-16)

Sec. 66-206. Disposition of revenue.

Revenues derived from the tax imposed in this article shall be deposited by the treasurer to the credit of the general fund of the town for utilization for such legal purposes as the council may determine.

(Ord. No. 2016-02, 6-21-16)

Sec. 66-207. Violations.

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

decals or printed markings of a meter machine; or to knowingly and willfully alter, publish, pass or tender as true any false, altered, forged or counterfeited decal or printed marking of a meter machine.

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

(Ord. No. 2016-02, 6-21-16)

Sec. 66-208. Criminal penalties.

It shall constitute a class 1 misdemeanor for any person to violate or fail to comply with any provision of this article or to forget, alter, steal, or use without paying for any stamped or metered insignia described in this article. Conviction shall not relieve any person from payment of the tax as provided in this article. Each violation or failure shall be a separate offense.

(Ord. No. 2016-02, 6-21-16)

Secs. 66-209—66-229. Reserved.

Chapters 67—69

RESERVED

Chapter 70

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 70-1. Adoption of state law.
- Sec. 70-2. Powers and duties of town manager relative to traffic and parking generally.
- Sec. 70-3. Powers and duties of town manager relative to stop intersections and yield intersections.
- Sec. 70-4. Compliance with devices erected or placed pursuant to section 70-2 or 70-3.
- Sec. 70-5. Signs prerequisite to enforcement of chapter and regulations.
- Sec. 70-6. Permits for parades and motorcades.
- Sec. 70-7. Authority of police in direction of traffic.
- Sec. 70-8. Authority of fire department officials to direct traffic.
- Sec. 70-9. Traffic violation notices.
- Sec. 70-10. Compliance with chapter; violations; penalties.
- Sec. 70-11. Signs in public rights-of-way.
- Secs. 70-12—70-45. Reserved.

Article II. Licenses for Motor Vehicles

- Sec. 70-46. Generally.
- Sec. 70-47. Purchase and display of license; penalty for violation.
- Sec. 70-48. License fee reduced after October 15; exception.
- Secs. 70-49—70-70. Reserved.

Article III. Stopping, Standing and Parking

Division 1. Generally

- Sec. 70-71. Blocking driveways of filling stations, business establishments.
- Sec. 70-72. Double parking.

***Charter reference**—Powers of town as to motor traffic and the parking of motor vehicles, § 13.

Cross references—Alcoholic beverages, ch. 10; animals, ch. 18; businesses, ch. 26; fire prevention and protection, ch. 34; law enforcement, ch. 38; inoperative motor vehicles on private property, § 46-3; peddlers and solicitors, ch. 54; streets, sidewalks and other public places, ch. 62.

State law references—Inoperable motor vehicles, etc., on residential or commercial property in certain localities, Code of Virginia, § 15.1-11.03; limited access streets, Code of Virginia, § 15.1-16; municipal regulation of traffic, Code of Virginia, § 15.1-891; identification of handicapped parking spaces by abovegrade signage, Code of Virginia, § 36-99.11; local vehicle license, Code of Virginia, § 46.2-752 et seq.; abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; removal of vehicles involved in accidents, Code of Virginia, § 46.2-1212; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216; parking regulations in cities, towns and certain counties, Code of Virginia, § 46.2-1220; general powers of local governments as to motor vehicles, Code of Virginia, § 46.2-1300 et seq.

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- Sec. 70-73. Limitation on period of continuous parking by certain motor vehicles.
- Sec. 70-74. Parking in spaces reserved for disabled person; penalty.
- Sec. 70-75. Figure 1, disabled signs.
- Sec. 70-76. Parking by yellow curb markings.
- Sec. 70-77. Parking with engine running.
- Sec. 70-78. Playing on highways; roller skates, skateboards, toys, or other devices on wheels or runners; persons riding bicycles, mopeds, etc., not to attach to vehicles.
- Sec. 70-79. Unauthorized parking in taxicab stand.
- Sec. 70-80. Removal and disposition of unattended, abandoned or immobile vehicles.
- Sec. 70-81. Leaving vehicles on private property prohibited; removal and disposition; notice of disposition.
- Sec. 70-82. Notice of disposition of vehicle under section 70-80 or 70-81.
- Sec. 70-83. Establishment, marking, inspection, enforcement of fire lanes and parking therein.
- Sec. 70-84. Bicycle helmets.
- Sec. 70-85. Certain safety equipment for mopeds; effect of violation; penalty.
- Sec. 70-86. Parking against flow of traffic.
- Secs. 70-87—70-120. Reserved.

Division 2. Parking Meters

- Sec. 70-121. Designation of zones.
- Sec. 70-122. Permit for parking in reserved spaces.
- Sec. 70-123. Parking overtime generally.
- Sec. 70-124. Marking of parking meter spaces and erection of parking meters; rights upon deposit of coin; signal as to elapse of parking time.
- Sec. 70-125. Deposit of coin and operation of meter.
- Sec. 70-126. Parking wholly within parking meter space.
- Sec. 70-127. Tampering with parking meter.
- Sec. 70-128. Penalty for overtime parking.
- Secs. 70-129—70-165. Reserved.

Division 3. Regulations Applicable to Certain Streets

- Sec. 70-166. Parking on western side of Easton Road in Fort Branch area.
- Secs. 70-167—70-205. Reserved.

Division 4. Municipal Building Parking Lot

- Sec. 70-206. Reserved parking spaces.
- Sec. 70-207. Parking between lines; time limit.

ARTICLE I. IN GENERAL**Sec. 70-1. Adoption of state law.**

Pursuant to the authority of Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the state contained in Code of Virginia, tit. 46.2 and in Code of Virginia, § 18.2-266 et seq., as amended, and effective on or before July 1, 1995, except those provisions which are contained in this chapter and except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the town are hereby adopted and incorporated in this chapter by reference and made applicable within the town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, *mutatis mutandis*, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provision of Code of Virginia, tit. 46.2, or of Code of Virginia, § 18.2-266 et seq., which is adopted by this section, provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, tit. 46.2 or under Code of Virginia, § 18.2-266 et seq.

(Code 1979, § 11-1; Ord. No. 84-37, § 1, 7-10-84; Ord. No. 85-3, § 1, 7-9-85; Ord. No. 89-11, § 1, 7-11-89; Ord. No. 95-04, § 1, 6-13-95)

Sec. 70-2. Powers and duties of town manager relative to traffic and parking generally.

(a) The town manager, except as otherwise provided by this chapter and except as otherwise directed from time to time by the council, shall have power and is hereby authorized to regulate the operation and parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking, the parking of buses, trucks and other vehicles of various weights, U-turns, turning at intersections, hazardous intersections, school zones, hospital zones, loading and unloading zones, quiet zones, traffic control signals exhibiting colored lights or the words "go," "caution" or "stop" and other signs or markers indicating the place and manner of operating or parking vehicles in the town.

(b) The town manager shall also have power and is hereby authorized, except as otherwise directed by the council from time to time, to regulate the movement of pedestrians upon the streets and sidewalks of the town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.

(c) The town manager shall also have power and is hereby authorized, except as otherwise directed by the council from time to time, to designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.

(d) The town manager, except as otherwise directed from time to time by the council, is further empowered and authorized to mark off traffic lanes on streets and parts of streets indicating and directing the flow of traffic.

(e) The town manager shall further have power and is hereby authorized to secure all such necessary signs, signals or markers to be erected or placed on any street or part of a street.

(f) The town manager shall also have power and is hereby authorized, except as otherwise directed by the council from time to time, to regulate the flow of vehicular and pedestrian traffic and the parking of vehicles, and establish speed limits upon parking lots open to the public designed to accommodate 50 or more vehicles by the erection or placing of proper signs or markers indicating the place and manner of parking or operation of vehicles and the flow of pedestrian traffic; but no such regulation shall be in conflict with state law or regulations of the state department of transportation for traffic control at a particular location.

(g) The existence of such signs, signals or markers at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the town manager in accordance with the provisions of this section.

(Code 1979, § 11-2)

Cross reference—Town manager, § 2-101 et seq.

State law reference—Authority of town to delegate to an official the authority to make parking regulations, Code of Virginia, § 46.2-1220.

Sec. 70-3. Powers and duties of town manager relative to stop intersections and yield intersections.

(a) The town manager, except as otherwise provided by this chapter and except as otherwise directed from time to time by the council, may designate intersections, other than intersections at which one or more of the intersecting streets has been designated as a part of the state highway system, at which vehicles shall come to a full stop or yield the right-of-way.

(b) The town manager shall further have power and is hereby authorized to secure all such necessary signs, signals or markers to be erected or placed on or at any such intersection so that an ordinarily observant person who may be affected by such regulation may be aware of such regulation.

(c) The existence of such signs, signals or markers at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the town manager in accordance with the provisions of this section.

(Code 1979, § 11-3)

Cross reference—Town manager, § 2-101 et seq.

State law reference—Power of town to authorize town manager to designate stop or yield-right-of-way intersections, Code of Virginia, § 46.2-1301.

Sec. 70-4. Compliance with devices erected or placed pursuant to section 70-2 or 70-3.

It shall be unlawful for any person to fail or refuse to comply with the directions indicated on any sign, signal or marker erected or placed in accordance with the provisions of section 70-2 or section 70-3 when such sign, signal or marker so placed or erected is visible and legible. (Code 1979, § 11-4)

Sec. 70-5. Signs prerequisite to enforcement of chapter and regulations.

No provision of this chapter or regulation of the town manager for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that signs are required, such section shall be effective even though no signs are erected or in place. (Code 1979, § 11-5)

Sec. 70-6. Permits for parades and motorcades.

(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:

Motorcade means an organized procession containing five or more vehicles, except funeral processions, upon any public street, sidewalk or alley.

Parade means any march or procession consisting of people, animals or vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley that does not comply with normal and usual traffic regulations or controls.

(b) *Required.* It shall be unlawful for any person to conduct a parade or motorcade in or upon any public street, sidewalk or alley in the town or knowingly participate in any such parade or motorcade unless and until a permit to conduct such parade or motorcade has been obtained from the town council.

(c) *Parade or motorcade for commercial purposes prohibited.* No permit shall be issued authorizing the conduct of a parade or motorcade that the town council finds is proposed to be held for the sole purpose of advertising any project, goods, wares, merchandise or event, and is designed to be held for private profit.

(d) *Interference with parade or motorcade.* No person shall knowingly join or participate in any parade or motorcade conducted under permit from the town in violation of any of the terms of the permit, nor knowingly join or participate in any permitted parade or motorcade without the consent and over the objection of the permittee, nor in any manner interfere with its progress or orderly conduct.

(e) *Application for permit.* Any person who wants to conduct a parade or motorcade shall apply to the town office for a permit at least 30 days in advance of the date of the proposed

parade or motorcade. The town council may in its discretion consider any application for a permit to conduct a parade or motorcade which is filed less than 30 days prior to the date such parade or motorcade is to be conducted. The application for such permit shall be made in writing on a form approved by the town council. In order that adequate arrangements may be made for the proper policing of the parade or motorcade, the application shall contain the following information:

- (1) The name of the applicant, the sponsoring organization, the parade or motorcade chairman, and the addresses and telephone numbers of each.
- (2) The purpose of the parade or motorcade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, route to be traveled and the approximate time when the parade or motorcade will assemble, start and terminate.
- (3) A description of the individual floats, marching units, vehicles and bands, including a description of any sound amplification equipment to be used.

(f) *Issuance or denial of permit.*

- (1) *Standards for issuance.* No parade or motorcade permit shall be issued unless the permit is conditioned upon the applicant's written agreement to comply with the terms of such permit and upon the finding by the town council that:
 - a. The time, route and size of the parade or motorcade will not disrupt to an unreasonable extent the movement of other traffic.
 - b. The parade or motorcade is not of a size or nature that requires the diversion of so great a number of police officers of the town to properly police the line of movement and the areas contiguous thereto that allowing the parade or motorcade would deny reasonable police protection to the town.
 - c. The parade or motorcade is not of a size or nature that the town police officers would be unable to properly police the line of movement in the areas contiguous thereto with the result that allowing the parade or motorcade would endanger the safety of the participants or onlookers.
 - d. Such parade or motorcade will not interfere with another parade or motorcade for which a permit has been issued.
- (2) *Standards for denial.* The town council may deny an application for a parade or motorcade permit and notify the applicant of such denial if:
 - a. The town council makes any finding contrary to the findings required to be made for the issuance of a permit.
 - b. The information contained in the application is found to be false or nonexistent in any material detail.
 - c. The applicant refuses to agree to abide by or comply with all conditions of the permit.

(g) *Contents of permit.* The permit shall contain the following information:

- (1) The assembly area and time therefor;
- (2) The starting time;
- (3) The minimum and maximum speeds;
- (4) The route of the parade or motorcade;
- (5) What portions of streets to be traversed may be occupied by such parade or motorcade;
- (6) The maximum number of platoons or units and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
- (7) The maximum length of such parade or motorcade in miles or fractions thereof;
- (8) The disbanding area and disbanding time;
- (9) The number of persons required to monitor the parade or motorcade;
- (10) The number and type of vehicles, if any;
- (11) The material and maximum size of any sign, banner, placard or carrying device therefor;
- (12) That the materials used in the construction of floats used in any parade are fire-retardant materials and subject to such requirements concerning fire safety as may be determined by the fire chief;
- (13) That the permittee agrees to advise all participants in the parade or motorcade either orally or in writing of the terms and conditions of the permit, prior to the commencement of the parade or motorcade;
- (14) That the amplification of sound permitted to be emitted from sound trucks or bull horns be fixed and not variable;
- (15) That the parade or motorcade will continue to move at a fixed rate of speed and that any willful delay or willful stopping of the parade or motorcade, except when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of the permit; and
- (16) Such other requirements as are found by the town council to be reasonably necessary for the protection of persons or property.

(h) *Filing deadline.* In the event an application is not filed within the required time, as specified in subsection (e) above, the applicant may request a waiver of such requirement by the town council at its next regular meeting, or at a special meeting which may be called prior thereto by the town council to consider such matter; and the town council, if it finds unusual circumstances and in the exercise of its sound discretion, may waive such requirement.

(i) *Revocation of permit.* Any permit for a parade or motorcade issued pursuant to this chapter may be summarily revoked by the mayor or town council at any time when by reason of disaster, public calamity, riot or other emergency, the mayor or town council determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or by certified mail.

(j) *Issuance of alternate permit.* The town council, in denying an application for a parade permit, may authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within two days after notice of the action of the town council, file a written notice of acceptance with the town manager. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit issued under this section.

(k) *Fees.*

- (1) When the town council has agreed to grant a parade or motorcade permit pursuant to this section, the applicant shall pay a permit fee to the office of the town manager to help cover the expense of regulating the parade, as follows:
 - a. Small parades, and motorcades not exceeding 680 feet in length, \$5.00.
 - b. Parades and motorcades more than 680 feet in length but not exceeding 1,320 feet, \$10.00.
 - c. Parades and motorcades exceeding 1,320 feet, \$25.00.
 - d. The cost of paying off-duty police used in the handling of any parade, motorcade or procession, regardless of length.
- (2) The cost of paying any call-in town police officers used in handling any parade or motorcade may be waived by the town council if the call-in period will not exceed one hour.
- (3) If assistance in handling any parade or motorcade is required from any nontown police officers and involves an expense to the town, that expense shall be borne by the applicant and shall not be waived by the town council.

