Code of
Clarke County, Virginia

Re-Codified 1997 Adopted October 21,1997

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1st Revision and Codification of the General Ordinances Passed on or before February 6, 1974

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Part I: Administrative Legislation

Chapter 1 General Provisions

Article I Adoption of Code by Board of Supervisors

[November 17, 1997]

§ 1-1. Designation and citation of Code.

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

(Code 1974, § 1-1. Contents and designation of Code)

State Law references - § 15.2-1433. Codification and recodification of ordinances, Code of Virginia; § 8.01-386 judicial notice of laws, Code of Virginia.

§ 1-2. Definitions and rules of construction

In the interpretation of this Code and of all ordinances of the county, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the board of supervisors, or the context clearly requires otherwise. All words, terms, etc., not defined in this section or elsewhere in this Code shall be construed as provided in the Code of Virginia.

Board of supervisors, board. Whenever the terms "board of supervisors" and "board" are used, they shall be construed to mean the Board of Supervisors of the County of Clarke.

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

Commonwealth, state. The words "the commonwealth," "this commonwealth", "the state" and "this state" shall mean the Commonwealth of Virginia.

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.

County. The words "the county" and "this county" shall mean the County of Clarke in the Commonwealth of Virginia.

Fee. The word "fee" shall mean a rate, charge or license tax, consistent with state requirements, that is fixed from time to time by the

board of supervisors by resolution.

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

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

Health officer. The term "health officer" shall mean the public health officer of the county or representative of the state board of health serving this county.

May. The word "may" shall be permissive.

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

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one (1) person or thing, as well to several persons or things.

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.

Occupant. The word "occupant" 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, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, such reference shall be construed as if followed by the words "of the County of Clarke, Virginia". A reference to a particular officer shall also be construed as if followed by the words "or his duly authorized representative, deputy or assistant," subject, however, to the provisions of § 15.2-1502. Employment of certain deputies and assistants; delegation of powers and duties of the Code of Virginia.

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

Person. The word "person" shall include a firm, partnership,

association of persons, corporation, body politic, organization or any other group acting as a unit as well as an individual.

Police officer. The words "police officer" shall include the sheriff and his deputies, state police officers, United States marshals and their deputies, and all other law enforcement officers having authority to make arrests, but shall not include private citizens who may make arrests under the common law for felonies and breaches of the peace committed in their presence.

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

Property. The word "property" shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the county, and those parts of public places which do not form traveled parts of streets as defined in this section.

Road; highway. The words "road" and "highway" shall have the same meaning as the word "street" as such word is defined in this section.

Shall. The word "shall" shall be mandatory.

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.

Standard time. Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the county.

State. See "commonwealth."

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto, and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines.

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

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

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

Year. The word "year" shall mean a calendar year. (Code 1974, § 1-2 Effective date of Code)

State law references - Common law, statutes and rules of construction, Code of Virginia, § 1-1 Contents and designation of Code et seq.; § 49-9 When affirmation may be made, Code of Virginia .

§ 1-3. Provisions considered as continuations of existing ordinances

The provisions appearing in this Code, so far as those of the ordinances included in this Code, shall be considered as continuations thereof and not as new enactments.
(Code 1974, § 1-4. Effect of such repeal generally; effect of revision or amendment of state Constitution)

§ 1-4. Severability

The provisions of this Code and the application thereof to any person or circumstances, which are held invalid, shall not affect the validity of other provisions or applications of this Code which can be given effect without the invalid provisions or applications.
(Code 1974, § 1-6 Effect of repeal of validating statutes)

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

§ 1-5. Catchlines of sections

The catchlines of the sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.
(Code 1974, § 1-3 Repeal of acts of a general nature

State law reference - § 1-13.9 Headlines of sections of Code of Virginia.

§ 1-6. Classification of and penalties for

(a) Whenever in this Code, any ordinance or resolution of the county, or rule, regulation or order promulgated by any officer or agency of

violations; continuing violations

the county under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or a misdemeanor or an offense, the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor or an offense and no specific class of misdemeanor or penalty is provided therefore, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than two thousand five hundred dollars ($2,500.00), by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment; provided, however, that such penalty shall not exceed the penalty prescribed by general law for a like offense. (Amended by Ordinance of 6/18/91 increasing fine from $1,000 to $2,500.)

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

(1) **Class 1 misdemeanor:** By a fine of not more than Two thousand Five Hundred dollars ($2,500.00), or by confinement in jail for not more twelve (12) months, or by both such fine and confinement. (Amended by Ordinance of 6/18/91 increasing fine from $1,000 to $2,500.)

(2) **Class 2 misdemeanor:** By a fine of not more than one thousand dollars ($1,000.00), or by confinement in jail for not more than six (6) months, or by both such fine and confinement. (Amended by Ordinance of 6/18/91 increasing fine from $500 to $1,000.)

(3) **Class 3 misdemeanor:** By a fine of not more than five hundred dollars ($500.00).

(4) **Class 4 misdemeanor:** By a fine of not more than Two Hundred Fifty dollars ($250.00). (Amended by Ordinance of 6/18/91 increasing fine from $100 to $250.)

(c) Except as otherwise provided, each day any violation of this Code or any such ordinance, rule, regulation or order continues shall constitute a separate offense.

(Code 1974, § 1-7 Acts passed between certain dates not affected)

State law references - Penalties for violation of ordinances, Code of Virginia, § 15.2-1429 therefore, Code of Virginia § 18.2-9 Classification of criminal offenses; § 18.2-11. Punishment for conviction of misdemeanor.

§ 1-7. Liability of corporations, associations, organizations and their agents, officers for violations.

(a) Any violation of this Code 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.

(b) 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, where such violation was the act or omission or the result of the act, omission or order of any such person.

(Code 1974, § 1-8 Notice, recognizance or process given, taken or issued before Code in force.)

§ 1-8. Effect of Code on prior offenses, rights, prosecutions, judgments.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done; any penalty or forfeiture incurred; any contract or right established or accruing; any prosecution, suit or proceeding pending or any judgment rendered on or before the effective date of this Code.

(Ordinance of 12-3-74, § 3)

§ 1-9. Miscellaneous provisions not affected by Code.

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

(1) Promising or guaranteeing the payment of money by or for the county or authorizing the issuance of any bonds or any evidence of indebtedness;

(2) Authorizing or otherwise relating to any contract or obligation assumed by the county;

(3) Granting any franchise or right;

(4) Related to particular traffic-control devices required by law, that is consistent with this Code;

(5) Related to license or privilege taxes, that is consistent with this Code;

(6) Related to aviation;

(7) Related to a county agricultural district;

(8) Related to erosion and sediment control;

(9) Related to cable television;

(10) Related to county inventories;

(11) Related to social security, retirement and group insurance;

(12) Related to the amount of tax exemptions;

(13) Appropriating funds or related to the compensation and other benefits of officers, agents or employees or an annual tax levy or budget;

(14) Establishing magisterial districts;

(15) Establishing fees;

(16) Authorizing, providing for or otherwise related to any particular street, alley, right-of-way or other public improvement or easement;

(17) Making any assessment;

(18) Related to zoning or the subdivision of land;

(19) Related to electrical wiring and installments;

(20) The purposes of which have been accomplished;

(21) That is temporary, although general in effect; or

(22) That is special, although permanent in effect;

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

(Ord. of 12-3-74, § 3)

§ 1-10 Effect of repeal on former ordinances.

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

(Code 1974, § 1-5. Effect of such repeal as to persons in office)

Chapter 6 Boards And Commissions

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References Supervisors, Board of Chapter 39

Code Of Virginia References § 22.1-57.3. - Election of school board members

Article I Appointments

§ 6-1. Appointive boards generally. Except as otherwise provided by law, ordinance or resolution, all appointments to county boards and commissions shall be from the county at large.

Article II School Board

§ 6-2. Election; terms of office; composition.

a) Following the voter referendum held on November 8, 1994, in favor of changing the method of selecting School Board members to direct election by the voters and pursuant to the authority contained in the Code of Virginia, § 22.1-57.3, elections of School Board members in Clarke County shall be held to coincide with the elections of the members of the governing body of the county, commencing at the regular general election to be held November 7, 1995.

b) The initial elected School Board shall consist of the same number of members as the appointed School Board being replaced, and the elected members shall be elected from the established county election districts.

c) The terms of the members of the elected School Board for the county shall be the same as the terms of the members of the governing body for the county.

d) At each subsequent regular general election for members of the governing body, the same number of members of the School Board shall be elected.

e) The election districts for the School Board shall be coterminous with the election districts for the county governing body.

f) The terms of office for the elected School Board members shall

commence on January 1 of the year following the general election. On December 31 following the first election of county School Board members, the terms of office of the members of the appointed School Board then in office shall expire, and the School Board Selection Commission shall be abolished.

Amendments Chapter 6

1988-01-19	Adopted 1-19-1988 as § 2-6 of the 1987 Code]
1995-03-21	Adopted 3-21-1995

Chapter 10 Checks, Fraudulent

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as § 2-5 of the 1987 Code. Amendments noted where applicable.]

Code Of Virginia References

§ 15.2-106. Ordinances providing fee for passing bad checks to localities

§ 10-1. Using bad checks for payments to county.

For the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due the county which is subsequently returned for insufficient funds or because there is no account or the account has been closed, there is imposed a fee in an amount not to exceed the amount provided for in§ 15.2-106 of the Code of Virginia.

§ 10.2. Payment of local taxes, fees, or other charges by credit card.

A. The Treasurer of Clarke County is authorized to accept payment of local taxes and other fees or charges by use of a credit card.

B. In addition to any penalties and interest arising pursuant to § 58.1-3915. Penalty for failure to pay taxes by December 5 through § 58.1-3918. Interest on taxes not paid by following day, the Treasurer may add to such payment a sum not to exceed four percent of the amount of tax, penalty, interest or other fee or charge for the acceptance of such card, provided that such charge does not exceed the amount charged to the county by the credit card service.

Amendments Chapter 10

1999-03-16

Adopted § 10.2 Payment of local taxes, fees, or other charges by credit card. Section Added.

Chapter 12 Conservation Easement Program

[HISTORY: Adopted by the Board of Supervisors of Clarke County June 18, 2002]

§ 12-1. Articles of Incorporation

A. The name of the Authority is the Clarke County Conservation Easement Authority. The address of its principal office is 102 North Church Street, Berryville, Virginia 22611.

B. The Authority is created under the Public Recreational Facilities Authorities Act, Chapter 56 of Title 15.2 (§ 15.2-5600 Public Recreational Facilities Authorities Act, et seq.), Code of Virginia.

C. The participating locality is Clarke County, Virginia.

D. The names, addresses, and terms of office of the initial members of the Board of Directors of the Authority are:

Name	*Address*	*Term*
Michael Hobert	P.O. Box 588 Berryville, VA 22611	12/31/02
Tom McFillen	117 Rosemont Circle Berryville, VA 22611	4/30/03
Winkie MacKay-Smith	1038 Carters Line Road White Post, VA 22663	12/31/04
John Bieschke	P.O. Box 61 Whit	12/31/03
David Weiss	P.O. Box 349 Berryville, VA 22611	12/31/03
Randy Buckley	P.O. Box 1 White Post, VA 22663	12/31/04
Jane Radford	2008 Morgans Mill Road Bluemont, VA 20135	12/31/02

E. The purposes of the Authority are to acquire and/or receive conservation easements, by purchase, gift, or other conveyance; to hold and enforce conservation easements conveyed to it; to administer the Clarke County Conservation Easement Purchase Program pursuant to Chapter 72 of the Clarke County Code; and to exercise any powers authorized by the Public Recreational Facilities Authorities Act.

§ 12.2. Board of

The powers of the Authority shall be exercised by a Board of Directors

Directors

of seven (7) members, appointed by the Board of Supervisors, to be comprised of one (1) member from the Board of Supervisors, one (1) member from the Planning Commission, and five (5) Clarke County citizen members. At the first meeting of the Board of Supervisors each calendar year, beginning 2003, the Board shall appoint one (1) member from the membership of the Board of Supervisors for a term of one (1) year beginning January 1; one (1) member from the Planning Commission for a one (1) year term beginning May 1; and a member or members to fill expiring citizen member terms, for a term of three (3) years beginning January 1.

§ 12-3 Co-Holding of Easements
[Added 07-09-18]

The county and the authority shall be co-holders of all conservation easements acquired and/or received by the Authority. In addition, where advisable the Authority shall seek an additional public body, as defined in the Virginia Open-Space Land Act, or, as permitted by law, other federal or state agency or private organization, to be an additional co-holder.

Amendments Chapter 12

2007-09-18 CC-07-07 add section 12-3 Co-holding of Easements.

Chapter 16 Fire Companies, Volunteer

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as § 5-2 of the 1987 Code. Amendments noted where applicable.]

Code Of Virginia References

§ 40.1-79.1. - Statutory authority
§ 40.1-103. - Cruelty and injuries to children

§ 16-1. Minimum age for volunteer firefighter.

Any person 16 years of age or older, with parental or guardian approval, may work with or participate fully in all activities of a volunteer fire company, provided that such person has attained certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the State Department of Fire Programs.

§ 16-2. Exemptions[1]

Any trainer or instructor of such persons mentioned in § 16-1 and any member of a paid or volunteer company who supervises any such persons shall be exempt from the provisions of § 40.1-103 of the Code of Virginia when engaged in activities of a volunteer fire company, provided that the volunteer fire company has purchased insurance which provides coverage for injuries to or the death of such persons in their performance of activities under this chapter.

[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 17 Fire, Emergency Medical Services (EMS), And Emergency Management, Department Of

[HISTORY: Adopted by the Board of Supervisors of Clarke County 10-21-2014 as Chapter 17 of the 1997 Code as. Amendments noted where applicable.]

Code Of Virginia References

§ 18.2-414.1. Obstructing members of rescue squad in performance of mission; penalty.
§ 27-14. Ordinances as to fire/EMS departments, etc.
§ 27-15.1. Authority of chief, director or other officer in charge when answering alarm or operating at an emergency incident; penalty for refusal to obey orders.
§ 27-23.6. Provision of fire-fighting or emergency medical services.
§ 44-146.19. Powers and duties of political subdivisions.

§17-1 Establishment of the Department of Fire, Emergency Medical Services (EMS), and Emergency Management

A. In order to help ensure the protection of citizens, visitors, and property of Clarke County, the firefighting, emergency medical services (EMS), and emergency management services are organized under a Department of Fire, Emergency Medical Services (EMS), and Emergency Management ("the Department"). These services shall be provided by using both County-employed and volunteer company firefighters and EMS personnel. As such, the County-recognized volunteer fire-fighting and EMS entities shall be deemed an instrumentality of the County and shall receive the full benefit and protections of the law while acting in that capacity.

B. In order to effectively carry out the provisions of Subsection A of this section, the Department shall be organized to coordinate all fire, EMS, and emergency management and preparedness services within the County.

C. The Department shall be composed of the County officials and County-employed staff ("the Staff") of the Department, and the volunteer fire and EMS companies. The volunteer fire and EMS companies are recognized as entities of the Department and are an integral part of the County's public safety program.

§17-2 Appointment of a Director of Fire and Emergency Medical Services (EMS)

A. The County Administrator shall appoint a Director of Fire and Emergency Medical Services (EMS) ("the Director") to head the Department and to carry out the responsibilities set forth in §17.5. The Director shall report to the County Administrator and the Department Staff shall report to the Director.

§17-3 Appointment of

A. The County Administrator shall serve as the County's Coordinator

a Coordinator of Emergency Management

of Emergency Management. The responsibilities of the Coordinator of Emergency Management may be delegated to the Director at the discretion of the County Administrator.