(l) *Authority of town manager and police department.* The town manager and police department are hereby authorized and empowered to take such lawful action as may be necessary to carry out the regulations and requirements of this section, ensure an orderly parade or motorcade, prevent obstruction to and ensure the full flow of traffic, and to prevent riots and disorder, and to hire special police officers and employees to aid in these measures. Upon written application of the holder of an approved parade permit, the town manager is authorized, but not required to, amend such approved permits to make adjustments to time of parade, date of parade, and route, after consultation with the chief of police. Any such changes must comply with VDOT permitting for road closures and be within 15 days of the approved permit date.

(Code 1979, § 11-6; Ord. No. 87-01, § 1(a)—(d), (e)(1)—(3), (f)—(l), 2-10-87; Ord. No. 15-08, § 1, 11-10-15)

Sec. 70-7. Authority of police in direction of traffic.

Every police officer of the town is authorized to act as a traffic officer in the direction of traffic on any street where traffic is heavy or continuous, and the direction by such traffic officers shall take precedence over any lights or other traffic control devices.

(Code 1979, § 11-7)

Cross reference—Law enforcement, ch. 38.

Sec. 70-8. Authority of fire department officials to direct traffic.

Officers of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire and while so acting, shall have all the authority of peace officers.

(Code 1979, § 11-8)

Cross reference—Fire prevention and protection, ch. 34.

Sec. 70-9. Traffic violation notices.

(a) Traffic violation notices shall be issued to violators of parking regulations and all other nonmoving regulations, with the exception of persons charged with parking too close to or in front of fire hydrants and fire stations, persons charged with parking in spaces reserved for handicapped persons in violation of section 70-74, and with the further exception of persons charged with parking meter violations, unless circumstances warrant other action, in which event the usual procedure of summons or arrest shall apply. Traffic violation notices may be settled by payment of a penalty of \$25.00, which payment shall be a complete satisfaction of the offence, except that such fine shall be \$50.00 if the fine provided herein is not paid within ten business days of the violation. Payment shall be made to such person at the town office as from time to time shall be designated by the town manager to receive such payment. Failure to settle a traffic violation notice as above provided within five days shall be unlawful.

(b) The town manager shall set up and establish a full and complete procedure for handling traffic violation notices.

(c) All amounts paid in under this section shall be credited to and become a part of the general fund of the town.

(Code 1979, § 11-9; Ord. No. 96-09, § 1, 10-15-96; Ord. No. 15-05, § 1, 8-11-15)

Sec. 70-10. Compliance with chapter; violations; penalties.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this chapter; and, unless otherwise stated, such violations shall constitute traffic infractions punishable by a fine of not more than \$200.00.

(Code 1979, § 11-10)

State law references—Penalties for violations of traffic law, Code of Virginia, § 46.2-113; local penalties not to exceed state law penalties, Code of Virginia, § 46.2-1300(C).

Sec. 70-11. Signs in public rights-of-way.

(a) Except for the town, no one shall install any signs, banners, billboards or similar structures or objects in the public rights-of-way.

(b) Any violation of this section is hereby declared to be a nuisance. No person shall have any legal right to the continued presence of a sign in a public right-of-way in violation of this section, nor is there any legal remedy against any person solely for the removal from a public right-of-way of a sign which is in violation of this section. If abatement is made by the town, the reasonable costs incurred in removal may be assessed against any person responsible for or benefited by the violation, and such costs shall be collected in the same manner as town taxes. For a willful violation, the town shall be entitled to recover costs, the reasonable value of attorney's fees, and punitive damages in any proceeding which it may bring to enjoin future violations.

(Ord. No. 15-06, § 1, 8-11-15)

Secs. 70-12—70-45. Reserved.**ARTICLE II. LICENSES FOR MOTOR VEHICLES*****Sec. 70-46. Generally.**

(a) Every owner of a motor vehicle, including motorcycles, kept or garaged in the town and used upon the streets, alleys, or roads thereof, or as provided in Code of Virginia, § 46.2-752(A), before same shall be operated in the town, shall obtain a license to operate such vehicle by making application thereof to the finance director and paying the license tax required in this section. The application shall contain the applicant's name and residence (if a firm or corporation, its place of business), and give the name, state license number, and brief description of the style of the vehicle. The license tax upon each motor vehicle shall be the sum of \$20.00 per year and upon each motorcycle shall be the sum of \$10.00 per year. Upon payment of the tax into the town treasury, the finance director shall issue the license decal and assigned number for the vehicle.

(b) The license shall expire and become invalid after April 15 of the year following the year of issue unless the renewal fee is received by the town treasurer prior to April 15. The renewal fee for the tax shall be added to the personal property tax bill for each vehicle and shall be paid with this tax.

(c) The town clerk shall not issue any license provided herein unless and until the applicant for such license shall have produced satisfactory evidence that all personal property taxes upon the motor vehicle to be licensed have been paid that have been properly assessed or are assessable against the applicant by the town.

(Code 1979, § 11-33; Ord. No. 84-35, § 1, 6-12-84; Ord. No. 03-02, § 1, 11-11-03; Ord. No. 04-01, § 1, 3-9-04; Ord. No. 08-08, § 1, 11-10-08; Ord. No. 12-03, § 1, 6-26-12)

***State law reference**—Local vehicle license, Code of Virginia, § 46.2-752 et seq.

Sec. 70-47. Purchase and display of license; penalty for violation.

(a) It shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer which is assessed for personal property tax in the town to fail to pay for a local license as required by this section.

(b) Any violation of this section by an owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license herein required has been paid for. Any fine paid under this section shall be deposited to the credit of the general fund of the town.

(c) Town police officers, the sheriff and his deputies and all police officers within the towns of Giles County are authorized to issue citations, summonses, parking tickets, or uniform traffic summonses for violations of the section.

(d) Every person receiving written notice from a police officer that he or she has violated this section may waive his or her right to appear and be formally tried for the violation set forth in the notice upon the voluntary payment of a penalty in the amount of \$50.00. Such penalty shall be paid to the town treasurer during the regular business hours of that office. The town shall not accept payment of this penalty except upon presentation of satisfactory evidence that the required license has been paid for. The town treasurer shall not be authorized to accept partial payment of the penalty due.

(e) If this penalty is not paid within ten days of the issuance by an officer of a notice of violation, a notice pursuant to Code of Virginia, § 46.2-941, as amended, shall be sent by the town's clerk to the violator. Any violator to whom such a notice is sent may pay a penalty of \$50.00 and present satisfactory evidence that the required license has been paid for within five days of receipt of such notice. The town treasurer shall not accept payment of this penalty except upon presentation of satisfactory evidence that the required license has been paid for. The town treasurer shall not be authorized to accept partial payment of the penalty due.

(f) If the violator fails to pay the penalty provided for above within five days of receipt of a notice sent pursuant to Code of Virginia, § 46.2-941, as amended, the clerk of the general district court and the officer responsible for issuing the parking summons shall be notified of the failure to pay such penalty in order that a summons may be issued.

(g) In the event the town treasurer is advised that any person desires to contest a violation of this section, the town treasurer shall transmit notice of such fact in writing in an appropriate form to the clerk of the general district court.

(h) Every person tried and convicted of a violation of this section shall be guilty of a class 4 misdemeanor, the penalty for which shall be a mandatory minimum fine of \$50.00 as set forth above for a violation of this section. Unless otherwise ordered by the judge in whose court this violation is tried, or in which the same is cognizable, all fines and penalties arising under this section shall be paid into the town's treasury.

(Code 1979, § 11-34; Ord. No. 97-04, § 1, 5-13-97; Ord. No. 99-06, § 1, 7-13-99; Ord. No. 18-01, § 1, 5-8-18)

Sec. 70-48. License fee reduced after October 15; exception.

Half the annual fees prescribed by section 70-46 shall be collected whenever any license plate is issued during the period beginning on October 15 of any year and ending on March 15 of the next year; except that if the owner of a motor vehicle was required to obtain such license prior to October 15 of any year and for any reason failed to do so, the full fee shall be collected.

(Code 1979, § 11-35)

Secs. 70-49—70-70. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING*

DIVISION 1. GENERALLY

Sec. 70-71. Blocking driveways of filling stations, business establishments.

It shall be unlawful for any person to park any vehicle so as to block any driveway of any filling station or other business establishment.

(Code 1979, § 11-11)

State law reference—Blocking private driveways, Code of Virginia, § 46.2-1239.

Sec. 70-72. Double parking.

It shall be unlawful for any person to park a vehicle on the roadway side of any vehicle parked at the edge or curb of a street.

(Code 1979, § 11-12)

Sec. 70-73. Limitation on period of continuous parking by certain motor vehicles.

No motor vehicle, except a passenger automobile or motorcycle, shall be parked on any of the streets of the town for a longer period than three hours in any one 24-hour period, such 24-hour period to begin with the parking of the motor vehicle in question. A "passenger automobile" means every motor vehicle designed and used primarily for transportation of no more than ten persons, including the driver.

(Code 1979, § 11-14; Ord. No. 90-03, § 2, 5-15-90)

Sec. 70-74. Parking in spaces reserved for disabled; penalty.

(a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under Code of Virginia, § 46.2-1241, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739(B), to be parked

***Charter reference**—Powers of town as to the parking of motor vehicles, § 13.

in a parking space reserved for persons with disabilities that limit or impair their ability to walk to park a vehicle in a space so designated except when transporting a person with such a disability in the vehicle.

(b) Any violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than \$100.00 nor more than \$500.00.

(c) A summons or parking ticket for this offense may be issued by law enforcement officers or any other uniformed personnel employed by the town to enforce parking regulations without the necessity of a warrant being obtained by the owner of a private parking area.

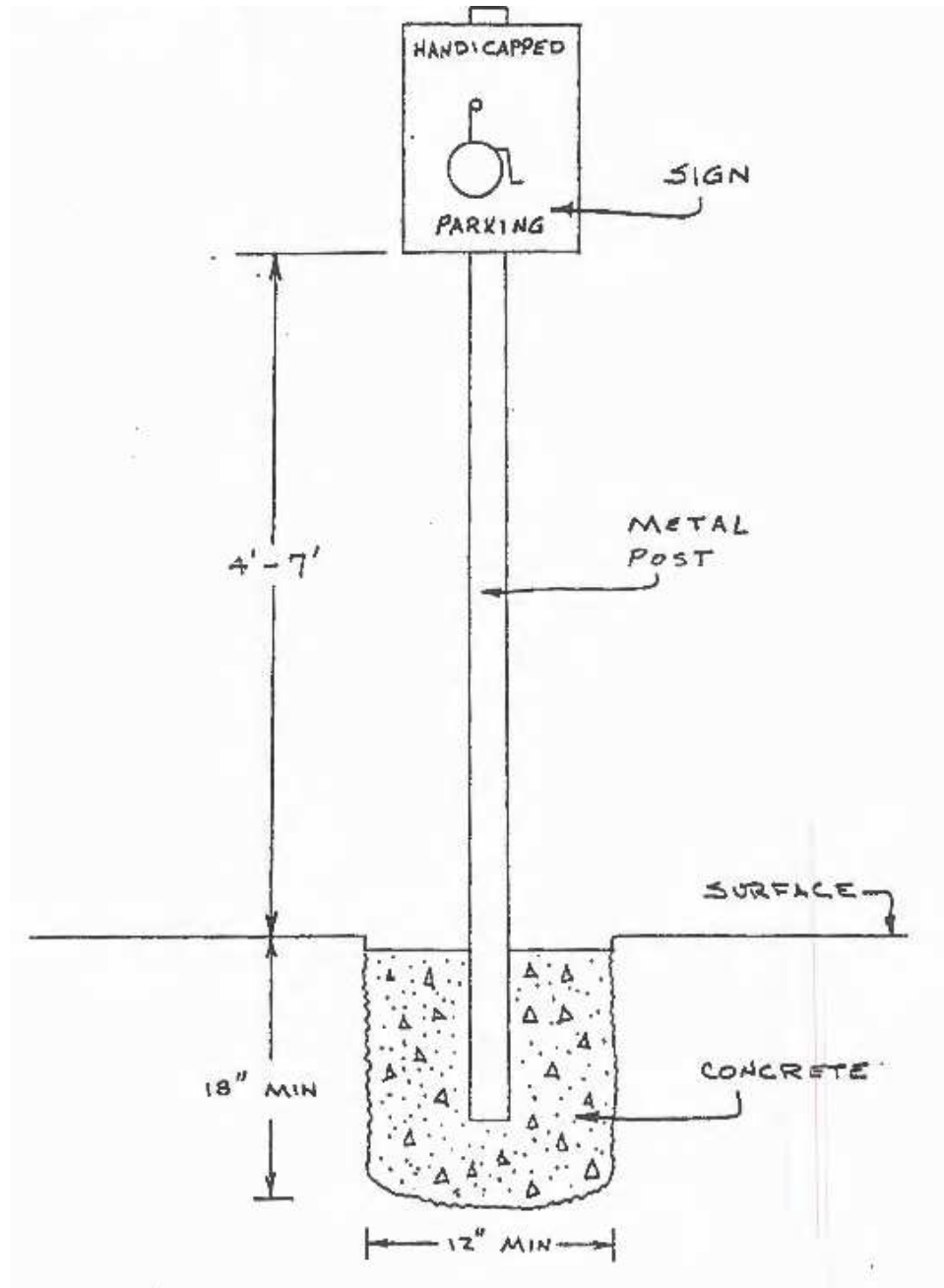
(d) In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant was parked in violation of this section together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, § 46.2-600 et seq., shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(e) No violation of this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in Code of Virginia, § 36-99.11, provided the space is clearly distinguishable as a space reserved for persons with disabilities that limit or impair their ability to walk.

(Ord. No. 83-30, § 1, 3-8-83; Ord. No. 90-05, § 1(11-14A), 10-9-90; Ord. No. 91-02, § 1, 5-14-91; Ord. No. 95-01, § 1, 2-14-95; Ord. No. 98-01, § 1, 2-10-98)

State law references—Disabled parking license plates, Code of Virginia, § 46.2-731; parking in spaces reserved for persons with disabilities, Code of Virginia, § 46.2-1237.

Sec. 70-75. Figure 1, disabled signs.



(Ord. No. 90-05, § 1(11-14A), 10-9-90)

Sec. 70-76. Parking by yellow curb markings.

It shall be unlawful for any person to park a vehicle at any place where yellow markings, painted pursuant to the order of the town council or town manager, appear on the curb. Violation of this section shall carry a fine of \$25.00.

(Code 1979, § 11-15; Ord. No. 15-05, § 1, 8-11-15)

Sec. 70-77. Parking with engine running.

The engine of any motor vehicle parked on any of the streets in the town, whether the motor vehicle is attended or unattended, shall be switched off and not permitted to run while the vehicle in question is so parked.

(Code 1979, § 11-16)

State law reference—Stopping motor of vehicle, Code of Virginia, § 46.2-1071.

Sec. 70-78. Playing on highways; roller skates, skateboards, toys, or other devices on wheels or runners; persons riding bicycles, mopeds, etc., not to attach to vehicles.

(a) No person shall play on a highway, other than on the sidewalks thereof, within the town. No person shall use roller skates, skateboards, toys, or other devices on wheels or runners, except bicycles, mopeds and motorcycles, on highways where play is prohibited. The council may designate areas on highways under its control where play is permitted and may impose reasonable restrictions on play on such highways. If the highways have only two traffic lanes, persons using such devices, except bicycles, mopeds and motorcycles, shall keep as near as reasonably possible to the extreme left side or edge of the left traffic lane so that they will be facing oncoming traffic at all times.

(b) No person riding on any bicycle, moped, roller skates, skateboards, toys or other devices on wheels or runners shall attach the same or himself to any vehicle on a roadway.