B. The Coordinator of Emergency Management shall provide general management of the planning, preparation, and response for any disaster which impacts the County and requires implementation of the County's emergency operations plan.

§17-4 Responsibilities of the Department

A. The Department shall be responsible for coordinating and managing the services and functions as described above in §17-1 and in the sections below.

B. The Department may employ Staff to perform a variety of functions to support fire, EMS, and emergency management services. These functions include but are not limited to firefighting, emergency medical services/EMT, volunteer recruitment/retention, grant writing, and administrative services. The Director shall manage and oversee the Staff unless otherwise designated by the County Administrator.

§17-5 Responsibilities of the Director

A. The Director shall carry out the responsibilities and general management of the Department, shall establish and enforce Departmental policies, procedures, and guidelines consistent with this Chapter for the administration and operation of the Department. The Director's specific responsibilities shall be as assigned by the County Administrator.

B. The Director shall have management oversight of the Department's Staff. Management oversight of the volunteer companies and volunteer staff shall be the responsibility of the chiefs of the individual companies and their respective governing boards.

C. The Director shall make periodic recommendations to the County Administrator and Board of Supervisors on how to effectively provide the best fire and emergency services available based on risk management principles within the parameters established by the Board for fiscal management and emergency response service level objectives. Any recommendations proposed by the Director that will have a substantive impact on the County's emergency response system or infrastructure impacting service delivery shall be reviewed by the Fire and EMS Commission prior to presenting the recommendations to the Board of Supervisors. The results of the Commission's review shall also be provided to the Board of Supervisors.

D. The Director shall serve as a senior officer for fire and/or EMS and shall have the authority to take command of an incident on an as-needed basis in the absence of a volunteer chief. The Director shall possess the skills, training, and certifications necessary to serve as a senior fire officer, senior EMS officer, or both.

§17-6 Fire and EMS Commission

A. The Board of Supervisors shall appoint a Fire and EMS Commission ("the Commission") to provide planning-level oversight of the Fire and EMS systems in the County; to oversee strategic planning efforts; and to provide a mechanism for collaboration and coordination among the Director, the County Sheriff, volunteer companies, and the Board of Supervisors on issues impacting fire, EMS, and emergency management services. The Commission shall work in coordination with the Director on these issues, and the Director shall provide staff support to the Commission.

B. Membership Composition; Term. The Commission shall consist of seven (7) members including one (1) member of the Board of Supervisors; the Clarke County Sheriff; two (2) representatives recommended by the Clarke County Fire and Rescue Association to represent Fire and EMS services respectively; and three (3) citizens-at-large representing consumers of fire and EMS services. The two (2) Fire and Rescue Association representatives shall serve one-year terms. The three (3) citizens-at-large shall be appointed for initial terms of one (1) year, two (2) years, and three (3) years and thereafter for four (4) year terms. The Sheriff shall serve a term coterminous with the term of office. The Board of Supervisors shall appoint a representative annually at or shortly after their annual organizational meeting to serve a one-year term.

C. Responsibilities of the Commission. The Commission shall have the following specific responsibilities to be completed in cooperation with the Director:

1. Develop and maintain a Fire & EMS Strategic Plan.
2. Annually review the Emergency Operations Plan (EOP) and provide recommendations on changes to the Board of Supervisors.
3. Review and advise on implementation strategies for policy and protocol changes for Fire & EMS operations.
4. Provide platform for resolving policy and protocol disputes among the companies, the career staff, and/or with the emergency communications center.

5. Review and provide recommendations on budgetary matters including recommending the use of funding and service agreements.
6. Evaluate compliance with established performance objectives and develop recommendations to address deficiencies.
7. Support and promote annual emergency preparedness exercises.
8. Evaluate other related issues as requested by the Board of Supervisors.

The Commission shall also review and provide recommendations on any proposals by the Director that will have a substantive impact on the County's emergency response system or infrastructure impacting service delivery.

§17-7 Recognition of Providers of Fire and Emergency Services

A. Volunteer organizations. The following volunteer organizations are hereby recognized as entities of the Clarke County Department of Fire, Emergency Medical Services (EMS), and Emergency Management and are hereby permitted to provide fire and EMS services in Clarke County:
   1. John H. Enders Fire Company and Rescue Squad
   2. Boyce Volunteer Fire Company
   3. Blue Ridge Volunteer Fire and Rescue Company 8

B. Other organizations and groups. The following organizations and groups are hereby recognized as non-jurisdictional entities that are hereby permitted to provide fire and EMS services in Clarke County:
   1. Mount Weather Emergency Operations Center.
   2. Entities responding to Clarke County emergencies in accordance with mutual aid agreements.

C. Response areas. Each of the organizations listed in §17-7(A) shall be assigned response areas that provide the best services to the citizens of the County. Response areas shall be determined among the volunteer companies and a written copy of the response areas shall be provided to the Director, who shall maintain the copy and make it available to the Emergency Communications Center, Commission, and the general public. Response areas may be reviewed and updated periodically. Non-jurisdictional entities listed in §17-7(B) may be assigned a response area if determined to be appropriate by the volunteer companies.

§17-8 Entities of

A. Each of the organizations listed in §17-7(A) and (B) shall coordinate

County Fire and EMS Division responsible to the Department

their operations and activities with the Department and shall carry out their assigned tasks to the best of their ability.

B. Each volunteer organization listed in §17-7(A) shall appoint a chief who shall be responsible for the overall direction and control of fire and EMS activities using federally-mandated NIMS protocols within the organization's respective first due response areas. Additionally, the chief shall ensure that the organization complies with all of the provisions of applicable laws, ordinances, and standard operating procedures/guidelines in coordination with the Department and shall advise and communicate the organization's operations and activities with the Director.

C. The fire and EMS Staff, when responding to calls, shall follow all applicable federal, state, and local regulations and will function under the same standards incorporating NIMS as noted in subsection B above.

§17-9 Personnel Responsibility and Authority

A. All officially recognized members of the organizations listed in §17-7(A) and (B) shall perform their respective duties, as outlined in the standard operating procedures/guidelines and applicable laws and ordinances, to the best of their ability.

B. All officially recognized members of the organizations listed in §17-7(A) and (B) shall be subject any procedures and practices established by the Board of Supervisors.

C. While performing in their official capacity, each of the members of the organizations and groups listed in in §17-7(A) and (B) shall have the authority to carry out their respective assignments as provided for in applicable laws, ordinances, and standard operating procedures/guidelines.

D. While performing in their official capacity and acting within the guidelines of the Department, each of the members of the organizations and groups listed in in §17-7(A) and (B) shall be afforded all of the privileges, rights, and remedies available to them under the law.

§17-10 Obedience to orders of the senior officer in charge at the scene of accidents, disasters, and other fire, medical, and

Every person present at the scene of any fire, medical, or rescue emergency shall be obedient to the orders of the senior officer in charge in any matter related to fire/medical/rescue matters; freedom of fire and EMS company, personnel, and apparatus to perform their duties or to function properly; and the maintenance of order at or near the scene of the emergency.

rescue oriented incidents

It shall be unlawful for any person to disobey any such order of the senior officer in charge.

The senior officer in charge shall have the authority to cause the arrest of persons who disobey such orders and to hold them in custody until the incident or danger is abated, at which time the violator shall be dealt with according to law.

§17-11 Service fee for ambulance transport

Code of Virginia References (§18.2-414.1; §27-14 ; 15.1; and 23.6; §44-146.19; §32.1-111.14; §38.2-3407.9)

A. Purpose.

A service fee is hereby established for basic life support transport (BLS), advanced life support level 1 transport (ALS 1), advanced life support level 2 transport (ALS 2), and for ground transportation mileage on each person being transported by an emergency services organization that is authorized to provide emergency medical services in accordance with this Chapter.

B. Definitions.

As used in this article, the following terms shall have the meanings indicated:

1. Advanced life support level 1 (ALS 1) – Medical treatment or procedures provided to a patient beyond the training of an EMT-Basic as defined by the National Emergency Medicine Services (EMS) Education and Practice Blueprint for the Emergency Medical Technician – Basic (EMT-Basic), but not ALS 2.