(Code 1979, § 11-17)

State law reference—Playing on highways, Code of Virginia, § 46.2-932.

Sec. 70-79. Unauthorized parking in taxicab stand.

It shall be unlawful for any person to park any vehicle other than a taxicab in a properly designated taxicab stand.

(Code 1979, § 11-18)

Sec. 70-80. Removal and disposition of unattended, abandoned or immobile vehicles.

(a) Whenever any motor vehicle, trailer or semitrailer or a part thereof:

- (1) Is left unattended on a public highway or other public property and constitutes a traffic hazard;
- (2) Is illegally parked;

- (3) Is left unattended for more than ten days either on public property or on private property without the permission of the property owner, lessee or occupant; or
- (4) Is immobilized on a public roadway by weather conditions or other emergency situation;

any such motor vehicle, trailer or semitrailer or part thereof may be removed for safekeeping by or under the direction of a police officer to a storage area; however, no such vehicle or part thereof shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.

(b) The person at whose request such motor vehicle, trailer or semitrailer or part thereof is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof.

(c) It shall be presumed that such motor vehicle, trailer or semitrailer or part thereof is abandoned if it lacks a current license plate, a current county, city or town license plate or sticker, or a valid state inspection certificate or sticker and it has been in a specific location for four days without being moved.

(d) Each removal shall be reported immediately to the town clerk's office and notice thereof given to the owner of the motor vehicle, trailer or semitrailer or part thereof as promptly as possible.

(e) The owner of such vehicle or trailer or semitrailer or part thereof, before obtaining possession thereof, shall pay to the persons entitled thereto all costs incidental to the removal, storage and locating the owner of the motor vehicle, trailer or semitrailer or part thereof. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record in the office of the state department of motor vehicles against the motor vehicle, trailer or semitrailer or part thereof, the vehicle shall be treated as an abandoned vehicle under Code of Virginia, § 46.2-1200 et seq.

(Code 1979, § 11-19)

State law reference—Authority for above section, Code of Virginia, § 46.2-1213.

Sec. 70-81. Leaving vehicles on private property prohibited; removal and disposition; notice of disposition.

(a) No person shall leave any motor vehicle, trailer or semitrailer, or part of a motor vehicle, trailer or semitrailer on the private property of any other person without his consent. On complaint of the owner of the property on which such motor vehicle, trailer or semitrailer or part thereof has been left for more than 72 hours, such motor vehicle, trailer or semitrailer or part thereof may be removed by or under the direction of a law enforcement officer to a storage area. The owners of private property that is normally open to the public for parking shall post or cause to be posted signs warning that vehicles left on the property for more than 72 hours will be towed or removed at their owners' expense. The person at

whose request the vehicle, trailer, semitrailer or part thereof is so removed shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof.

(b) In the case of the removal of a motor vehicle, trailer or semitrailer or part of a motor vehicle, trailer or semitrailer from private property, when it cannot be readily sold, the motor vehicle, trailer or semitrailer, or part thereof may be disposed of in whatever manner the governing body may provide.

(c) In all other respects, the provisions of section 70-80 and Code of Virginia, § 46.2-1217, shall apply to these removals. Disposal of a motor vehicle, trailer or semitrailer may, at the option of the town council, be carried out under either the provisions of section 70-80, or under the provisions of this section after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the state department of motor vehicles against the motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least 60 days.

(Code 1979, § 11-20)

State law reference—Authority for above section, Code of Virginia, § 46.2-1215.

Sec. 70-82. Notice of disposition of vehicle under section 70-80 or 70-81.

The state department of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under section 70-80 or 70-81.

(Code 1979, § 11-21)

State law reference—Similar provisions, Code of Virginia, § 46.2-1215.

Sec. 70-83. Establishment, marking, inspection, enforcement of fire lanes and parking therein.

(a) There shall be fire lanes established at all shopping centers and areas subject to congestion within the boundaries of the town, such areas to be designated by the chief of police. Fire lanes shall not be less than ten feet in width and run the length of the frontage of the building or any side where access to the building has been provided. Fire lanes shall be indicated by a solid yellow line painted on the pavement and running the full length of the building and located not less than ten feet from the frontage of the building.

(b) Fire lanes shall be marked or posted with signs in such numbers and at such locations as recommended by the police chief reading as follows: "No Parking—Fire Zone." These signs shall be authorized by the chief of police. When signs are so installed, it shall be unlawful for any person to park any nonemergency vehicle in such fire lane.

(c) Enforcement of this section by the police department shall be effected by placement of parking violation tickets on all vehicles found in violation of the provisions of this section or by removal of such vehicle from the fire lane.

(d) The chief of police, with the assistance of the fire chief, shall inspect buildings and premises and fire lanes as often as may be necessary to ensure that such buildings, premises or fire lanes are free from parked or abandoned vehicles so that fire department vehicles and other emergency vehicles can operate without hindrance and building occupants have free egress in the event of fire or emergency.

(e) The violations of subsection (a) of this section shall constitute a misdemeanor punishable by a fine of \$50.00.

(Ord. No. 90-05, § 2(11-36), 10-9-90; Ord. No. 91-02, § 2, 5-14-91; Ord. No. 95-01, § 2, 2-14-95; Ord. No. 02-08, § 1, 12-10-02)

Sec. 70-84. Bicycle helmets.

(a) Every person 14 years of age or younger shall wear a protective helmet that meets the standards promulgated by the American National Standards Institute or the Snell Memorial Foundation, whenever that person is riding or being carried on a bicycle on any highway as defined by Code of Virginia, § 46.2-100, any sidewalk or public bicycle path in this town.

(b) Violation of this section shall be punishable by a fine of \$25.00. However, such fine shall be suspended for first-time violators and for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section. (Ord. No. 98-03, § 1, 3-10-98)

Sec. 70-85. Certain safety equipment for mopeds; effect of violation; penalty.

Every person operating a moped, as defined in the Code of Virginia, § 46.2-100, on a public street or highway shall wear a face shield, safety glasses, or goggles of a type approved by the State of Virginia or have the moped equipped with safety glass or a windshield at all times while operating such vehicle; and the operator and passengers thereon if any, shall wear a protective helmet of a type approved by the State of Virginia. Violation of this section shall not be considered negligence, shall not be considered in mitigation of damages of whatever nature, shall not be admissible in evidence or be subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a moped or vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action. Any person who knowingly violates this section shall be guilty of a traffic infraction and be subject to a fine of not more than \$50.00. (Ord. No. 12-01, § 1, 2-14-12)

Sec. 70-86. Parking against flow of traffic.

It shall be unlawful for any person to park a vehicle on any street or upon any portion of the right-of-way of such street in the town with the vehicle facing against the flow of traffic. (Ord. No. 15-09, § 1, 11-10-15)

Secs. 70-87—70-120. Reserved.

DIVISION 2. PARKING METERS*

Sec. 70-121. Designation of zones.

For the purpose of this division, the parking meter zones shall be those streets and parts of streets designated as parking meter zones by the town manager.
(Code 1979, § 11-22)

Sec. 70-122. Permit for parking in reserved spaces.

It shall be unlawful for the owner or operator of any vehicle to park such vehicle within any parking space marked by a reserved sign between the hours indicated on such sign, except Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, unless such vehicle displays a permit to use such reserved space. Permits will be issued by the town manager to businesses demonstrating a need for on-street loading and unloading as determined by the town. There shall be imposed a fee of \$50.00 annually for such permit.
(Code 1979, § 11-23; Ord. No. 93-03, § 1, 6-8-93)

Sec. 70-123. Parking overtime generally.

If a vehicle parked in a parking meter space, marked as provided in section 70-124, shall remain parked in any such parking meter space for such length of time that the meter shall indicate by proper signal that the lawful parking period has expired, such vehicle shall be considered as parked overtime; and the parking of a vehicle overtime shall constitute a violation of this division.
(Code 1979, § 11-24)

Sec. 70-124. Marking of parking meter spaces and erection of parking meters; rights upon deposit of coin; signal as to elapse of parking time.

On streets designated as parking meter zones as provided in section 70-121, the proper officers shall cause parking meter spaces to be marked on the pavements or curbs or by other appropriate measures and, in such spaces so marked, shall erect, or cause to be erected, parking meters. The deposit in such meter of a coin or combination of coins of the United States, as indicated on the meter, will entitle the person making the deposit to park his vehicle for a limited time, as indicated on the meter. Parking meters shall by signal indicate when the period of lawful parking has elapsed.
(Code 1979, § 11-25)

Sec. 70-125. Deposit of coin and operation of meter.

In order that the police officers may properly compute the time during which a vehicle is parked, the owner or operator of such vehicle shall, upon entering a parking meter space,

***State law reference**—Powers of town as to parking meters, Code of Virginia, § 46.2-1220.

marked as provided in section 70-124 during the time of limited parking, as provided in section 70-122, immediately deposit a coin, or combination of coins of the United States, in the parking meter situated at the side of the parking meter space in question and shall place the parking meter in operation according to instructions thereon. Failure to do so shall constitute a violation of this division. Upon deposit of such one-cent, five-cent or ten-cent coins and the placing of the meter in operation, the parking space in question may be lawfully occupied by such vehicle during the period of parking time, which has been prescribed for the particular amount deposited. The parking meters, when installed and properly operated, shall be so adjusted that one-cent, five-cent and ten-cent coins of the United States may be deposited at any time throughout the maximum range of the meters; each one-cent coin permitting the vehicle to be parked for a period of 12 minutes, each five-cent coin permitting the vehicle to be parked for a period of 60 minutes, and each ten-cent coin permitting the vehicle to be parked for a period of 120 minutes.

(Code 1979, § 11-26)

Sec. 70-126. Parking wholly within parking meter space.

It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space, as provided in section 70-124, or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.

(Code 1979, § 11-27)

Sec. 70-127. Tampering with parking meter.

It shall be unlawful for any person to deface, tamper with, damage, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this division.

(Code 1979, § 11-28)

Sec. 70-128. Penalty for overtime parking.

For overtime parking, the fine shall be \$25.00, except that such fine shall be \$50.00 if the fine provided herein is not paid within ten business days of the violation. If overtime parking fines are not paid to the town within five days of the notice required by Code of Virginia, § 46.2-941, a warrant shall be sought by the chief of police against the owner of the vehicle parked overtime in violation, charging the owner with a violation of this section.

(Code 1979, § 11-29; Ord. No. 15-05, § 1, 8-11-15)

Secs. 70-129—70-165. Reserved.

DIVISION 3. REGULATIONS APPLICABLE TO CERTAIN STREETS

Sec. 70-166. Parking on western side of Easton Road in Fort Branch area.

It shall be unlawful for any person to park any automobile or other vehicle, at any time, on the western side of Easton Road in the Fort Branch area in the town.

(Code 1979, § 11-30)

Secs. 70-167—70-205. Reserved.

DIVISION 4. MUNICIPAL BUILDING PARKING LOT

Sec. 70-206. Reserved parking spaces.

The town manager may designate and mark parking spaces on the municipal building parking lot for the exclusive use of town-owned vehicles and town officials; and when such spaces are marked it shall be unlawful for the owner or operator of any motor or other vehicle, except as permitted by the town manager, to park such vehicle within such spaces.

(Code 1979, § 11-31)

Sec. 70-207. Parking between lines; time limit.

It shall be unlawful for the owner or operator of any motor or other vehicle to park such vehicle on the municipal building parking lot except between the painted lines designating parking spaces and as close to the curb adjacent to such spaces as practicable. Except for permitted reserved parking pursuant to section 70-206, it shall be unlawful for the owner or operator of any motor vehicle to park such vehicle on the municipal building parking lot for more than two continuous hours.

(Code 1979, § 11-32)

Chapters 71—73

RESERVED

Chapter 74

UTILITIES*

Article I. General Provisions

***Editor's note**—During the passage of Ord. No. 04-02, adopted June 8, 2004, provisions pertaining to water (§§ 74-46—74-50, 74-81—74-89, 74-127—74-136, 74-307, 74-308, 74-371—74-373, 74-392—74-394, 74-431—74-436) were inadvertently removed. At the direction of the city, said provisions have been redesignated as article X, §§ 74-191—74-195, 74-221—74-229, 74-251—74-260, 74-281—74-294, respectively. The historical notation has been preserved for reference purposes.

Ord. No. 04-02, adopted June 8, 2004, repealed and reenacted chapter 74 in its entirety to read as herein set out. Formerly, chapter 74 pertained to similar subject matter and derived from the Code of 1979, §§ 22-1, 22-2, 22-4—22-17, 22-19—22-30, 28-1—28-11; Ord. No. 82-28, § 1, adopted June 22, 1982; Ord. No. 82-29, § 1, adopted June 22, 1982; Ord. No. 86-05, § 1, adopted July 8, 1986; Ord. No. 89-03, § 1, adopted February 14, 1989; Ord. No. 89-09, § 1, adopted June 20, 1989; Ord. No. 91-01, § 1(28-10), adopted March 12, 1991; Ord. No. 91-03, § 1, adopted May 14, 1991; Ord. No. 92-05, § 1, adopted June 9, 1992; Ord. No. 92-06, § 2, adopted June 9, 1992; Ord. No. 92-07, § 1, adopted June 9, 1992; Ord. No. 93-05, § 1, adopted June 8, 1993; Ord. No. 93-06, § 1, adopted June 8, 1993; Ord. No. 93-07, § 1, adopted June 8, 1993; Ord. No. 93-12, § 1, adopted August 10, 1993; Ord. No. 94-05, § 1, adopted June 14, 1994; Ord. No. 94-06, § 1, adopted June 14, 1994; Ord. No. 92-02, § 1, adopted May 11, 1995; Ord. No. 96-05, §§ 1(28-12—28-20), table 1, adopted June 11, 1996; Ord. No. 96-08, § 1, adopted June 24, 1996; Ord. No. 97-05, § 1, adopted June 23, 1997; Ord. No. 97-06, § 1, adopted June 23, 1997; Ord. No. 97-07, § 1, adopted June 23, 1997; Ord. No. 97-08, § 1, adopted June 23, 1997; Ord. No. 98-07, § 1, adopted June 30, 1998; Ord. No. 98-06, § 1, adopted June 30, 1998; Ord. No. 99-04, § 1, adopted June 17, 1999; Ord. No. 99-05, § 1, adopted June 17, 1999; Ord. No. 00-01, § 1, adopted June 27, 2000; Ord. No. 00-05, § 1, adopted September 12, 2000; Ord. No. 01-04, § 1, adopted June 26, 2001; Ord. No. 02-01, § 1, adopted June 25, 2002; Ord. No. 02-02, § 1, adopted June 25, 2002; Ord. No. 02-03, § 1, adopted June 25, 2002; Ord. No. 02-06, adopted November 12, 2002; Ord. No. 02-07, § 1, adopted December 10, 2002; Ord. No. 03-01, § 1, adopted June 24, 2003. At the direction of the town, former §§ 74-216 and 74-374 have been saved from repeal, and have been redesignated as §§ 74-7 and 74-8 at the discretion of the editor. The historical notation of the aforementioned sections has been retained for reference purposes.

Charter references—Powers of town as to waterworks and water supply, § 10; powers of town as to sanitary sewer lines and sewer service, § 11.

Cross references—Administration, ch. 2; collection of delinquent charges, § 2-105; monthly report by town manager, § 2-107; buildings and building regulations, ch. 22; businesses, ch. 26; fire prevention and protection, ch. 34; solid waste, ch. 58; streets, sidewalks and other public places, ch. 62.

State law references—Construction of dams, etc., for water supply purposes, Code of Virginia, § 15.1-37 et seq.; water-saving ordinances, Code of Virginia, § 15.1-37.2:1; water supply emergency ordinances, Code of Virginia, § 15.1-37.3:4; general local powers pertaining to public utilities, Code of Virginia, § 15.1-292 et seq.; local sewage disposal, Code of Virginia, §§ 15.1-317 et seq., 15.1-876; local water supply systems, Code of Virginia, § 15.1-332.1 et seq.; municipal water, sewage, refuse disposal, electricity and gas, Code of Virginia, §§ 15.1-854 et seq., 15.1-875 et seq.; offenses relating to utilities, Code of Virginia,

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- Sec. 74-86. Special uses of treatment works.

§ 18.2-162 et seq.; health regulations pertaining to sewage disposal, Code of Virginia,
§ 32.1-163 et seq.; health regulations pertaining to public water supplies, Code of Virginia,
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Attachment A. Oil and Grease Inspection

ARTICLE I. GENERAL PROVISIONS**Sec. 74-1. Purpose.**

The purpose of this chapter is to provide for the maximum possible beneficial public use of the town treatment works through regulation of sewer construction, sewer use, and wastewater discharges to provide for equitable distribution of the costs of the treatment works and to provide procedures for complying with the requirements contained herein.

(Ord. No. 04-02, 6-8-04)

Sec. 74-2. Scope.

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

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-3. Administration.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-4. Fees and charges.

(a) All fees and charges payable under the provisions of this chapter shall be paid to the town. Such fees and charges shall be as set forth herein or as established in the latest edition of the town's treatment works user charge ordinance.

(b) All fees and charges payable under the provisions of this chapter are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the town's treatment works user charge ordinance.

(Ord. No. 04-02, 6-8-04)

Sec. 74-5. Inspections.

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

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

(c) While performing any necessary work on private properties referred to in subsections 74-5(a) and (b) above, the manager, shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

(Ord. No. 04-02, 6-8-04)

Sec. 74-6. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the town's treatment works. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed \$3,000.00. In the event the damage exceeds \$3,000.00, the violator, upon conviction, shall be punished according to state law.

(Ord. No. 04-02, 6-8-04)

Sec. 74-7. Permit for installation.

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

(Code 1979, § 22-3)

Note—See editor's note at the beginning of this chapter.

Sec. 74-8. Maintenance of connections.

All connections of property lying outside of the town to the town sewerage system shall be maintained at the cost of the property owner.

(Code 1979, § 22-18)

Note—See editor's note at the beginning of this chapter.

Sec. 74-9. Severability.

If any provision of these regulations or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby. (Ord. 04-02, 6-8-04)

Sec. 74-10. Amendments of the ordinance.

Public notice shall be given in accordance with applicable provisions of the town Charter, other town ordinances, state and federal law, prior to adoption of any amendments of this ordinance.

(Ord. 04-02, 6-8-04)

Sec. 74-11. Conflicts.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter, are hereby repealed to the extent of the inconsistency or conflict.

(Ord. 04-02, 6-8-04)

Secs. 74-12—74-25. Reserved.

ARTICLE II. DEFINITIONS**Sec. 74-26. Specific definitions.**

Unless the context of usage indicates otherwise, the meaning of specific terms in this chapter shall be as follows:

Act shall mean the Federal Clean Water Act, 33 U.S.C. 1251 et seq.

Approval authority means the executive director or director of the state water control board.

ASTM shall mean the American Society for Testing and Materials.

Authorized representative of industrial user shall mean:

- (a) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
- (b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or
- (c) A duly authorized representative of the individual designated in (a) or (b) above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the manager prior to or together with any reports to be signed by the authorized representative.

BOD (biochemical oxygen demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

Building sewer shall mean the extension from a building wastewater plumbing facility to the treatment works.

Categorical pretreatment standard or *categorical standard* shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) and 307(c) of the Act, which apply to specific category of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

Day shall mean the 24-hour period beginning at 12:01 a.m.

Discharger shall mean person or persons, firm, company, industry, or other similar sources of wastewater who introduce such into the POTW.

Easement shall mean an acquired legal right for the specific use of land owned by others.

EPA shall mean the United States Environmental Protection Agency.

Establishment shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat,

vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical, or biological properties of any state waters;

Existing source shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Garbage shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Ground water shall mean any water beneath the land surface in the zone of saturation.

Indirect discharge shall mean the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b) (c) or (d) of the Act.

Industrial user or significant discharger (class II) means a source of indirect discharge, or a nondomestic discharge to a treatment works.

Industrial wastes shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

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

Manager shall mean the manager of the town or an authorized designee.

May is permissible. *Shall* is mandatory.

Municipality shall mean a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

New source shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

Owner shall mean the commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

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

Person shall mean any individual, firm, company, association, society, partnership, corporation, governmental entity, or other similar organization, agency, or group.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by standard methods.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial waste, and the characteristics of the wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

POTW, publicly owned treatment works shall mean any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the town treatment works.

Pretreatment requirement shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users.

Prohibited discharges or prohibited discharge standards shall mean absolute prohibition against the discharge of certain substances. These prohibitions appear in section 74-88.

Properly shredded garbage shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than ½-inch in any dimension.

Residential user (class I) shall mean all premises used only for human residency and which is connected to the treatment works.

Sanitary wastewater shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Significant industrial user shall be defined as follows:

- (a) Has a process wastewater* flow of 25,000 gallons or more per average work day;
 - * Excludes sanitary, non-contact cooling and boiler blowdown wastewater.
- (b) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (c) Is subject to categorical pretreatment standards; or
- (d) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

Slug load shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in section 74-88 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non customary batch discharge.

Standard methods shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation, and American Water Works Association.

State shall mean the commonwealth of Virginia.

Storm sewer shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

Surface water shall mean:

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

Suspended solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by standard methods.

Treatment facility shall mean only those mechanical power driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations and unit treatment processes).

Treatment works shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection

systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, or industrial waste, including waste in combined sewer water and sanitary sewer systems.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to Section 307(a)(1) of the Act.

User shall mean a source of wastewater discharge into a POTW.

User permit shall mean a document issued by the POTW to the user that permits the connection and/or introduction of wastes into the treatment works under the provisions of this chapter.

VPDES shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the state.

Wastewater shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

WPCF shall mean the Water Pollution Control Federation.
(Ord. No. 04-02, 6-8-04)

Sec. 74-27. General definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this chapter and not defined in section 74-26, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969.
(Ord. No. 04-02, 6-8-04)

Secs. 74-28—74-35. Reserved.

ARTICLE III. USE OF TOWN'S TREATMENT WORKS AND TREATMENT FACILITY

Sec. 74-36. Waste disposal.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the town, or in any area under the jurisdiction of said town, any human or animal excrement, garbage, or other objectionable waste.
(Ord. No. 04-02, 6-8-04)

Sec. 74-37. Wastewater discharges.

It shall be unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the town, or in any area under its jurisdiction. Wastewater discharges to the town's treatment works are not authorized unless permitted by manager in accordance with provisions of this chapter.

(Ord. No. 04-02, 6-8-04)

Sec. 74-38. Wastewater disposal.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-39. Connection to treatment works required.

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

(Ord. No. 04-02, 6-8-04)

Secs. 74-40—74-55. Reserved.**ARTICLE IV. BUILDING SEWERS AND CONNECTIONS****Sec. 74-56. Connection permit.**

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

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

CLASS I - Residential

CLASS II - Industrial

In all cases, the owner shall make application for a permit to connect to the town's treatment works on a form furnished by the town. The permit application shall be supple-

mented by wastewater information required to administer this chapter. A permit and inspection fee set by the town council shall be paid to the town at the time the application is filed.

(Ord. No. 04-02, 6-8-04)

Sec. 74-57. Connection costs.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-58. Separate connections required.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

(Ord. No. 04-02, 6-8-04)

Sec. 74-59. Existing building sewers.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-60. Building sewer design.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-61. Building sewer elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the town sewer.

(Ord. No. 04-02, 6-8-04)

Sec. 74-62. Surface runoff and groundwater drains.

(a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works unless such connection is authorized in writing by the manager. The connection of such drains shall conform to codes specified in section 74-63 or as specified by the manager as a condition of approval of such connection.

(b) Except as provided in subsection (a), roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers. (Ord. No. 04-02, 6-8-04)

Sec. 74-63. Conformance to applicable codes.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-64. Connection inspection.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-65. Excavation guards and property restoration.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-66. Protection of capacity for existing users.

The manager shall not issue a permit for any class of connection to the town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the

quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The manager may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Ord. No. 04-02, 6-8-04)

Secs. 74-67—74-83. Reserved.

Sec. 74-84. Charges for water supplied by town inside town.

For each billing period, the minimum charge shall be \$25.75 for up to 2,500 gallons of water used, plus an additional charge as follows for water used in excess of 2,500 gallons:

<i>Gallons</i>	<i>Charge / 1,000 gallons</i>
2,501-150,000	\$5.85
150,001-500,000	5.30
500,001 or more	5.05

(Ord. No. 15-07, § 1, 10-13-15)

Sec. 74-85. Reserved.

ARTICLE V. CONDITIONS TO USE THE TOWN'S TREATMENT WORKS

Sec. 74-86. Special uses of treatment works.

All discharges of storm water, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under section 74-62. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this chapter.

(Ord. No. 04-02, 6-8-04)

Sec. 74-87. Industrial user, general prohibition upon.

An industrial user shall not introduce any pollutants into the town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

(Ord. No. 04-02, 6-8-04)

Sec. 74-88. Restricted discharges.

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

- (1) Create a fire or explosion hazard in the POTW including, but not limited to, gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas, wastestream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21; or

- (2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges having a pH lower than 5.0 or greater than 9.0, having a BOD concentration greater than 240 milligrams per liter, having a Suspended Solids concentration greater than 240 milligrams per liter, or having an oil and grease concentration greater than 100 milligrams per liter; or
- (3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials; or
- (4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities; or
- (5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Town's wastewater sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the town has obtained prior approval from the approval authority; or
- (6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin; or
- (7) Contain floatable oils, fat, or grease; or
- (8) Contain toxic gases, vapors or fumes, malodorous gas, or substance in quantities that may cause a public nuisance or cause acute human health or safety problems; or
- (9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations; or
- (10) Contain any garbage that has not been properly shredded; or
- (11) Contain any odor or color producing substances exceeding concentration limits which may be established by the manager for purposes of meeting the town's VPDES permit; or
- (12) Petroleum oil, nonbiodegradeable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or
- (13) Any trucked or hauled pollutants except at designated discharge points; or
- (14) Contain herbicidal chemicals of any description or in any controllable amount.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this article, the manager establishes concentration limits to be met by a user, the manager in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the state such limits should become pretreatment standards.

(c) Concerning users with potential discharges of oil and grease greater than defined herein, attention is directed to special monitoring and certification requirements provided in Attachment A to Ord. No. 04-02.

(Ord. No. 04-02, 6-8-04)

Note—Attachment A is located at the end of this chapter.

Sec. 74-89. Categorical pretreatment standards.

(a) No person shall discharge or cause to be discharged to any treatment works, wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment

standards shall be within three years of the date the standard is promulgated; provided however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

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

(c) No person shall discharge trucked hazardous wastes to the town's treatment works.
(Ord. No. 04-02, 6-8-04)

Sec. 74-90. Special agreements.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-91. Water and energy conservation.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-92. Excessive discharge.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-93. Accidental discharges (slug load).

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. No user who commences contribution to the POTW after the

effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within five days following an accidental discharge, the user shall submit to the manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 04-02, 6-8-04)

Secs. 74-94—74-110. Reserved.

ARTICLE VI. INDUSTRIAL DISCHARGERS

Sec. 74-111. Information requirements.

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

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

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

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

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-112. User permits.

(a) All significant industrial users proposing to connect to or to contribute to the treatment works, if approved by the town, shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within 180 days after the effective date of this chapter.

(b) Significant industrial users required to obtain a permit shall complete, and file with the town, an application in the form prescribed by the town, and accompanied by a fee as set by town council. Existing significant industrial users shall apply for a permit within 30 days after the effective date of this chapter, and proposed new significant industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment works. In support of this application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from address);
- (2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- (3) Wastewater constituents and characteristics, including but not limited to those mentioned in section 74-88 of this chapter, as determined by a reliable analytical laboratory (Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.);
- (4) Time and duration of contribution;
- (5) Average daily and peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;

- (7) Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;
- (8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis; and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- (b) No increment referred to in subsection (9)a. shall exceed nine months.
- c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the manager.
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment system;
- (13) Any other information as may be deemed by the town to be necessary to evaluate the user's permit application.

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

(c) Within nine months of the promulgation of a national categorical pretreatment standard, the user permit of users subject to such standards shall be revised to require compliance with such standards if they are more restrictive than the local limits developed by the POTW within the time frame prescribed by such standard. Where a user, subject to a

national categorical pretreatment standard, has not previously submitted an application for a user permit as required by subsection (b), the user shall apply for a user permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing user permit shall submit to the manager within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsections (b)(8) and (9).

(d) Permit conditions. User permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town.

(1) Permits must contain the following:

- a. Limits on the average and maximum wastewater constituents and characteristics;
- b. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- c. Requirements for submission of technical reports or discharge reports—See section 74-113;
- d. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto;
- e. Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works; and
- f. Requirements for immediate notification of slug discharges.

(2) Permits may contain the following:

- a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- b. Requirements for installation and maintenance of inspection and sampling facilities;
- c. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule;
- d. Compliance schedules;
- e. Other conditions as deemed appropriate by the town to ensure compliance with this chapter; and
- f. Statement of applicable remedies.

(e) User permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in

section 74-112 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-113. Reporting requirements for permittee.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in subsection (c). This statement shall be signed by an authorized representative of the user and certified to by a qualified professional.

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

(c) The manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (b) of shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the

manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

(Ord. No. 04-02, 6-8-04)

Note—Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by EPA.

Sec. 74-114. Provision for monitoring.

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

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

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

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

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-115. Costs of damage.

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

(Ord. No. 04-02, 6-8-04)

Secs. 74-116—74-130. Reserved.**ARTICLE VII. PRETREATMENT****Sec. 74-131. Wastewaters with special characteristics.**

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

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

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

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-132. Compliance with pretreatment requirements.

Persons required to pretreat wastewater in accordance with section 74-131, shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements the user shall submit a plan (including schedules) to the manager as described in subsection 74-112(b)(9). The plan (including schedules) shall be consistent with applicable conditions of the town's permit or other local, state, or federal laws.

(Ord. No. 04-02, 6-8-04)

Sec. 74-133. Monitoring requirements.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-134. Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede subsection 74-131(a) if they are more stringent.

(Ord. No. 04-02, 6-8-04)

Sec. 74-135. Certification.

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

(Ord. No. 04-02, 6-8-04)

Secs. 74-136—74-150. Reserved.

ARTICLE VIII. WASTEWATER SERVICE CHARGES AND INDUSTRIAL COST RECOVERY

Sec. 74-151. Wastewater service charges.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-152. Industrial cost recovery.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-153. Determination of system use.

(a) The use of the town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of section 74-114 to the extent such measurement and analysis is considered by the manager to be feasible and cost effective.

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

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

(Ord. No. 04-02, 6-8-04)

Secs. 74-154—74-170. Reserved.

ARTICLE IX. ENFORCEMENT

Sec. 74-171. Harmful contributions.

The town may suspend the wastewater treatment service and/or a user permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened

discharge which presents or may present an imminent or substantial endangerment to the health or welfare of person, to the environment, causes interference to the treatment facilities, or causes the town to violate any condition of its VPDES permit.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-172. Revocation of permit.