2. Advanced life support level 2 (ALS 2) – Advanced life support services provided to a patient, including one or more of the following medical procedures:

   a. Defibrillation/cardioversion

   b. Endotracheal intubation

   c. Cardiac pacing

   d. Chest decompression

   e. Intraosscous line

   f. Administration of three or more medications

3. Basic life support (BLS) – Medical treatment or procedures to a patient defined as basic life support by the National Emergency Medicine Services (EMS) Education and Practice Blueprint for the Emergency Medical Technician – Basic (EMT-Basic)

4. Ground transport mileage – Mileage shall be assessed in road miles from the location of the incident to a hospital or other facility where a patient is transported.

C. Fee Schedule. The schedule of fees for emergency ambulance transport services shall be set by resolution of the Clarke County Board of Supervisors and may be updated from time to time.

D. Billing.

1. Clarke County or its agent shall generate a bill for ambulance transports whose point of origin is within the boundaries of Clarke County. Billing, payment, and collection policies shall be established by resolution of the Board of Supervisors.

2. Clarke County may contract with a third-party that shall be designated as the County's agent for billing and related services.

3. Emergency medical services organizations shall submit information required for the County or its agent to generate a bill for such services including but not limited to call sheets/patient care reports. Due to the fact that patient care information is highly confidential under several state and Federal laws, such information will remain the responsibility of the organization responding to individual calls. Information shared under this subsection shall be that information reasonably necessary to accomplish the billing process or other arrangement as mutually agreed to by the providing agency and the County.

Amendments Chapter 17

2014-10-21 Chapter 17 Added CC-2014-3

2015-01-20 Chapter 17 Fire, Emergency Medical Services (EMS), and Emergency Management, Department Of, Amendment to establish a service fee for ambulance transport. CC-2015-01

Chapter 24 Officers And Employees

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References Chapter 71 Building Construction

Code Of Virginia References
§ 15.2-1527. Bonds of officers
§ 36-105. - Enforcement of Uniform Statewide Building Code
§ 36-97 et seq. - Uniform Statewide Building Code

Article I Bonds

[Adopted 1-19-1988 as § 2-1 of the 1987 Code]

§ 24-1. Bonds of officers, employees and agents.

All officers, employees and agents of the county who are required to give bond shall give bond with corporate surety, and the county shall pay the premium therefore, except as to the Treasurer, who may give bond as provided in the Code of Virginia, § 15.2-1529. Amount of bond of treasurer or director of finance of counties

Article II Disposition of Fees

[Adopted 1-19-1988 as § 2-4 of the 1987 Code]

§ 24-2. Payment into county treasury.

Except as may be specifically provided otherwise by state law, this Code or other ordinances, all fees paid to county officers and employees for services rendered or documents furnished shall belong to the county and shall be paid into the county treasury by the recipients thereof not less frequently than once each week.

Article III Building Official/Department

[Adopted 1-19-1988 as § 4-1 of the 1987 Code]

§ 24-3. Office of Building Official established.

The office of the Building Official is hereby established. Except as may be provided otherwise by state law, this Code or other ordinance, the Building Official shall administer and enforce the provisions of Chapter 71, Building Construction, and the provisions of state law relating to buildings and structures within the county, and he shall have such powers and perform such duties as may be necessary for such administration and enforcement.

§ 24-4. Records; annual

A. The Building Official shall keep or cause to be kept a record of the

report.

business of his office, which shall be open to public inspection.

B. The Building Official shall annually submit a report to the Board of Supervisors covering the work of his office during the preceding year.

§ 24-5. Building Department.

The office of the Building Official as established by this article shall be deemed to constitute the Building Department of the county and may be referred to as such, provided that the Board of Supervisors may at any time enter into an agreement with the governing body of another Virginia county or municipality or with some other agency or a state agency approved by the State Department of Housing and Community Development for the enforcement of any part or all of the Virginia Uniform Statewide Building Code within the county.[2]

[2] Editor's Note: See ~ 36-97 et seq. of the Code of Virginia.

Chapter 34 Sanitary Authority

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as § 2-8 of the 1987 Code. Amendments noted where applicable.]

Code Of Virginia References

§ 15.2-5100. Virginia Water and Waste Authorities Act et seq.
§ 15.2-5102. One or more localities may create authority
§ 15.2-5108. - Issuance of certificate or charter (The Certificate of Incorporation or Charter of the Clarke County Sanitary Authority is on file in the office of the County Administrator.)
§ 15.2-5113. Members of authority board; chief administrative or executive officer.
§ 15.2-5114. Powers of authority.

§ 34-1. Continuity of Authority actions.

Nothing in this Code or the ordinance adopting this Code.[3] shall affect any current ordinance, resolution or Articles of Incorporation related to the Clarke County Sanitary Authority, and they are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

§ 34-2. Membership.

The board of the Authority shall be appointed by the Board of Supervisors and shall be composed of five members, one of whom shall be a resident of the Town of Boyce, each for a term of four years and until his successor is appointed and qualifies except appointments to fill vacancies, which shall be for the remainder of such un-expired term. The Town may submit a nominee or nominees to the Board of Supervisors for its consideration in making the appointment of the Boyce resident member.

2009-09-15

Chapter 34:Code of Virginia reference update and §34-2. Membership revise membership requirements to reflect changes mandated by State Code.CC-09-06.

[3] Editor's Note: See Ch. 1, General Provisions, Art. I.

Chapter 36 Industrial Development Authority

[History June 6, 1972, adopted an ordinance creating the Industrial Development Authority of Clarke County, Virginia]

Code of Virginia References

§ 15.2-4900. Industrial Development and Revenue Bond Act

§ 36-1 Name

The name of the authority shall be the Industrial Development authority of Clarke County, Virginia.

§ 36-2 Definitions

All terms used herein shall have the meanings given them in the Act.

§ 36-3 Powers

The authority shall have all the powers set forth in and permitted by the Act, including, without limitation, all powers incidental thereto or necessary for the performance of those hereinafter stated:

A) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

B) To adopt and use a corporate seal and to alter the same at pleasure;

C) To enter into contracts;

D) To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more authority facilities including all real and personal properties which the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

E) To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with an of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

F) To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

G) To issue its bonds for the purpose of carrying out any of its powers, including specifically, but without intending to limit any power conferred by this ordinance, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from the authority to undertake financing pursuant hereto, subject to limitations set forth in the Act;

H) As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof or from any loans made by the authority;

I) To employ and pay compensation to such employees and agents, including attorneys and real estate brokers, whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

J) To exercise all powers expressly given the authority by the Board of Supervisors, or its successor, and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this ordinance or of the Act, as it may be amended from time to time, deemed expedient for the management of the authority's affairs;

K) To appoint an industrial advisory committee or similar committee or committees to advise the authority, consisting of such number of persons as it may deem advisable. Such persons may be compensated and reimbursed for expenses as permitted by the Act;

L) To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth of Virginia (the "Commonwealth"), or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the authority facilities, for the payment of principal of any bond of the authority, interest thereon, or other cost incident thereto, or in order to make loans in furtherance of the purposes of the Act of such money, contributions, grants, and other financial assistance, and to this end the authority shall have the power to comply with such conditions and to execute such agreements, trust indentures and other legal instruments as may

be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed; and

M) To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of the Act, including for the purposes of promoting economic development, subject to the restrictions set forth in the Act and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefore. The authority is also permitted to forgive loans or other obligations, if it is deemed to further economic development.

§ 36-4 Other Matters

All matters regarding the authority, including, without limitation, the membership of its board of directors, its governance, the issuance by it of bonds, notes and other obligations, and the liability of the Commonwealth, its political subdivisions and the officers and directors of the authority with respect to bonds issued by the authority, shall be governed by the terms of the Act, subject to any restrictions set forth in the bylaws of the authority, as such bylaws may be amended from time to time.

§ 36-5 Effective Date

This ordinance shall take effect immediately upon its passage by the Board of Supervisors.

Amendments Chapter 36

1999-10-22

Reestablish the Industrial Development Authority. Number assigned by staff for consistency with other localities. .

Chapter 39 Supervisors, Board Of

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 2-26 through 2-28 of the 1987 Code. Amendments noted where applicable.]

Code Of Virginia References

Chapter 31 2.2-3100.1 et seq. State and Local Government Conflict of Interests Act
§ 2.2-3700. et seq. – Virginia Freedom of Information Act
§ 2.2-3707 Meetings to be public; notice of meetings; recordings; minutes
§15.2-1414.1 Compensation of Board members
§ 15.2-1416. Regular meetings
§ 15.2-1417. Special meetings
§ 15.2-1422. Electing a chairman and vice-chairman; mayor and vice-mayor
§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances

§ 39-1. Agenda.

The Clerk of the Board of Supervisors shall prepare and make available to each member of the Board of Supervisors a detailed agenda at least one day prior to each regular or adjourned meeting of the Board. No such agenda shall be departed from at the meeting to which it relates except by majority vote of the Supervisors present at the meeting.

§ 39-2. Rules.

The Board of Supervisors may, by resolution or ordinance, promulgate rules:

A) Governing the conduct of its members with respect to their official duties and transactions and with respect to the ethics of office and imposing penalties for the violation thereof.

B) Providing for the attendance at its meetings of the Sheriff of the county or, at his option, one of his Deputies to preserve order and to discharge such other duties as may be necessary for the dispatch of such business as may be before the Board.

C) Providing for the attendance at its meetings of such other county officers and employees as may be helpful to the Board by providing information, opinions and advice.

D) Providing for the order of business and parliamentary procedure at its meetings[4]

E) Providing for the appointment, powers and duties of standing and special committees.

F) Providing for executive sessions of the Board, but no ordinance or resolution shall be offered and no final vote, decision or action shall be taken on any question or subject during an executive session.

G) For such other purposes not contrary to state law, this Code or other ordinance as may be within the power of the Board of Supervisors to regulate for the conduct of its business.

§ 39-3. Addressing the Board.

Any orderly person present at a meeting of the Board of Supervisors may, upon recognition by the presiding officer, request permission to address the Board.

The presiding officer may grant such request if he considers it to be in the public interest so to do, and he shall grant such request upon the demand of any two Supervisors.

When, as the result of such an address to the Board, it appears that a subject should be considered by the Board at a subsequent meeting, the Clerk of the Board shall place such matter on the agenda for the next regular meeting of the Board of Supervisors.

[4] Editor's Note: The rules of procedure promulgated by the Board of Supervisors are on file in the County Administrator's office.

Chapter 40 Voting Districts

§ 40-1. Election districts established and defined; population of districts and supervisor representation

A. *Election Districts of Clarke County, p*ursuant to, and as set *by the* authority contained in the Code of Virginia, § 15.2-1400, § 24.2-304.1-7, and § 15.2-1211 are hereby created and set forth in this section.

(a) The *election* districts with populations set forth are as follows; supervisor representation to be as indicated:

Berryville --- *2,852*, represented by one supervisor.

Buckmarsh --- *2,854*, represented by one supervisor.

Millwood --- *2,729*, represented by one supervisor.

Russell ---*2,896*, represented by one supervisor.

White Post --- *2,703*, represented by one supervisor.

(b) The boundaries of the respective *election* districts are as set forth below, and when reference is made in the following descriptions to a road*, railroad,* or river as a boundary, it shall be construed to mean the center line of such boundary:

Berryville Election district.

Berryville election district shall comprise the area bounded as follows:

- Beginning at the intersection of North Buckmarsh Street (U.S. Route 340) and Mosby Boulevard (Virginia Route 1035),
- thence in a northwesterly direction with Mosby Boulevard to its intersection with Jackson Drive (Virginia Route 1041),
- thence in a southwesterly direction with Jackson Drive to its intersection with West Main Street (Virginia Route 7 Business),
- thence in a northwesterly direction with West Main Street to corporate limits of the Town of Berryville,
- thence in southwesterly and southeasterly direction with the town limits to Alexander Drive,
- thence in a southeasterly direction with Alexander Drive to its intersection with Hermitage Boulevard (Virginia Route 1029)
- thence in a southeasterly direction with Hermitage Boulevard to its intersection with Dunlap Drive (Virginia Route 1028),
- thence in a northeasterly direction with Dunlap Drive to its intersection with Henderson Court (Virginia Route 1027)
- thence in a southeasterly direction with Henderson Court to its

intersection with Taylor Street (Virginia Route 1006),

- thence in a southeasterly direction with Taylor Street to its intersection with South Buckmarsh Street (U.S. Route 340),
- thence in a southwesterly direction with South Buckmarsh Street to its intersection with Hermitage Boulevard (Virginia Route 1029),
- thence in a southeasterly direction with Hermitage Boulevard to its intersection with South Church Street (Virginia Route 616),
- thence in a southwesterly direction with South Church Street to its intersection with South Buckmarsh Street (U.S. Route 340),
- thence in a southwesterly direction with South Buckmarsh Street to the corporate limits of the Town of Berryville,
- thence in a southeasterly direction with the Berryville town limits to its intersection with the Norfolk Southern Railroad,
- thence in a northeasterly direction with the Norfolk Southern Railroad its intersection with Jack Enders Boulevard (Virginia Route 700),
- thence in a northerly direction with Jack Enders Boulevard to its intersection with East Main Street (Virginia Route 7 Business), thence in a westerly direction with East Main Street to its intersection with First Street (Virginia Route 615),
- thence in a northeasterly direction with First Street to its intersection with East Fairfax Street (Virginia Route 1026),
- thence in a westerly direction with East Fairfax Street to its intersection with Soldiers Rest Lane (the eastern property line of Tax Map Parcel 142A-((A))-17),
- thence in a northeasterly direction with Soldiers Rest Lane, (the eastern property line of Tax Map Parcels 14A2-((A)-17 and 17A) to its intersection with the northern limits of the Town of Berryville,
- thence in a westerly direction with the Berryville town limits to its intersection with North Buckmarsh Street (U. S. Route 340),
- thence in a southerly direction with North Buckmarsh Street, to its intersection with Mosby Boulevard (Virginia Route 1035), the point of beginning.

Buckmarsh Election District

Buckmarsh election district shall comprise the area bounded as follows:

- Beginning at the intersection of Lord Fairfax Highway (U. S. Route 340) with the Jefferson County line,
- thence in a southeasterly direction with the Clarke-Jefferson County

line to its intersection with the Loudoun County line,

- thence in a southwesterly direction with the Clarke-Loudoun County line to Harry Byrd Highway (Virginia Route 7),
- thence in a westerly direction with Harry Byrd Highway to its intersection with Pine Grove Road (Virginia Route 679),
- thence in a westerly direction with Pine Grove Road to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence with in a westerly direction with Harry Byrd Highway to the Shenandoah River,
- thence in a southwesterly direction with the Shenandoah River to a point in the center of the Shenandoah River nearest the intersection of Lockes Mill Road (Virginia Route 613) and Briggs Road (Virginia Route 621),
- thence in a westerly direction with Lockes Mill Road and in a northerly direction with Springsbury Road (both Virginia Route 613) to its intersection with Jack Enders Boulevard (Route 700),
- thence in a northerly direction with Jack Enders Boulevard to its intersection with East Main Street (Virginia Route 7 Business),
- thence in a westerly direction with East Main Street to its intersection with First Street (Virginia Route 615),
- thence in a northeasterly direction with First Street to its intersection with Fairfax Street,
- thence in a westerly direction with Fairfax Street to Soldiers Rest Lane (the eastern property line of Tax Map Parcel 14A2-((A))-17),
- thence in a northeasterly direction with Soldiers Rest Lane (the eastern property line of Tax Map Parcel 14A2-((A))-17 and 17A) to its intersection with the northern corporate limits of the Town of Berryville,
- thence in a westerly direction with the Berryville town limits to its intersection with Lord Fairfax Highway (U. S. Route 340),
- thence in a northeasterly direction with Lord Fairfax Highway to its intersection with the Jefferson County line, the point of beginning.