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

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
- (4) Violation of conditions of the permit.

(Ord. No. 04-02, 6-8-04)

Sec. 74-173. Notification of violation.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-174. Show cause hearing.

(a) The town may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action, and directing the user

to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

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

- (1) Issue in the name of the manager notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the manager for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(d) After the manager has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. No. 04-02, 6-8-04)

Sec. 74-175. Legal action.

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

(Ord. No. 04-02, 6-8-04)

Sec. 74-176. Penalties.

(a) Any person or user that violates the provisions of this chapter or a user/discharge permit hereunder shall be subject to a penalty of \$1,000.00 per day and/or shall, upon conviction, be guilty of a class II misdemeanor for each day the violation continues.

(b) Each day, or portion thereof, a violation continues shall constitute a separate violation.
(Ord. No. 04-02, 6-8-04)

Sec. 74-177. Falsifying information.

Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or user permit; or who falsifies, any monitoring device or method required under this chapter, shall upon conviction, be guilty of a class I misdemeanor. (Ord. No. 04-02, 6-8-04)

Secs. 74-178—74-190. Reserved.**ARTICLE X. WATER*****DIVISION 1. GENERALLY****Sec. 74-191. Obstructing, injuring, tampering with the waterworks.**

No person shall willfully obstruct, cut, uncover, make holes in or in any manner willfully damage or injure or commit any nuisance upon or about any portion of the town waterworks, spring house, pipes, troughs, cisterns, hydrants, pumps, wells, or any other fixtures, parts or appurtenances of such waterworks. (Code 1979, § 28-1)

Sec. 74-192. Unauthorized cross connections.

No unauthorized cross connection shall be made between the town water system and any other source of water. See division 3 of this article pertaining to cross connection control. (Code 1979, § 28-2)

Sec. 74-193. Use of water for air conditioning.

It shall be unlawful for persons to use water from the lines of the town water system in any air conditioning system which does not have a recirculating pump attached thereto and used in connection therewith. (Code 1979, § 28-3)

Sec. 74-194. Fire flow requirements; extension of town water.

The town hereby adopts the following as minimum flow requirements for all water main extensions from the towns existing system. All plans submitted shall document minimum flow from all fire hydrants as determined by hydraulic analysis of the town system.

- (1) *In areas zoned for single family residential, R-1, R-2, R-5, R-7 and AR-1, the minimum flow shall be 300 gallons per minute.*

***Editor's note**—See editor's note at beginning of chapter.

(2) *In areas zoned for general business or multi-family, B-2, R-3, R-4, and R-6, R-8, the minimum flow shall be 500 gallons per minute.*

(3) *In all other business and industrial zones, B-1, B-3, and I-1, the minimum flow shall be 750 gallons per minute.*

(Ord. No. 00-05, § 1, 9-12-00)

Sec. 74-195. Water supply emergencies; mandatory restrictions; conservation measures; violations.

During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the Town of Pearisburg may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures may become increasingly strict to further reduce consumption or curtail nonessential water use.

Under Code of Virginia, § 15.2-924, the governing body of the locality is authorized to adopt an ordinance restricting the use of water by the citizens of such locality for the duration of such emergency or for a period of time necessary to prevent the occurrence of a water supply emergency.

The Giles County Public Service Authority routinely monitors water supplies. The Executive Director of the Giles County PSA will notify the governing body of Pearisburg when water supply conditions approach or pass the indicators developed in the New River Valley's Regional Water Supply Plan. At such time as the governing body is informed of an imminent water supply emergency, it will authorize the town manager to manage said water supply emergency.

Upon declaration of a water emergency, the town manager official shall immediately post a written notice of the emergency at the front door of the administration building and shall place a notice in a newspaper of general circulation in the area in which such emergency has been declared. Such notice shall be published in the Virginian Leader and the New River section of the Roanoke Times and shall further be included in the water bills rendered to each customer of the town.

The town manager will coordinate with the GCPSA executive director to notify customers of necessary voluntary or mandatory water use restrictions, as outlined in the New River Valley's Regional Water Supply Plan. In exercising this discretionary authority, the PSA executive director and town manager shall give due consideration to water levels, available/usable storage on hand, draw down rates, and the projected supply capability, system purification and pumping capacity, daily water consumption and consumption projections of the system's customers, prevailing and forecast weather conditions, fire service requirements, pipeline conditions including breakages, stoppages and leaks, supplementary source data, estimates of minimum essential supplied to preserve public health and safety and such other data pertinent to the past, current and projected water demands.

Upon determination of a water supply emergency, the town manager and the PSA director shall collaborate on a set of water conservation measures to be observed by residents of Pearisburg. Contained in the New River Valley's Regional Water Supply Plan are a set of example measures that could be implemented at each phase of water supply emergency or drought.

Jointly, the town manager and GCPSA executive director shall notify the Pearisburg Town Council when the indicators have been met that the water emergency situation no longer exists. Upon concurrence of the governing body, the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public through the news media and further shall be included in the water bills rendered to each customer of the town.

Any person, firm, corporation, or other entity violating a mandatory water conservation measure shall be guilty of a misdemeanor and subject to a fine in the amount of \$100.00 which fine shall be pre-payable in the Giles County General District Court and shall also be subject to a surcharge for excessive water usage over and above the average monthly usage for such class of customers.

(Ord. No. 11-02, § 1, 4-12-11)

Editor's note—Ord. No. 11-02, § 1, adopted April 12, 2011, repealed former § 74-195 and enacted a new section as set out herein. The former section pertained to similar subject matter and derived from Ord. No. 02-06, 11-12-02.

Secs. 74-196—74-220. Reserved.

DIVISION 2. CONNECTIONS; CHARGES

Sec. 74-221. Water connection fee inside and outside town.

(a) Before the installation of any water meter inside town, the owner of the property to be supplied with water or the water consumer shall pay \$500.00 for a three-fourths-inch or less connection as the fee for connecting the property in question with the town water main and the pipe running from such main to the property in question.

(b) Before the installation of any water meter outside the town, the owner of the property to be supplied with water or the water consumer shall pay \$875.00 for a three-fourths-inch or less connection as the fee for connecting the property in question with the town water main and the pipe running from such main to the property in question.

(c) Before the installation of any water meter inside the town, where the tap is in excess of three-fourths-inch, the owner of the property to be supplied with water or the water consumer shall pay for all costs plus ten percent of construction, materials, labor and equipment used.

(d) Before the installation of any water meter outside the town, where the tap is in excess of three-fourths-inch, the owner of the property to be supplied with water or the water consumer shall pay for all costs plus ten percent of construction materials, labor and equipment used, plus a 75 percent surcharge.

(Code 1979, § 28-4; Ord. No. 92-05, § 1, 6-9-92; Ord. No. 06-05, § 1, 6-27-06)

Sec. 74-222. Deposit prerequisite to service.

(a) Before water is supplied either inside or outside of the town, the customer shall deposit \$150.00 with the treasurer of the town, who shall record such deposit in the name of the consumer. In addition, a non-refundable administrative fee of \$25.00 shall be collected from all occupants of rental property in the town.

(b) The deposit shall be paid to the consumer when the use of water is discontinued provided the consumer has paid all water and sewer charges and other charges to the date the water use is discontinued and that the consumer is not liable to the town for any unpaid taxes, otherwise the amount of water and sewer charges or other charges and taxes shall be deducted from the deposit to be paid.

(Code 1979, § 28-5; Ord. No. 93-12, § 1, 8-10-93; Ord. No. 00-01, § 1, 6-27-00; Ord. No. 12-05, § 1, 8-14-12; Ord. No. 2016-03, § 1, 7-12-16)

Sec. 74-223. Only one building furnished with water to be connected to one water meter or service connection.

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

(Code 1979, § 28-6)

Sec. 74-224. Charges for water supplied by town inside town.

For each billing period, the minimum charge shall be \$22.00 for up to 2,500 gallons of water used, plus an additional charge as follows for water used in excess of 2,500 gallons:

<i>Gallons</i>	<i>Charge / 1,000 gallons</i>
2,501—150,000	\$5.85
150,001—500,000	5.30
500,001 or more	5.05

(Code 1979, § 28-7; Ord. No. 82-28, § 1, 6-22-82; Ord. No. 93-06, § 1, 6-8-93; Ord. No. 97-08, § 1, 6-23-97; Ord. No. 98-06, § 1, 6-30-98; Ord. No. 99-04, § 1, 6-17-99; Ord. No. 02-02, § 1, 6-25-02; Ord. No. 05-02, § 1, 6-28-05; Ord. No. 06-01, § 1, 6-27-06; Ord. No. 07-04, § 1, 6-26-07; Ord. No. 08-03, § 1, 6-24-08; Ord. No. 09-02, § 1, 6-23-09; Ord. No. 13-01, § 1, 6-25-13)

Sec. 74-225. Charges for water supplied by town outside the town generally.

Subject to section 74-221, subscribers to town water service outside the town, except Giles High School, shall pay, in addition to the rates set out in section 74-84, a 75 percent surcharge on all water bills.

(Code 1979, § 28-8)

Sec. 74-226. Due date and penalty date of bills; discontinuance of service upon failure to pay.

(a) If any water service charge provided for in this article is not paid on or before the last day of the month of the date of billing, there shall be added to the charge a penalty of ten percent of the amount to be paid along with the charge.

(b) If any water charge and penalty provided for in this article is not paid within ten days of the penalty date, the water to the consumer so in default of payment of the charge and penalty for water service shall be disconnected at the water meter.

(Code 1979, § 28-9; Ord. No. 94-06, § 1, 6-14-94; Ord. No. 97-06, § 1, 6-23-97)

Sec. 74-227. Reconnection charge when water service has been disconnected for failure to pay water charges.

When any water service has been disconnected because of the consumer's failure to pay the water service charge and penalty, the consumer shall pay a fee of \$35.00 for having such water supply reconnected; except, that when water service is disconnected at the same time for the consumer's failure to pay the sewer service charge and penalty, only one reconnection fee of \$35.00 shall be paid by the consumer.

(Code 1979, § 28-10; Ord. No. 91-01, § 1(28-10), 3-12-91; Ord. No. 02-07, § 1, 12-10-02)

Sec. 74-228. Charges for water supplied wholesale by town to Fairview Acres Community Improvement Company.

For water supplied wholesale by the town to Fairview Acres Community Improvement Company for use outside the town, the charge shall be equal to the most current charge for sale of water wholesale by Giles County Public Service Authority to Giles County.

(Code 1979, § 28-11; Ord. No. 89-09, § 1, 6-20-89; Ord. No. 91-03, § 1, 5-14-91; Ord. No. 92-07, § 1, 6-9-92; Ord. No. 93-07, § 1, 6-8-93; Ord. No. 94-05, § 1, 6-14-94; Ord. No. 97-05, § 1, 6-23-97; Ord. No. 98-07, § 1, 6-30-98; Ord. No. 99-05, § 1, 6-17-99; Ord. No. 02-03, § 1, 6-25-02; Ord. No. 06-03, § 1, 6-27-06)

Sec. 74-229. Mandatory water connection.

No person, being the owner or having the right of possession of a residential structure or other building located within 300 feet of a public water main, shall use or allow such residential structure or building to be used for human habitation, for any business or for any

other purpose, or occupy or lease for occupancy, until such structure or building shall have first been connected with the public water distribution system of the town in such a manner as to provide water service to the residential structure or other building.

(Ord. No. 95-02, § 1, 5-11-95)

Secs. 74-230—74-250. Reserved.

DIVISION 3. CROSS CONNECTION CONTROL

Sec. 74-251. Purpose.

The purpose of this division is to eliminate cross connections and protect the public health. This division provides for establishment and enforcement of a program of cross connection control and backflow prevention in accordance with the State Board of Health, Waterworks Regulations 1993, or as amended.

(Ord. No. 96-05, § 1(28-12), 6-11-96)

Sec. 74-252. Administration.

(a) The town engineer or other person designated by the town manager shall administer and enforce the provisions of this division under the direction of the town manager.

(b) It shall be the duty of the town engineer or other person designated by the town manager to cause inspections to be made of properties served by the waterworks if deemed possible. The method of determining potential cross connection with the waterworks and the administrative procedures shall be established by the town in a cross connection control program approved by the state department of health, division of water supply engineering.

(Ord. No. 96-05, § 1(28-13), 6-11-96)

Sec. 74-253. Enforcement.

(a) *Town's right of entry.* The town shall have the right to enter, at any reasonable time, premises served by a connection to the waterworks for the purpose of inspecting, observing, sampling and testing the consumer's water supply system or systems for a cross connection. Upon request, the owner or occupants of property served shall furnish to the town pertinent information regarding the consumer's system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of a cross connection.

(b) *Notice of violation.* Any consumer's water supply system owner found to be in violation of any provision of this division shall be served a written notice of violation sent certified mail to the consumer's water supply system owner's last known address, stating the nature of the violation and corrective action required, and providing a reasonable time limit, not to exceed 30 days, from the date of receipt of the notice of violation, to bring the consumer's water supply system into compliance with this division.

(c) *Penalties.* Any owner of properties served by a connection to the waterworks found guilty of violating any of the provisions of this division, or any written order of the town in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$500.00 for each violation. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation for the purposes of this division.
(Ord. No. 96-05, § 1(28-14), 6-11-96)

Sec. 74-254. 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:

Air gap means the unobstructed vertical distance through the free atmosphere between the lowest point of the potable water outlet and the rim of the receiving vessel.

Auxiliary water system means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

Backflow means the flow of water or other liquids, mixtures or substances into the distribution piping of a waterworks from any source or sources other than its intended source.

Backflow prevention by separation means preventing backflow by either an air gap or by physical disconnection of a waterworks by the removal or absence of pipes, fittings or fixtures that connect a waterworks directly or indirectly to a nonpotable system or one of questionable quality.

Backflow prevention device means any approved device intended to prevent backflow into a waterworks.

Backpressure backflow means backflow caused by pressure in the downstream piping which is superior to the supply pressure at the point of consideration.

Backsiphonage backflow means backflow caused by a reduction in pressure which causes a partial vacuum creating a siphon effect.

Consumer means a person who drinks water from a waterworks.

Consumer's water supply system means the water service pipe, water distributing pipes, and necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the building or premises.

Containment means the prevention of backflow into a waterworks from a consumer's water supply system by installing an appropriate backflow prevention device or by backflow prevention by separation at the service connection.

Contaminant means any objectionable or hazardous physical, chemical, biological or radiological substance or matter in water.

Cross connection means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard means either a high, moderate or low hazard based on the nature of the contaminant; the potential health hazard; the probability of the backflow occurrence; the method of backflow either by backpressure or by backsiphonage; and the potential effect on waterworks structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water.

Distribution main means a water main whose primary purpose is to provide treated water to service connections.

Division means the state department of health, office of water programs, division of water supply engineering.

Domestic use or usage means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

Double gate-double check valve assembly means an approved assembly designed to prevent backsiphonage or backpressure backflow and used for moderate or low hazard situations, composed of two independently operating, spring-loaded check valves, tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks.

Entry point means the place where water from the source is delivered to the distribution system.

Health hazard means any condition, device or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

Isolation means the prevention of backflow into a waterworks from a consumer's water supply system by a backflow prevention device or by backflow prevention by separation at the sources of potential contamination in the consumer's water supply system. This is also called "point of use isolation." Isolation of an area or zone within a consumer's water supply system confines the potential source of contamination to a specific area or zone. This is called "area or zone isolation."