Blue Ridge Precinct of the Buckmarsh Election District

The Blue Ridge Precinct of the Buckmarsh Election District described above shall comprise the area bounded as follows:

- Beginning at the intersection of the Clarke-Jefferson County line with the Clarke-Loudoun County line,
- thence in a southwesterly direction with the Clarke-Loudoun County

line to Harry Byrd Highway (Virginia Route 7),

- thence in a westerly direction with Harry Byrd Highway to the intersection of Pine Grove Road (Virginia Route 679),
- thence with Pine Grove to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence with Harry Byrd Highway in a westerly direction to the Shenandoah River,
- thence in a northerly direction with the Shenandoah River to the Clarke-Jefferson County line,
- thence in an easterly direction with the Clarke-Jefferson County line, the point of beginning.

The Buckmarsh Precinct shall comprise the remaining area as set forth in the above description of the Buckmarsh election District.)

Millwood Election District

Millwood election district shall comprise the area bounded as follows:

- Beginning at the intersection of Senseny Road (Virginia Route 657) and Janeville Road (Virginia Route 652),
- thence in an easterly direction with Senseny Road to its intersection with Westwood Road (Route 636),
- thence in a northeasterly direction with Westwood Road to its intersection with West Main Street (Virginia Route 7 Business),
- thence in a southwesterly direction with West Main Street to corporate limits of the Town of Berryville,
- thence in southwesterly and southeasterly direction with the town limits to Alexander Drive,
- thence in a southeasterly direction with Alexander Drive to its intersection with Hermitage Boulevard (Virginia Route 1029)
- thence in a southeasterly direction with Hermitage Boulevard to its intersection with Dunlap Drive (Virginia Route 1028),
- thence in a northeasterly direction with Dunlap Drive to its intersection with Henderson Court (Virginia Route 1027)
- thence in a southeasterly direction with Henderson Court to its intersection with Taylor Street (Virginia Route 1006),
- thence in a southeasterly direction with Taylor Street to its intersection with South Buckmarsh Street (U.S. Route 340),
- thence in a southwesterly direction with South Buckmarsh Street to its intersection with Hermitage Boulevard (Virginia Route 1029),

- thence in a southeasterly direction with Hermitage Boulevard to its intersection with South Church Street (Virginia Route 616),
- thence in a southwesterly direction with South Church Street to its intersection with South Buckmarsh Street (U.S. Route 340),
- thence in a southwesterly direction with South Buckmarsh Street to the corporate limits of the Town of Berryville,
- thence in a southeasterly direction with the Berryville town limits to its intersection with the Norfolk Southern Railroad,
- thence in a northeasterly direction with the Norfolk Southern Railroad its intersection with Jack Enders Boulevard (Virginia Route ~~613~~ 700),
- thence in a northeasterly direction with Jack Enders Boulevard to its intersection with Springsbury Road (Virginia Route 613),
- thence in a southerly direction with Springsbury Road to its intersection with Lockes Mill Road (Virginia Routes 618 and 613),
- thence in an easterly direction with Lockes Mill Road (Virginia Route 613) to the intersection of Briggs Road (Virginia Route 621),
- thence to a point in the center of the Shenandoah River nearest the intersection of Lockes Mill Road and Briggs Road,
- thence in a northeasterly direction with the Shenandoah River to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence in an easterly direction with Harry Byrd Highway to its intersection with Pine Grove Road (Virginia Route 679),
- thence in an easterly direction with Pine Grove Road to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence continuing with Harry Byrd Highway to the Loudoun County line,
- thence in a southwesterly direction with the Clarke-Loudoun County line to its intersection with John Mosby Highway (U. S. Route 50),
- thence in a westerly direction with John Mosby Highway to its intersection with Millwood Road (Virginia Route 723),
- thence continuing in a westerly direction with Millwood Road to a point where Spout Run intersects Millwood Road east of the village of Millwood,
- thence in a northwesterly direction with Spout Run and its tributary Page Brook Run to a point where Page Brook Run intersects Lord Fairfax Highway (U. S. Route 340),

- thence in a northeasterly direction with Lord Fairfax Highway to its intersection with Annefield Road (Virginia Route 633),
- thence in a westerly direction with Annefield Road to its intersection with Janeville Road (Virginia Route 652),
- thence with Janeville Road in a northerly direction to its intersection with Senseny Road (Virginia Route 657), the point of beginning.

Pine Grove Precinct of the Millwood Election District

The Pine Grove Precinct of the Millwood Election District described above shall comprise the area bounded as follows:

- Beginning in the center of the Shenandoah River nearest to a point at the intersection of Lockes Mill Road and Briggs Road (Virginia Route 613 and 621),
- thence in a northeasterly direction with the Shenandoah River to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence in an easterly direction with Harry Byrd Highway to the intersection with Pine Grove Road (Virginia Route 679),
- thence in an easterly direction with Pine Grove Road to its intersection with Harry Byrd Highway (Virginia Route 7),
- thence continuing with Harry Byrd Highway to the Clarke-Loudoun County line,
- thence in a southwesterly direction with the Clarke-Loudoun County line to its intersection with Morgans Mill Road (Virginia Route 605),
- thence in a westerly direction with Morgans Mill Road, to its intersection with Frogtown Road (Virginia Route 649),
- thence in a southerly direction to Morgan Mill Stream,
- thence in a westerly direction with Morgan Mill Stream to its intersection with the Shenandoah River,
- thence in a northwesterly direction with the Shenandoah River to a point in the center of the Shenandoah River nearest the intersection of Lockes Mill Road and Briggs Road (Virginia Route 613 and 621), the point of beginning.

(The Millwood Precinct shall comprise the remaining area as set forth in the above description of the Millwood Election District.)

Russell Election District

Russell election district shall comprise the area bounded as follows:

- Beginning at a corner of Frederick, Clarke, and Jefferson Counties,
- thence in a southeasterly direction with the Clarke-Jefferson County

line to its intersection with Lord Fairfax Highway (U. S. Route 340),

- thence in a southwesterly direction with Lord Fairfax Highway to its intersection with Harry Byrd Highway (Virginia Route 7 Bypass), at which point U.S. Route 340 becomes North Buckmarsh Street thence in a southwesterly direction with North Buckmarsh Street to its intersection with Mosby Boulevard, (Virginia Route 1035),
- thence in a northwesterly direction with Mosby Boulevard to its intersection with Jackson Drive (Virginia Route 1041),
- thence in a southwesterly direction with Jackson Drive to its intersection with West Main Street (Virginia Route 7 Business),
- thence in a northwesterly direction with West Main Street to Westwood Rood (Virginia Route 636),
- thence in a southwesterly direction with Westwood Road to its intersection with Senseny Road (Route 657),
- thence in a westerly direction with Senseny Road to the Frederick County Line,
- thence in a northeasterly direction with the Clarke-Frederick County line to the corner of Frederick, Clarke, and Jefferson Counties, the point of beginning.

White Post Election District

White Post *election* district shall comprise the area bounded as follows:

- Beginning at a corner between Frederick, Clarke, and Warren Counties,
- thence in a northerly direction with the Frederick and Clarke County line to Senseny Road (Virginia Route 657),
- thence in an easterly direction with Senseny Road to its intersection with Janeville Road (Virginia Route 652),
- thence with Janeville Road in a southerly direction to its intersection with *Annefield Road (Virginia Route 633)*,
- thence with *Annefield Road* in a southeasterly direction to its intersection with Lord Fairfax Highway (U.S. Route 340),
- thence in a southerly direction with Lord Fairfax Highway to its intersection with Page Brook Run,
- thence in a southerly direction with Page Brook until it joins Spout Run,
- thence in a southerly direction with Spout Run to a point east of the

village of Millwood where Spout Run intersects Millwood Road (Virginia Route 723),

- thence in an easterly direction with *Millwood Road* to its intersection with John Mosby Highway (U.S. Route 50),
- thence continuing in an easterly direction with John Mosby Highway to the Loudoun County line,
- thence in a southwesterly direction with the Fauquier County line at its intersection with the Warren County line,
- thence in a westerly direction with the Warren County line to a corner between Frederick, Clarke, and Warren Counties, the point of beginning.