Maximum contaminant level means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a waterworks, except in the cases of turbidity and VOC's, where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. Maximum contaminant levels may be either "primary" (PMCL) meaning based on health considerations or "secondary" (SMCL) meaning based on aesthetic considerations.

Plumbing fixture means a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, waste materials, or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.

Pollution means the presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Premises means a piece of real estate; house or building and its land.

Pressure vacuum breaker means an approved assembly designed to prevent backsiphonage backflow and used for high, moderate or low hazard situations, composed of one or two independently operating, spring-loaded check valves; an independently operating, spring-loaded air-inlet valve; tightly closing shutoff valves located at each end of the assembly; and fitted with properly located test cocks.

Process fluids means any kind of fluid or solution which may be chemically, biologically or otherwise contaminated or polluted which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes but is not limited to:

- (1) Polluted or contaminated water;
- (2) Process waters;
- (3) Used water, originating from the waterworks which may have deteriorated in sanitary quality;
- (4) Cooling waters;
- (5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems;
- (6) Chemicals in solution or suspension; and
- (7) Oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes, or for firefighting purposes.

Pure water or potable water means water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

Reduced pressure principle backflow prevention device (RPZ device) means an approved assembly designed to prevent backsiphonage or backpressure backflow used for high, moderate or low hazard situations, composed of a minimum of two independently operating, spring-loaded check valves together with an independent, hydraulically operating pressure differential relief valve located between the two check valves. During normal flow and at the

cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the assembly and be fitted with properly located test cocks.

Service connection means the point of delivery of water to a customer's building service line as follows:

- (1) If a meter is installed, the service connection is the downstream side of the meter.
- (2) If a meter is not installed, the service connection is the point of connection to the waterworks.
- (3) When the water purveyor is also the building owner, the service connection is the entry point to the building.

System hazard means a condition posing a threat of or actually causing damage to the physical properties of the waterworks or a consumer's water supply system.

Used water means any water supplied by a water purveyor from the waterworks to a consumer's water supply system after it has passed through the service connection.

Water supply means the water that shall have been taken into a waterworks from all wells, streams, springs, lakes and other bodies of surface water (natural or impounded), and the tributaries thereto, and all impounded groundwater; but the term "water supply" shall not include any waters above the point of intake of such waterworks.

Waterworks means a system that serves piped water for drinking or domestic use to the public, at least 15 connections, or an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

Waterworks owner or *water purveyor* means an individual, group of individuals, partnership, firm, association, institution, corporation, government entity, or the federal government which supplies or proposes to supply water to any person within this state from or by means of any waterworks.

(Ord. No. 96-05, § 1(28-15), 6-11-96)

Cross reference—Definitions generally, § 1-2.

Sec. 74-255. Responsibilities of the town.

(a) The cross connection control and backflow prevention program shall be carried out in accordance with the state board of health waterworks regulations and shall as a minimum provide containment of potential contaminants at the consumer's service connection.

(b) The town has full responsibility for water quality and for the construction, maintenance and operation of the waterworks beginning at the water source and ending at the service connection.

(c) The owner of the property served and the town have shared responsibility for water quality and for the construction, maintenance and operation of the consumer's water supply system from the service connection to the free flowing outlet.

(d) The town shall, to the extent of its jurisdiction, provide continuing identification and evaluation of all cross connection hazards. This will include an assessment of each consumer's water supply system for cross connections to be followed by the requirement, if necessary, of installation of a backflow prevention device or separation. Assessments shall be performed at least annually.

(e) In the event of the backflow of pollution or contamination into the waterworks, the town shall promptly take or cause corrective action to confine and eliminate the pollution or contamination. The town shall report to the appropriate state department of health office of water programs field office in the most expeditious manner (usually by telephone) when backflow occurs and shall submit a written report by the tenth day of the month following the month during which backflow occurred addressing the incident, its causes, affects, and preventative or control measures required or taken.

(f) The town shall take positive action to ensure that the waterworks is adequately protected from cross connections and backflow at all times. If a cross connection exists or backflow occurs into a consumer's water supply system or into the waterworks or if the consumer's water supply system causes the pressure in the waterworks to be lowered below ten psi gauge, the town may discontinue the water service to the consumer and water service shall not be restored until the deficiencies have been corrected or eliminated to the satisfaction of the town.

(g) In order to protect the occupants of a premises, any cross connection beyond the service connection should be eliminated by application of an appropriate backflow prevention device or separation. Appropriate backflow prevention device or separation should be applied at each point of use and/or applied to the consumer's water supply system, isolating an area which may be a health or polluttional hazard to the consumer's water supply system or to the waterworks.

(h) Records of backflow prevention devices, separations and the consumer's water supply systems, including inspection records, records of backflow incidents, and records of device tests shall be maintained by the town for ten years.

(Ord. No. 96-05, § 1(28-16), 6-11-96)

Sec. 74-256. Preventative and control measures for containment.

(a) *Service line protection.* Backflow prevention devices shall be installed at the service connection to a consumer's water supply system where, in the judgment of the town, a health or polluttional hazard to the consumer's water supply system or to the waterworks exists or may exist.

(b) *Special conditions.*

- (1) When, as a matter of practicality, the backflow prevention device cannot be installed at the service connection or backflow prevention by separation can be applied downstream of the service connection, the device or separation may be located downstream of the service connection but prior to any unprotected takeoffs.
- (2) Where all actual or potential cross connections can be easily correctible at each point of use and where the consumer's water supply system is not intricate or complex, point of use isolation protection by application of an appropriate backflow prevention device or backflow prevention by separation may be used at each point of use in lieu of installing a containment device at the service connection.

(c) *Conditions requiring prevention.* A backflow prevention device or backflow prevention by separation shall be installed at each service connection to a consumer's water supply system serving premises where the following conditions exist:

- (1) Premises on which any substance is handled in such a manner as to create an actual or potential hazard to a waterworks (this shall include premises having sources or systems containing process fluids or waters originating from a waterworks which are no longer under the control of the waterworks owner).
- (2) Premises having internal cross connections that, in the judgment of the town, may not be easily correctible or intricate plumbing arrangements which make it impractical to determine whether or not cross connections exist.
- (3) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make an evaluation of all cross connection hazards.
- (4) Premises having a repeated history of cross connections being established or reestablished.
- (5) Other premises specified by the town where cause can be shown that a potential cross connection hazard not enumerated above exists.

(d) *Premises with booster or fire pumps.* Premises having booster pumps or fire pumps connected to the waterworks shall have the pumps equipped with a pressure sensing device to shut off or regulate the flow from the booster pump when the pressure in the waterworks drops to a minimum of ten psi gauge at the service connection.

(e) *Special conditions requiring prevention.* An approved backflow prevention device or backflow prevention by separation shall be installed at each service connection to a consumer's water supply system or installed under subsection (b) of this section serving but not necessarily limited to the following types of facilities:

- (1) Hospitals, mortuaries, clinics, veterinary establishments, nursing homes, and medical buildings.
- (2) Laboratories.
- (3) Sewage treatment plants, sewage pumping stations, or stormwater pumping stations.

- (4) Food and beverage processing plants.
- (5) Chemical plants, dyeing plants and pharmaceutical plants.
- (6) Metal plating industries.
- (7) Petroleum or natural gas processing or storage plants.
- (8) Radioactive materials processing plants or nuclear reactors.
- (9) Car washes and laundries.
- (10) Lawn sprinkler systems, irrigation systems.
- (11) Fire service systems.
- (12) Slaughterhouses and poultry processing plants.
- (13) Farms where the water is used for other than household purposes.
- (14) Commercial greenhouses and nurseries.
- (15) Health clubs with swimming pools, therapeutic baths, hot tubs or saunas.
- (16) Paper and paper products plants and printing plants.
- (17) Pesticide or exterminating companies and their vehicles with storage or mixing tanks.
- (18) Schools or colleges with laboratory facilities.
- (19) Multiuse commercial, office, or warehouse facilities.
- (20) Others specified by the town when reasonable cause can be shown for a potential backflow or cross connection hazard.

(f) *Systems with separate connections.* Where lawn sprinkler systems, irrigation systems or fire service systems are connected directly to the waterworks with a separate service connection or with a separate connection, a backflow prevention device or backflow prevention by separation shall be installed at the service connection or installed under subsection (b)(1) of this section or otherwise installed to protect the waterworks.

(Ord. No. 96-05, § 1(28-17), 6-11-96)

Sec. 74-257. Type of protection required.

(a) The type of protection required shall depend on the degree of hazard which exists or may exist.

(b) The degree of hazard, either high, moderate or low, is based on the nature of the contaminant; the potential health hazard; the probability of the backflow occurrence; the method of backflow either by backpressure or by backsiphonage; and the potential effect on waterworks structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water.

(c) Section 74-260 shall be used as a guide to determine the degree of hazard for any situation.

- (1) Backflow prevention by separation gives the highest degree of protection and shall be used whenever practical to do so in high-hazard situations subject to backpressure.
 - (2) Backflow prevention by separation and a reduced pressure principle backflow prevention device will protect against backpressure when operating properly.
 - (3) Pressure vacuum breakers will not protect against backpressure but will protect against backsiphonage when operating properly. Pressure vacuum breakers may be used in low, moderate or high hazard situations subject to backsiphonage only.
 - (4) A double gate-double check valve assembly shall not be used in high hazard situations.
 - (5) Barometric loops are not acceptable.
 - (6) Interchangeable connections or changeover devices are not acceptable.
- (Ord. No. 96-05, § 1(28-18), 6-11-96)

Sec. 74-258. Backflow prevention devices and backflow prevention by separation.

(a) Backflow prevention devices include the reduced pressure principle backflow prevention assembly, the double gate-double check valve assembly, and the pressure vacuum breaker assembly.

(b) A backflow prevention device shall be a containment type as described above. Backflow prevention by separation shall be an air gap or physical disconnection. The minimum air gap shall be twice the effective opening of a potable water outlet unless the outlet is a distance less than three times the effective opening away from a wall or similar vertical surface, in which case the minimum air gap shall be three times the effective opening of the outlet. In no case shall the minimum air gap be less than one inch.

(c) Backflow prevention devices shall be of the approved type and shall comply with the most recent American Water Works Association Standards and shall be approved for containment by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research.

(d) Backflow prevention devices shall be installed in a manner approved by the town and in accordance with the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research recommendations and the manufacturer's installation instructions. Vertical or horizontal positioning shall be as approved by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research.

(e) Existing backflow prevention devices approved by the town prior to the effective date of Ordinance No. 96-05 shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of subsections (c) and (d) of this section if the town is assured that the devices will protect the waterworks.

(f) For the purpose of application to subsection 74-256(b)(2), point of use isolation devices or separations shall be as specified by the town where reasonable assurance can be shown that the device or separation will protect the waterworks. As a minimum, point of use devices should bear an appropriate American Society of Sanitary Engineering Standard Number. See the Cross Connection Control Program, Appendix A, for Isolation Device Application.

(g) Backflow prevention devices with openings, outlets or vents that are designed to operate or open during backflow prevention shall not be installed in pits or areas subject to flooding. (Ord. No. 96-05, § 1(28-19), 6-11-96)

Sec. 74-259. Maintenance and inspection requirements.

(a) It shall be the responsibility of the consumer's water supply system owner(s) to maintain all backflow prevention devices or separations installed in accordance with section 74-256 in good working order and to make no piping or other arrangements for the purpose of bypassing or defeating backflow prevention devices or separations.

(b) Operational testing and inspection schedules shall be established by the town as outlined in the cross connection control program for all backflow prevention devices and separations which are installed at the service connection or installed under special conditions, section 74-256. The interval between testing and inspection of each device shall be established in accordance with the age and condition of the device and the device manufacturer's recommendations. Backflow prevention device and separation inspection and testing intervals shall not exceed one year.

(c) Containment devices shall be overhauled on a schedule in accordance with the age and condition of the device. Overhaul procedures and replacement parts shall be in accordance with the manufacturer's recommendations.

(d) Containment device testing procedures shall be in accordance with the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, Backflow Prevention Assembly Field Test Procedure, and the manufacturer's instructions. (Ord. No. 96-05, § 1(28-20), 6-11-96)

Sec. 74-260. Determination of degree of hazard.

Premises with one or more of the following conditions shall be rated at the corresponding degree of hazard:

(1) *High hazard:*

- a. The potential contaminant is toxic, poisonous, noxious or unhealthy.
- b. A health hazard would exist.
- c. A high probability exists of a backflow occurrence either by backpressure or by backsiphonage.
- d. The contaminant would disrupt the service of piped water for drinking or domestic use.

- e. Examples: Sewage, used water, nonpotable water, auxiliary water systems and toxic or hazardous chemicals.

(2) *Moderate hazard:*

- a. The contaminant would only degrade the quality of the water aesthetically or impair the usefulness of the water.
- b. A health hazard would not exist.
- c. A moderate probability exists of a backflow occurrence either by backpressure or by backsiphonage.
- d. The contaminant would not seriously disrupt service of piped water for drinking or domestic use.
- e. Examples: Foodstuffs, nontoxic chemicals and nonhazardous chemicals.

(3) *Low hazard:*

- a. The contaminant would only degrade the quality of the water aesthetically.
- b. A health hazard would not exist.
- c. A low probability exists of the occurrence of backflow.
- d. Backflow would only occur by backsiphonage.
- e. The contaminant would not disrupt service of piped water.
- f. Examples: Foodstuffs, nontoxic chemicals and nonhazardous chemicals.

(Ord. No. 96-05, § 1(table 1), 6-11-96)

Secs. 74-261—74-280. Reserved.

DIVISION 4. SEWERAGE SYSTEM

Sec. 74-281. Sewer connection charge.

All owners of property in the town desiring to connect such property with the sanitary sewers of the town shall pay a sewer connection charge of \$400.00. Such sewer connection charge shall be paid to the town treasurer at the time sewer connection is made.

(Code 1979, § 22-13; Ord. No. 92-06, § 1, 6-9-92; Ord. No. 06-06, § 1, 6-27-06)

Sec. 74-282. Maintenance of and title to service line.

That portion of the sewer service line which is located within a street or alley in the town shall, after construction, be repaired and maintained by the town and shall become the property of the town.

(Code 1979, § 22-14)

Sec. 74-283. Permit prerequisite to connection.

The owner of property lying outside the town who desires to connect such property with the town sewerage system shall obtain a permit to do so from the town manager.

(Code 1979, § 22-15)

Sec. 74-284. Supervision of work done in connecting.

The work done in connecting property outside of the town with the town sewerage system shall be done under the supervision of the town manager and in accordance with this article.

(Code 1979, § 22-16)

Sec. 74-285. Connection charge.

Each owner of property outside of the town connecting such property with the sewerage system of the town shall pay a connection fee equal to 175 percent of the fee assessed to town customers in section 74-307.

(Code 1979, § 22-17; Ord. No. 92-06, § 2, 6-9-92)

Sec. 74-286. Use of garage intercepting basin when connecting certain drainage to public sewer.

The sewer from any floor drain, surface drain, put drain or sink in any garage for the purpose of storage, servicing or repair of motor vehicles or in any open service station which may receive oil or grease, sand or mud, shall not be connected to the public sewer system except through an approved garage intercepting basin. Such basin shall be adequately maintained by the owner of the property in question.

(Code 1979, § 22-20)

Sec. 74-287. Introduction of industrial waste or effluence to sanitary sewer system.

Industrial waste or effluence shall not be introduced to the sanitary sewer system by any property owner, or by the tenant of any property, until a permit to do so has been secured from the town manager. Any person desiring a permit as so required shall make application therefor to the town manager, which application shall contain such information as may be required by the town manager. Upon approval of such application by the town manager, the town manager shall issue to the applicant a permit indicating the terms upon which the holder of the permit may introduce industrial waste or effluence to the sanitary sewer system.

(Code 1979, § 22-21)

Sec. 74-288. Method of connecting to public sewer.

(a) *Inlet to public sewer.* In making a connection to the town sewer system, an inlet to the public sewer will be furnished by the town upon application for service. Such inlet shall be furnished at the location desired by the property owner, unless a Y-branch has been previously

installed in front of the lot for which service is requested, in which case such Y-branch shall be used unless such use is found to be impracticable by the town manager. Connection to an existing Y shall be made with a standard bend acceptable to the town manager.

(b) *Making of tap by town.* No person may at any time tap or puncture in any way a main line of the public sewer system. When installing a sewer service line, the ditch shall be opened to the public sewer, the public sewer shall be uncovered and cleaned off, and the town manager notified. The town manager will then make the tap, furnishing all necessary cut-ins, Y-branches, labor and materials, after which the line may be connected.

(c) *Permits prerequisite to opening ditch; observance of state requirements as to backfilling.* All necessary permits shall be secured from the state department of transportation or the town before the opening of a ditch in a public street for making a sewer connection, and all requirements of the state department of transportation or the town shall be observed in backfilling and replacing pavement after the service line is completed.

(Code 1979, §§ 22-22—22-24)

Sec. 74-289. Sewer service charge in town.

For each billing period, the minimum charge shall be \$21.00 for up to 2,500 gallons of water used, plus an additional charge of \$5.55 for each 1,000 gallons used in excess of 2,500 gallons up to 100,000 gallons and for each 1,000 gallons used in excess of 100,000 gallons an additional charge of \$5.15. All billings shall be monthly and for water used.

(Code 1979, § 22-25; Ord. No. 82-29, § 1, 6-22-82; Ord. No. 86-05, § 1, 7-8-86; Ord. No. 89-03, § 1, 2-14-89; Ord. No. 93-05, § 1, 6-8-93; Ord. No. 96-08, § 1, 6-24-96; Ord. No. 97-07, § 1, 6-23-97; Ord. No. 00-01, § 1, 6-27-00; Ord. No. 01-04, § 1, 6-26-01; Ord. No. 02-01, § 1, 6-25-02; Ord. No. 03-01, § 1, 6-24-03; Ord. No. 05-03, § 1, 6-28-05; Ord. No. 06-02, § 1, 6-27-06; Ord. No. 07-03, § 1, 6-26-07; Ord. No. 12-04, § 1, 6-26-12)

Sec. 74-290. Sewer service charges outside town.

Subscribers to town sewer service outside the town, except Giles High School, shall pay, in addition to the rates set out in section 74-431, a 75 percent surcharge on all sewer bills.

(Code 1979, § 22-26)

Sec. 74-291. Penalty for failure to pay sewer service charge by 20th day of month after billing.

If any sewer service charge provided for in this division is not paid on or before the 20th day of the month following the date of billing, there shall be added to the charge a penalty of five percent of the amount of the charge to be paid along with the charge.

(Code 1979, § 22-27)

Sec. 74-292. Disconnection of water supply for failure to pay sewer service charge.

If any sewer service charge and penalty provided for in this division is not paid within 30 days of the date of billing, the water supply to the consumer so in default of payment of the

charge and penalty for sewer service shall be disconnected at the water meter. When any water service has been disconnected because of the consumer's failure to pay the sewer service charge and penalty, the consumer shall pay a fee of \$20.00 for having such water supply reconnected; except that when water service is disconnected at the same time for the consumer's failure to pay the water service charge and penalty, only one reconnection fee of \$20.00 shall be paid. (Code 1979, § 22-28; Ord. No. 91-01, § 1(22-28), 3-12-91)

Sec. 74-293. Enforcement of payment for sewer service charges.

The payment of sewer service charges may be enforced in the same manner and to the same extent and with the same rights as exist or may hereafter be provided by law for the enforcement of claims or demands between individuals. Proceedings for the enforcement of sewer service charges shall be instituted and conducted in the name of the town or in the same manner in which taxes are collected.

(Code 1979, § 22-29)

Sec. 74-294. Liability of property owner for unpaid sewer service charges; lien for unpaid sewer service charges.

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

(Code 1979, § 22-30)

ATTACHMENT A OIL AND GREASE INSPECTION

Town of Pearisburg
112 Tazewell Street
Pearisburg, VA 24134
(540) 921-0340

Business Owners/Managers

Re: Fats, Oil and Grease Permitting

Dear Sir:

In accordance with the provisions of the Town of Pearisburg Sewer Use Ordinance adopted _____ or as amended and, other lawful standards and regulations promulgated and adopted by the Town of Pearisburg, it has been decided that all Businesses, which require the use of a grease interceptor, be permitted.

Information about the Fats, Oil and Grease Program has been enclosed, along with copies of forms and a draft permit.

An informational meeting for the discussion of the permit requirements will be held on (enter date) in the Council Chambers at the Municipal building. Please bring the enclosed information and have a member of Management attend this meeting.

If you have any questions, please feel free to contact the Town Manager at (540) 921-0340.

**Fats, Oil and Grease Interceptor
Maintenance and Permitting Program
Introduction:**

Fats, oils, and greases (FOG) are problem substances in wastewater that can be effectively controlled by properly maintained interceptors. Correct grease interceptor maintenance will lower the high number of grease stoppages in the Town of Pearisburg collection system.

Past Town regulations required that grease and oil interceptors be installed at retail establishments but there were no requirements for maintaining those interceptors. The frequent grease stoppages in the Town of Pearisburg sewerage system indicates many grease traps are not properly maintained. The Town of Pearisburg now requires that all food service operations be permitted and maintain a properly sized grease and oil interceptor to keep excess oil and grease out of the sanitary sewerage system. Preventing FOG from entering the sewerage system not only reduces the sewer line maintenance but also benefits the wastewater treatment plant. The plant's microbiological treatment processes more effectively remove pollutants when not inhibited by high oil and grease concentrations. Oil and grease itself is difficult for treatment microorganisms to digest and therefore is only partially removed from

wastewater. FOG contribute significantly to the sometimes uncontrollable foaming problems experienced at the plant. Grease build up is also a treatment plant and lift station maintenance problem.

Who Must Comply:

All facilities preparing, processing, or serving food and/or food products. Also included are all industrial or commercial establishments discharging liquid wastes with fat, oil and/or grease, and flammable wastes in excess of 100 mg/l. There is no grandfather clause.

What Must Be Done:

A facility meeting the above criteria must possess a Discharge permit and maintain a properly sized oil and grease interceptor.

An oil and grease interceptor already in place must be properly sized. Otherwise, the interceptor must be replaced or improved to meet the Town requirements. The Town of Pearisburg manager or delegated staff will determine by inspection if the existing interceptor is properly sized.

An existing facility without a grease interceptor must contact the Town of Pearisburg manager to determine the proper size interceptor for the facility and then install an approved interceptor. All applicable local plumbing and construction codes should be followed during interceptor installation.

To maintain the properly sized interceptor:

A facility must clean the interceptor completely as needed or a minimum of once every thirty days for in ground interceptors. Under the sink interceptors must be cleaned daily. The Town may require more frequent cleaning if conditions warrant.

A facility must keep interceptor-cleaning records on file that indicate: owner or manager of the facility, and the name of firm performing the cleanout. These records must be on the premises and readily available for inspection. Also these records are to be submitted to the Town Manager on a monthly basis on the form that is provided by the Town.

Emulsifier use is prohibited since emulsifiers will seriously reduce interceptor efficiency.

Hot water flushing to clear interceptor is prohibited.

Grease Interceptor Specifications:

The following oil and grease interceptor criteria shall be met:

Design criteria are available from the Town of Pearisburg Manager. All local plumbing and construction codes should be followed during interceptor installation.

All facilities meeting the criteria must comply with these regulations. The Town of Pearisburg will conduct inspections to assure compliance.

For Further Information Contact:

Town Manager, Town of Pearisburg at (540) 921-0340.

SPECIAL USE PERMIT #

For the discharge of commercial and/or kitchen waste to the sanitary sewer system of the Town of Pearisburg through a grease interceptor.

In accordance with the provisions of the Town of Pearisburg Sewer Use Ordinance adopted _____ or as amended, and other lawful standards and regulations promulgated and adopted by the Town of Pearisburg, is hereby authorized to discharge wastewater through a grease interceptor from a facility located at _____, into the sanitary Sewers of the Town of Pearisburg, Virginia in accordance with the requirements of this permit and other conditions set forth.

This permit shall become effective at 12:01 AM on the day of _____.

This permit and the authorization to discharge shall expire at 12:01 AM on the day of _____.

Signed this the _____ Day of _____.

Town Manager _____

Part I Permit No.**Discharge Limitations:**

There shall be no discharge of floating oil/grease (mineral or animal), gasoline, cleaning solvents, or any petroleum products, or any toxic pollutants. Oil and grease concentrations shall not exceed 100 mg/l in the discharge.

Wastes removed from grease interceptors shall not be discharged into the publicly owned sanitary sewer. The owner shall be responsible for the sanitary disposal of such wastes. All such interceptors shall be serviced and emptied of the waste content as required for their efficient operation, but not less often than every thirty (30) days for in ground traps, in order to maintain their minimum design capability to intercept oils and greases from wastewater discharged to the publicly owned sanitary sewer. Failure to comply can result in the implementation of the enforcement procedures in Article IX of the Sewer Use Ordinance.

Monitoring Requirements:

To assure that none of the pollutants mentioned above enters the Town's Sanitary Sewer System, Permittee Must:

1-Install, operate and maintain an oil and grease interceptor.

2-A facility must keep interceptor-cleaning records on a file a minimum of three (3) years. The following information must be maintained and sent to the Town Manager on a monthly basis:

receipt for job performed signed by Contractor, clean out date, signed by owner or manager of the facility, name of firm performing the clean out, disposal method for and destination of material removed.

Part II

Permit No.

General Conditions

A - Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Town Code and is grounds for possible enforcement action. The permittee shall comply of the general prohibitive standards in the Town's Sewer Use Ordinance.

B - Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible, all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this provided for and in accordance with the requirements set forth by this permit.

C - Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner to prevent pollutants from those materials from entering the sewer system.

D - Right of Entry

The permittee shall allow the staff of the Town of Pearisburg and/or their authorized representatives, upon presentation of credentials:

1 - To enter upon the permittee's premises where a real or potential discharge is located or in which records are required to be kept under terms and conditions of the permit; and

2 - At reasonable times to have access to and copy records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

E - Availability of Records

Except for the data determined to be confidential under the Code, all reports prepared in accordance with the terms of this permit shall be available for influence at the Town of Pearisburg as required by the Code. Effluent data shall not be considered confidential.

F - Transferability

This wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

G - Duty to Provide Information

The permittee shall furnish to the Town Manager or his Designee, within a reasonable time, any information which the Town Manager or his Designee, may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of records to be kept by this permit.

H - Penalties for Violations of Permit Conditions

Any person who is found to have violated or failed to comply with any provision of the Town or Pearisburg Sewer Use Ordinance and/or this permit is subject to civil and criminal penalties as provided by the Town of Pearisburg Sewer Use Ordinance.

I - Permit Modification, Revocation, Termination

This permit shall be modified, revoked and reissued or terminated with cause in accordance to the requirements of the Town of Pearisburg Sewer Use Ordinance.

FACILITY NAME:_____

FACILITY ADDRESS:_____

FACILITY PHONE NUMBER:_____

REPORTING MONTH AND YEAR:_____

RECEIPT OF JOB PERFORMED SIGNED BY CONTRACTOR:_____

CLEAN OUT DATE:_____

OWNER OR MANAGER OF THE FACILITY:_____

NAME OF FIRM PERFORMING THE CLEANOUT:_____

DISPOSAL METHOD:_____

DESTINATION OF MATERIAL REMOVED:_____

AUTHORIZED SIGNATURE:_____

***THIS WILL BE PRESENTED TO YOUR BUSINESS IN A BOOKLET FORM AND WILL BE SENT TO THE TOWN MANAGER'S OFFICE ON A MONTHLY BASIS.**

THE TOWN OF PEARISBURG
OIL AND GREASE TRAP INTERCEPTOR
YEARLY MAINTENANCE RECORD

NAME OF FIRM CONTRACTED TO PUMP GREASE TRAP(S):

NAME OF APPROVED WASTE DISPOSAL SITE:

1 _____

2 _____

CONTACT: _____

ADDRESS: _____

PHONE: _____

THESE RECORDS MUST BE MAINTAINED AND AVAILABLE FOR THREE (3) YEARS:

DATE PUMPED

SIGNATURE OF OBSERVING MANAGER/OWNER

GREASE INTERCEPTOR INSPECTION FORM

Company: _____

Date of Inspection: _____

Location: _____

Inspector: _____

Type of Interceptor	Under Sink _____	In-Ground _____
	Manual _____	
	Automatic _____	

Size of Interceptor _____	Gallons _____
Pounds _____	Grease Inches _____
	Solid Inches _____

UTILITIES

§ 74-294

Firm Contracted to Pump Grease Trap(s): _____

Individual Responsible for Manual Cleaning: _____

Date of Last Servicing: _____

Records Being Kept: _____

Comments: _____

Date _____

TO: Manager/Owner _____

An inspection of the grease trap located on your premises at _____ was conducted on the date shown above. The grease trap was functioning improperly or was at capacity and needs to be cleaned. Upon cleaning said trap, please forward a copy of the original ticket, which shall include the vendor's name, address, phone number, and the amount of grease pumped and the disposal site to the Town office.

A follow up inspection is scheduled on: _____

Chapters 75—77

RESERVED

Chapter 78

VEGETATION*

Article I. In General

Secs. 78-1—78-40. Reserved.

Article II. Condition of Premises

- Sec. 78-41. Duty of owners.
Sec. 78-42. Charges constitute lien.

***Cross references**—Buildings and building regulations, ch. 22; businesses, ch. 26; environment, ch. 30; fire prevention and protection, ch. 34; solid waste, ch. 58; streets, sidewalks and other public places, ch. 62.

State law references—Tree conservation ordinance, civil penalties, Code of Virginia, § 10.1-1127.1; planting of trees destroyed during construction, Code of Virginia, § 15.1-14.1; replacement of trees during development process in certain localities, Code of Virginia, § 15.1-14.2; destruction of trees, shrubs, etc., Code of Virginia, § 18.2-139 et seq.

ARTICLE I. IN GENERAL

Secs. 78-1—78-40. Reserved.

ARTICLE II. CONDITION OF PREMISES

Sec. 78-41. Duty of owners.

(a) The owners of all property within the town shall cut the grass, weeds, brush and other similar growth on such property or on any part thereof, whenever such grass, weeds and other similar growth has grown to a height of 12 inches.

(b) If a person owning property within the town shall fail, refuse or neglect to cut and remove grass, weeds, brush and other such growth, the town manager shall give written notice to the owner of the property in question to cause such grass, weeds, brush and other such growth to be cut and removed within a specified time. Should the owner fail to comply with such notice, the town may enter upon the property in question to cut and remove the grass, weeds, brush and similar growth. The notice shall be mailed to the last known address of the owner of the property. If the owner of the property or his whereabouts is unknown, the written notice shall be mailed to the tenant, lessee or person in charge of such property, if any; and if there is none, then such notice shall be posted on the property.

(c) If the town so enters upon such property, and cuts and removes grass, weeds, brush and similar growth by its own agents and employees, the costs and expenses thereof shall be chargeable and assessed to and paid by the owner of such property within 60 days. Any such fees not paid within 60 days shall be charged as a lien against the property and may be collected by the town as taxes and other levies are collected.