§ 40-2.Central Absentee Voter Election District established and defined
[Amended 2005-08-16; 2010-04-20]

a) A central absentee voter election district for Clarke County is hereby created, pursuant to Code of Virginia § 24.2-712 Central absentee voter precincts; counting ballots

b) The location of this district shall be Berryville Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia.

Polling Places

§ 40-3. Polling Places established
[Amended 2005-08-16; 2007-01-16; 2014-07-15]

The following are hereby designated as polling places:

A. For Berryville Voting District
CCPS Admininstration Building
317 West Main Street
Berryville, VA 22611

B. For Buckmarsh Voting District: Social Hall
(1) John Enders Volunteer Fire Company
9 South Buckmarsh Street
Berryville, VA 22611

(2) For Blue Ridge Precinct [Added 92-02-18]
Social Hall
Blue Ridge Volunteer Fire Company
131 Retreat Road
Bluemont, VA 20135

C. For Millwood Voting District:
(1) For Millwood Precinct:
Powhatan School
49 Powhatan Lane

Boyce, VA 22620

(2) For Pine Grove Precinct:
Social Hall
Blue Ridge Volunteer Fire Company
131 Retreat Road
Bluemont, VA 20135

D. For Russell Voting District:
Clarke County Recreation Center
225 Al Smith Circle
Berryville, VA 22611

E. For White Post Voting District:
Boyce Volunteer Fire Company
7 South Greenway Avenue
Boyce, VA 22620

Amendments Chapter 40

1998-05-19	§ 40-3. Polling Places established: Amended for White Post District from Boyce Volunteer Fire Department to Boyce Elementary School
1999-04-20	§ 40-3. Polling Places established: Amended for Buckmarsh from VFW to John H. Enders Fire Company
2001-05-19	§ 40-1 Voting Districts - (Ord. adopted 5/19/92) - Approved: July 17, 2001
2001-10-16	§ 40-2. Central Absentee Voter Election District - (Ord. Adopted 10/16/01) - Approved: October 16, 2001
2002-05-21	§ 40-3. Polling Places established: Amended for Millwood from Bishop's Chapel to Millwood Community Center; and For Pine Grove from Church of the Good Shepard to Blue Ridge Volunteer Fire Company
2005-08-16	§ 40-2. b) change from 102 North Church Street to Grace Episcopal Parish Hall 110 North Church Street
	§ 40-3. Polling Places established to change polling places for Berryville from 104 North Church Street to Grace Episcopal Church Parish Hall, 110 North Church Street. CC-05-04

2007-01-16	§40-3 Polling Places Established Millwood Voting District from Millwood Community Center to Powhatan School; Russell Voting District from Ruritan Social Hall to Clarke County Recreation Center; White Post Voting District from Boyce Elementary School to Boyce Volunteer Fire Department CC-06-06
2010-04-20	§ 40-2. Central Absentee Voter Election District b) change from Grace Episcopal Parish Hall 110 North Church Street to Berryville Clarke County Government Center, 101 Chalmers Court CC-10-03
2011-04-19	§ 40-1. Voting Election districts established and defined; population of districts and supervisor representation revise to reflect 2010 Census population increase from 12,652 to 14,034 (+11.4%) CC-11-03/2011-02ORD
2014-07-15	§ 40-3 Polling Places Established. Amend A. For Berryville Voting District Change from 110 North Church Street to 317 West Main Street CC-2014-02

Part II: General Legislation

Chapter 48 Agricultural *and Forestal* District

[HISTORY: Adopted by the Board of Supervisors of Clarke County 3-17-1992. Amendments noted where applicable.]

General References State Code 15.2-4300 thru 4314

§ 48-1. Renewal. The Clarke County Agricultural and Forestal, is modified and renewed in accordance with the provisions of § 15.2-4300 Agricultural and Forestal Districts Act of the Code of Virginia: *15.2 –4300 thru 4314

A. Only lands currently zoned Agricultural-Open Space-Conservation (AOC) and Forestal Open-Space Conservation (FOC) shall be included in the district.

B. Land situated within incorporated town limits shall not be included in the district.

§ 48-2. Addition of lands to district. [Amended 98-03-17]

A. Only lands currently zoned Agricultural-Open Space-Conservation (AOC) and Forestal Open-Space Conservation (FOC) shall be included in the district.

B. Land situated within incorporated town limits shall not be included in the district.

C. Qualifying lands. The Land Evaluation and Site Assessment (LESA) System shall be employed as the dominant decision-making tool as to the constitution of the district as follows except for land considered as open space. Criteria for open space qualification are set forth in County Code Section 48-2(E).

(1) Farms zoned AOC having a composite LESA score of 72 or higher for parcels less than 40 acres, a LESA score of 68 or higher for parcels between 40 and 129.99 acres or a LESA score of 64 or higher for parcels 130 acres or greater shall be included.

(2) Farms having a composite LESA score of lower than 60 shall be excluded, unless they qualify as described in Subsection D below.

D. Other qualifying lands. Tracts zoned AOC which are adjacent to and operated contiguously with farming units qualifying as in Subsection C(1) above and which are owned by one or more individuals who also own the qualifying farming unit, provided that the adjacent tract

does not lie within the corporate fringes of Berryville or Boyce as described in Subsection C(3) above, shall be included.

E. Qualifying open space lands. Parcels proposing to be included in the district as open space shall meet the following criteria:
   1) The parcel shall not contain any commercial use except that which is allowed as a Principal Use and/or Structures by the County Zoning Ordinance.
   2) The parcel shall consist of a minimum of 5 acres.
   a. The Board may make an exception to 5 acre minimum upon recommendations from the Advisory Committee and Planning Commission if the parcel is approximate to a perpetual conservation easement, historical easement and/or is considered an environmentally sensitive area as determined by the County Natural Resource Planner or a County approved environmental or historical professional.
   3) The parcel shall contain at least one unused dwelling unit right.
   4) The parcel shall not use or transfer the dwelling unit right(s) during the term of the district.

§ 48-3. Term of district.

The term of the Clarke County Agricultural and Forestal District shall be 6 years.

§ 48-4. Effects on land use.

A. Within the district.

(1) Subdivisions. A minor subdivision that creates no more than one additional lot shall be permitted for any parcel within the district during the term of the district except for property requesting inclusion to the district as open space. Requirements for open space is set forth in Section 48-2 (E) of this code.

(2) Boundary Line Adjustments: Boundary line adjustments between parcels within the district shall be permitted. Boundary line adjustments between parcels where one of the parcels is not in the district shall be permitted if the parcel in the district is receiving land. If the district parcel is transferring land either with or without a dwelling unit right then the district parcel shall be limited to only one such boundary line adjustment during the term of the district and such boundary line adjustment shall be in lieu of the district parcel's subdivision right as set forth in Chapter 48-4 (A)(1).

(3) Rezonings. No parcel within the district shall be rezoned to other than an Agricultural-Open Space-Conservation (AOC) and/or Forestal Open-Space Conservation (FOC) zoning

category.

(4) Special use permits.

(a) A special use permit shall not be granted for any parcel within the district other than special use permits for commercial stables, farm wineries, livestock auction markets, livestock processing facilities, small-scale processing of specialty fruits and vegetables, and veterinary services, animal hospitals and kennels.

(b) All other principal uses and structures and accessory uses and structures, as set forth in the Schedule of District Regulations, AOC and FOC District, of Chapter 188, Zoning, shall be permitted by right of parcels within the district.