(Code 1979, § 21-29; Ord. No. 90-01, § 2(21-29), 3-13-90)

Sec. 78-42. Charges constitute lien.

Every charge authorized by this article with which the owner and lienholder 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.

State law reference—Similar provisions, Code of Virginia, § 15.1-11(4).

CODE COMPARATIVE TABLE

1979 CODE

This table gives the location within this Code of those sections of the 1979 Code, as updated through October 31, 1980, which are included herein. Sections of the 1979 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

1979 Code Section	Section this Code	1979 Code Section	Section this Code
1-1—1-6	1-1—1-6	9-19(a)(6)—(9)	10-1
1-8	1-10	9-19(b)—(e)	10-1
1-9—1-11	38-4—38-6	9-20—9-25	26-76—26-81
1-12	1-13	9-26—9-35	26-81—26-90
2-1	2-229	9-36—9-41	26-106—26-111
2-2	2-226	11-1—11-10	70-1—70-10
2-3	2-171	11-11, 11-12	70-71, 70-72
2-4	2-109	11-14	70-73
2-5—2-8	2-31—2-34	11-15—11-21	70-76—70-82
2-10	2-35	11-22—11-29	70-121—70-128
2-12—2-14	2-51—2-53	11-30	70-166
2-15	2-71	11-31, 11-32	70-206, 70-207
2-16—2-19	2-101—2-104	11-33—11-35	70-46—70-48
2-20	2-227	12-1, 12-2	30-81, 30-82
2-21, 2-22	2-105, 2-106	13-1—13-4	30-31—30-34
2-24, 2-25	2-107, 2-108	13-5	30-61
2-26—2-29	2-126—2-129	13-7—13-10	30-62—30-65
2-30—2-32	2-146—2-148	14-5	6-1
2-33—2-37	2-166—2-170	14-8, 14-9	46-1, 46-2
2-38—2-40	2-172—2-174	14-16	46-3
3-1—3-6	30-146—30-151	14-27, 14-28	22-61, 22-62
3-7, 3-8	30-166, 30-167	14-29	26-3
4-3—4-9	18-2—18-8	15-1—15-3	2-206—2-208
4-10—4-16	18-36—18-42	16-1, 16-2	38-2, 38-3
5-6, 5-7	22-31, 22-32	16-3	38-1
7-1—7-5	66-31—66-35	17-1—17-3	14-31—14-33
7-6—7-8	66-76—66-78	19-1—19-4	42-1—42-4
8-1	2-1	19-5	42-25, 42-26
8-2	34-32	19-6—19-15	42-27—42-36
8-3, 8-4	34-61, 34-62	20-2	50-1
8-5—8-7	34-81—34-83	21-1—21-10	58-31—58-40
9-1—9-15	26-31—26-45	21-11—21-15	58-56—58-60
9-16	26-1	21-18—21-24	58-77—58-83
9-17	26-46	21-25—21-27	58-101
9-18	26-2	21-28	58-102
9-19(a)(1)—(4)	10-1	21-29	78-41

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1979 Code Section	Section this Code
22-1, 22-2	74-176, 74-177
22-3—22-6	74-216—74-219
22-7	74-178
22-8—22-10	74-266—74-268
22-11—22-14	74-305—74-308
22-15—22-18	74-371—74-374
22-19—22-21	74-391—74-393
22-22—22-24	74-394
22-25—22-30	74-431—74-436
23-1—23-3	54-31—54-33
23-4—23-6	54-33—54-35
24-1—24-12	62-1—62-12
24-13—24-18	62-41—62-46
24-19—24-23	62-71—62-75
28-1—28-3	74-46—74-48
28-4—28-11	74-81—74-88
29-2—29-4	46-31—46-33

CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1979 Code, as updated through October 31, 1980, which are included herein. Ordinances adopted prior to such date were incorporated into the 1979 Code, as supplemented. Ordinances adopted since October 31, 1980, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Section	Section this Code
82-28	6-22-82	1	74-84
82-29	6-22-82	1	74-431
83-30	3- 8-83	1	70-74
83-31	6-24-83	1	58-60
83-33	7-12-83	1	46-4
84-35	6-12-84	1	70-46
84-36	6-12-84	1—7	66-171—66-177
84-37	7-10-84	1	70-1
84-38	9-11-84	12-2	30-82
84-39	12-11-84	29-2—29-4	46-31—46-33
84-40	12-11-84	8-6	34-82
85-1	1- 8-85	art. I, § 2	58-121
		art. II, § 1,	58-122, 58-123
		art. II, § 2	
		art. III, § 1—	58-124—58-128
		art. III, § 5	
		art. IV, § 1	58-129
		art. V, § 1	58-130
		art. VI, § 1,	58-131, 58-132
		art. VI, § 2	
		art. VII, § 1	58-133
85-3	7- 9-85	1	70-1
86-02	3-11-86	1, 2	26-82
86-05	7- 8-86	1	74-431
87-01	2-10-87	1(a)—(d)	70-6
		1(e)(1)—(3)	70-6
		1(f)—(l)	70-6
87-02	6-16-87	1	58-60
87-04	7-14-87	1	26-76
87-05	7-14-87	1	18-9
88-04	9-13-88	1	46-3
89-03	2-14-89	1	74-431
89-06	4-11-89	1	30-166, 30-167
89-09	6-20-89	1	74-88
89-11	7-11-89	1	70-1
89-12	9-12-89	1	46-33
89-15	11-14-89	1	2-207

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Ordinance Number	Date	Section	Section this Code
90-01	3-13-90	2(21-29)	78-41
90-03	5-15-90	2	70-73
90-05	10- 9-90	1(11-14A)	70-74, 70-75
		2(11-36)	70-83
90-06	12-11-90	2(21-11)—	58-56—58-60
		2(21-15)	
		3(21-18)	58-77
		4	58-82
91-01	3-12-91	1(28-10)	74-87
		1(22-28)	74-434
91-02	5-14-91	1	70-74
		2	70-83
91-03	5-14-91	1	74-88
92-05	6- 9-92	1	74-81
92-06	6- 9-92	1	74-307
		2	74-373
92-07	6- 9-92	1	74-88
92-08	6- 9-92	1	58-60
92-09	6- 9-92	1	22-32
92-13	9- 8-92	1	62-13
93-01	2- 9-93	1	22-32
93-02	6- 8-93	1	22-31
93-03	6- 8-93	1	70-122
93-04	6- 8-93	1	58-60
93-05	6- 8-93	1	74-431
93-06	6- 8-93	1	74-84
93-07	6- 8-93	1	74-88
93-08	6-15-93	1(7-9)—1(7-24)	66-121—66-136
93-10	7-13-93	1	34-31
93-11	8-10-93	1	22-31
93-12	8-10-93	1	74-82
93-13	9-14-93	1	58-57
		2	58-60
		3	58-82
93-14	10-12-93	1, 2	58-76
94-01	3- 8-94	2(21-12)	58-57
94-03	5-10-94	1	22-31
94-04	6-14-94		58-82
94-05	6-14-94	1	74-88
94-06	6-14-94	1	74-86
94-08	8- 9-94	1	58-82
95-01	2-14-95	1	70-74
		2	70-83
95-02	5-11-95	1	74-89
95-04	6-13-95	1	70-1
96-04	6-11-96	1(6-1)—1(6-5)	30-111—30-115
		1(6-7), 1(6-8)	30-117, 30-118
96-05	6-11-96	1(28-12)—	74-127—74-135
		1(28-20)	

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
96-06	6-11-96	1	50-31—50-34
96-07	6-11-96	1	58-38 58-76
96-08	6-24-96	1	74-431
96-09	10-15-96	1	70-6
		2	70-128
96-10	11-11-96	1	2-51
96-11	12-10-96	1	26-1, 26-2 26-31—26-46 26-76—26-85 26-31—26-39
97-01	2-11-97	1—7	Added Adopting Ord., p. xi
97-02	3-11-97	1	58-32 58-56, 58-57 58-60 58-82, 58-83 58-101
97-03	3-11-97	1	14-31—14-33
97-04	5-13-97	1	70-47
97-05	6-23-97	1	74-88
97-06	6-23-97	1	74-86(a)
97-07	6-23-97	1	74-431
97-08	6-23-97	1	74-84
97-09	6-23-97	1	22-32
97-10	9- 9-97	1	Added 26-32(g), (h)
98-01	2-10-98	1	70-74
98-03	3-10-98	1	Added 70-84
98-05	6- 9-98	1	2-51
98-06	6-30-98	1	74-84
98-07	6-30-98	1	74-88
99-01	4-13-99	1	26-96
99-04	6-17-99	1	74-84
99-05	6-17-99	1	74-88
99-06	7-13-99	1	70-47
00-01	6-27-00	1	74-82
00-02	6-13-00	1	22-31(a)
00-03	6-13-00	1	Rpld 66-121—66-136 Added 66-121—66-124, 66-127, 66-129, 66-131, 66-133, 66-136
00-04	6-27-00	1	74-431
00-05	9-12-00	1	Added 74-49
00-06	10-10-00	1, 2	Rpld 66-171—66-177 Added 66-171—66-174

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Ordinance Number	Date	Section		Section this Code
01-01	2-13-00	1	Added	ch. 46, art. III, §§ 46-40—46-52
01-04	6-26-01	1		74-431
02-01	6-25-02	1		74-431
02-02	6-25-02	1		74-84
02-03	6-25-02	1		74-88
02-04	10- 8-02	1		62-13
02-06	11-12-02		Added	74-50
02-07	12-10-02	1		74-87
02-08	12-10-02	1		70-83(e)
03-01	6-24-03	1		74-431
03-02	11-11-03	1		70-46(a)
03-03	12- 9-03	1		22-31(a)
04-01	3- 9-04	1		70-46(a)
04-02	6- 8-04		Rpld	Ch. 74, §§ 74- 46—74-50, 74- 81—74-89, 74- 127—74-136, 74- 176—74-178, 74- 217—74-219, 74- 266—74-268, 74- 305—74-308, 74- 371—74-373, 74- 391—74-394, 74- 431—74-436
			Added	Ch. 74, §§ 74-1— 74-11, 74-26, 74- 27, 74-36—74- 39, 74-56—74- 66, 74-86—74- 93, 74-111—74- 115, 74-131—74- 135, 74-151—74- 153, 74-171—74- 177
04-05	9-14-04	1	Rpld	26-94, 26-97
05-01	3- 8-05	1	Added	34-33
05-02	6-28-05	1		74-224
05-03	6-28-05	1		74-289
05-04	12-13-05		Added	66-36
06-01	6-27-06	1		74-224
06-02	6-27-06	1		74-289
06-03	6-27-06	1		74-228
06-04	6-27-06	1		22-32(6)
			Added	22-32(17)
06-05	6-27-06	1		74-221(a), (b)

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section		Section this Code
06-06	6-27-06	1		74-281
06-07	6-27-06	1		30-115(c)
07-01	3-10-07	1		66-31
07-03	6-26-07	1		74-289
07-04	6-26-07	1		74-224
08-01	1- 8-08	1		ch. 30, art. IV, §§ 30-111—30- 118
08-03	6-24-08	1		74-224
08-04	7- 8-08	1		30-112
				30-117(c)
08-06	8-12-08	1, 2	Added	ch. 66, art. VI, 66-180—66-192
08-08	11-10-08	1		70-46
09-01	6- 9-09	1		22-31(a)
09-02	6-23-09	1		74-224
09-03	6-23-09	1		66-181
11-01	1-25-11	1	Added	2-76
11-02	4-12-11	1	Rpld	74-195
			Added	74-195
11-03	5-10-11	1(A)	Rpld	22-31(a)
		1(B)	Added	22-31(a)
11-04	9-13-11	1		2-52
12-01	2-14-12	1	Added	70-85
12-03	6-26-12	1		70-46(a)
12-04	6-26-12	1		74-289
12-05	8-14-12	1		74-222
12-06	8-14-12	1	Added	46-5
13-01	6-25-13	1		74-224
14-01	6-24-14	1		22-32
14-03	6-24-14	1		30-115(c)
14-04	8-12-14	1(A)	Rpld	22-31(a)
		(B)	Added	22-31(a)
14-05	11-10-14	1—5	Added	66-37
15-05	8-11-15	1		70-9(a)
				70-76
				70-128
15-06	8-11-15	1	Added	70-11
15-07	10-13-15	1	Added	74-84
15-08	11-10-15	1		70-6(l)
15-09	11-10-15	1	Added	70-86
15-10	12- 8-15	1	Added	22-33
2016-02	6-21-16		Added	66-200—66-208
2016-03	7-12-16	1		74-222
16-05	9-13-16	1		26-3(a)
16-06	12-13-16	1	Added	2-86
2017-02	6-27-17	1	Added	66-38

PEARISBURG CODE

Ordinance Number	Date	Section	Section this Code
18-01	5- 8-18	1	70-47

STATE LAW REFERENCE TABLE

This table shows the location within this Charter and Code, either in the text or notes following the text, of references to the Code of Virginia.

Code of Virginia, Section	Section this Code	Code of Virginia, Section	Section this Code
1-13.3	1-2	10.1-603.3	Ch. 30
1-13.3:1	1-2	10.1-604 et seq.	30-112
1-13.6, 1-13.7	1-2	10.1-1100 et	
1-13.9	1-6	seq.	30-112
1-13.13	1-2	10.1-1127.1	Ch. 78
1-13.15, 1-13.16	1-2	10.1-1163(B)	30-112
1-13.19	1-2	10.1-1300 et	
1-13.23	1-2	seq.	30-148
1-13.26	1-2	10.1-1321	Ch. 30
1-13.28	1-2	10.1-1412	Ch. 58
1-13.32	1-2	10.1-1414 et	
1-17.1	1-4	seq.	Ch. 58, Art. III
2.1-133.5 et seq.	2-1	10.1-1424	58-123
2.1-340 et seq.	Char. § 4	10.10-561	30-113
	Ch. 2	11-35 et seq.	Ch. 2
2.1-344	Char. § 4	13.1-501 et seq.	26-31
2.1-517	Ch. 22	15.1-7.3:1	Ch. 2
2.1-639.1 et seq.	Ch. 2	15.1-8	Ch. 2
3.1-562.4	Ch. 26	15.1-11	Ch. 58
3.1-796.66 et			58-130
seq.	Ch. 18	15.1-11(4)	78-42
	Ch. 18, Art. II	15.1-11.1	46-3
3.1-796.92	18-37	15.1-11.2	Ch. 22
3.1-796.93	18-40	15.1-11.02	Ch. 58
3.1-796.93:1	18-9	15.1-11.03	Ch. 70
3.1-796.128	Ch. 18	15.1-11.5	Ch. 58
3.1-1011 et seq.	18-8	15.1-11.5:1—	
3.1-1012(1)	18-1	15.1-11.5:3	Ch. 58
tit. 4.1	Ch. 10	15.1-11.5:01	Ch. 2
4.1-128	Ch. 10	15.1-11.6	Ch. 26
10.1-560 et seq.	Ch. 30	15.1-13	Ch. 2
	Ch. 30, Art. IV	15.1-14(1), (9)	Ch. 62
	30-111	15.1-14(5)	Ch. 30
10.1-561	30-113		Ch. 30, Art. II,
10.1-561.1	30-113		Div. 2
10.1-562	30-113		30-82
	30-117	15.1-14(6)	Ch. 34
10.1-562(J)	30-117	15.1-14.1,	
10.1-563(D)	30-114	15.1-14.2	Ch. 78
10.1-563(E)	30-114	15.1-15(1)	Ch. 22
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