B. Adjacent to the district. The establishment and existence of the district shall not subject any adjacent tracts to restrictions and/or regulations other than those already applicable through Chapter 188, Zoning, and Chapter 161, Subdivision of Land, and other land use ordinances and plans in effect. The LESA System shall be employed as a primary tool in the decision making process with respect to proposed rezonings and other proposed changes in land use for tracts adjacent to the district, including evaluating any applications for including additional lands in the district.

§ 48-5. Withdrawal from district.
[Amended 98-03-17]

A. During the term of the district, withdrawals for good and reasonable cause shall be permitted as follows:

(1) For financial hardship approaching confiscation of property, such hardship to be documented in writing. In the case where a portion of the enrolled land is proposed to be subdivided and would not meet criteria for enrollment in the district, all minor subdivisions (1 or 2 lots) will be withdrawn during the Clarke County Agricultural and Forestal District regular renewal period. For all major subdivisions (3 or more lots), those proposed lots not meeting the District requirements for inclusion into the Agricultural and Forestal District, must be withdrawn from the District prior to subdivision approval by the approving authority.

(2) Upon death of a landowner of record, no less than an entire tract of record as it existed on the date of renewal of the district may be withdrawn.

B. At the end of the term. At the expiration of the term, but prior to renewal, each landowner shall be allowed to withdraw from the district, for any reason, upon written application stating such reasons.

§ 48-6. Notification to prospective purchaser.

Formal notification of the existence of the district to a prospective purchaser of land within the district should be strongly encouraged. At a minimum, formal notification of the renewal of the district shall be made by the posting of a notice in the Circuit Court House.

§ 48-7. List of parcels[5]

The Clarke County Agricultural and Forestal District shall include the list of parcels, a copy of which is on file in the County Planning Department.

Amendments Chapter 48

1992-03-17	Adopted by the Board of Supervisors of Clarke County
1998-03-17	§ 48-2. Addition of lands to district. Remove 2-C-(3); Add to § 48-5-A-(1) subdivision requirements.
2004-03-16	Clarke County Agricultural renamed Clarke County Agricultural and Forestal District and add FOC throughout Chapter.
2010-03-16	County Code amended to include open space category with criteria for acceptance, criteria for boundary line adjustments and formal renaming of District from Agricultural District to Agricultural and Forestal District.

[5] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 52 Alarm Systems

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 5-41 through 5-43 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 93 Fire Prevention
Chapter 132 Peace And Good Order § 132-8. False alarms.

§ 52-1. Purpose.

The purpose of this chapter is to provide for the registration of automated fire and burglar alarm systems with the county Sheriff's Department in order to expedite the dispatch of law enforcement and fire protection personnel to scenes of fires and burglaries.

§ 52-2. Registration; fee.

All persons who reside in or own homes or businesses containing or who shall install automated fire and burglar alarm systems which are connected to or result in a call to the county central alarm facility shall register the same with the county Sheriff's Department upon appropriate forms to be provided by said department on or before July 1 of each year. There shall be a registration fee payable to the Treasurer for such registration. [6]

§ 52-3. Renewal; termination.

Notwithstanding any other provision in this chapter, nothing herein contained shall be construed to require the renewal of registration of any automated fire and burglar alarm system after said system has been registered in accordance with this chapter. However, upon termination, discontinuance, replacement and/or modification of any such system, such termination, discontinuance, replacement and/or modification shall be registered in the county Sheriff's Department upon appropriate forms to be provided for the same.

§ 52-4. Violations and penalties[7]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

[6] Editor's Note: The fees are on file in the office of the County Administrator.
[7] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 56 County Road Naming, Property Numbering and Road Sign System

Code of Virginia

§ 15.2-2019. Localities may name streets, roads and alleys
§ 15.2-2024. Numbers to be displayed on buildings

§ 56-1 Purpose

In order to provide for more efficient delivery of emergency and other services and to provide for uniformity in road naming and assignment of property numbers, there is hereby established a system for naming of roads and numbering of properties within Clarke County, Virginia.

§ 56-2 Authority

Authority for the Board of Supervisors to name roads is found in Code of Virginia § 15.2-2019 and to require display of address numbers is found in Code of Virginia § 15.2-2024.

§ 56-3 Intent

All roads within the county, which serve or are designed to serve three or more dwellings units or business structures, including both public and private roads, shall be named. Private roads, which serve less than three addressable structures, may be named if deemed necessary by the Planning Director for public safety. All dwelling units and business structures within the county shall be assigned property numbers.

§ 56-4 Official Address

a) The street name and number assigned to each property within the county shall be the official address of such property for all purposes.

b) Requests for new addresses shall be made by the property owner or authorized representative.

c) By requesting an official address, the property owner attests that they have the legal right to access their property at the location on the public or private road upon which the address will be assigned. Assignment of an official address by the County shall not be construed as official determination of a property owner's legal right to access their property at that location.

d) An official address shall only be assigned to driveways constructed to permit ingress/egress by emergency response vehicles unless no other feasible alternatives exist.

e) If a property owner moves the driveway access point after issuance of an official address, the County may assign a new official address to conform with the structure numbering system.

§ 56-5 Agent

Under Code of Virginia § 15.2-2019. Localities may name streets, roads

and alleys

The Planning Director or assignee is the designated agent for the purpose of assigning road names.

The Geographic Information Services (GIS) Administrator or assignee is the designated agent for assigning property addresses and for the development and maintenance of a manual and maps, as necessary

The GIS Administrator is also designated the agent for the purposes of establishing specifications, installation, and maintenance of road name signs.

§ 56-6 Road Naming and Structure Numbering Manual

The GIS Administrator shall maintain a Road Naming and Structure Numbering Manual establishing:

- Criteria for naming of new public roads and private roads;
- The design of road signs;
- Standards for site preparation for road signs, and
- Standards for maintenance of road signs.

The criteria of road naming shall emphasize the use of traditional, historical, and/or geographic associations in Clarke County. The standards for the design, installation, and maintenance of road signs shall be provide for the best long-term, cost-efficient signage, taking into consideration their rural location and shall comply with all applicable State and Federal regulations.

§ 56-7 Road Names

a) New public road names shall be approved by the Planning Director or assignee in conjunction with approval of the subdivision plat or site plan approval. The selection of names shall be in accordance with the policies of the Road Naming and Structure Numbering Manual.

b) New private road names shall be approved by the Planning Director or assignee. Such names shall be in accordance with the Road Naming and Structure Numbering Manual.

c) The process of naming roads shall be limited to those who own property served by the road in question. For the purposes of this section, a property is “served” by a road if the property has the legal right to use the road.

d) Where a road to be named serves several properties, the

landowners shall be given the opportunity to propose a name. Requests to name roads shall be submitted in writing in the form of a petition to the Planning Director and shall include the following information:

a) A description of the road's location giving the direction and approximate distance from the nearest intersection of two public roads.

b) A list of all landowners having property served by the road in question together with certification that all such landowners have been notified of the proposed name.

c) Signatures of landowners representing more than 50 percent of the parcels served by the road in agreement of a common road name.

e) Upon validating that landowners of more than 50 percent of the parcels served by the road in question have signed the petition in favor of a common road name, and that the proposed name is otherwise consistent with the Road Naming and Structure Numbering Manual, the Planning Director or assignee shall approve the road name. In the event that the landowners cannot reach an agreement on a road name, the Planning Director shall assign a name that excludes the options presented by the landowners.

§ 56-8 Road Type Designators

- The road type designation HIGHWAY (HWY) shall be used for Primary Roads with more than 5,000 trips per day.

- The designation ROAD (RD) shall be used for Secondary Roads and Primary Roads with less than 5,000 trips per day.

- The designation LANE (LN) shall be used for dead-end Secondary Roads of less than one mile in length and for private roads.

- Other road type designations such as street, avenue, drive, court, etc. shall be reserved for use within incorporated towns and not be used in the unincorporated areas of the county.

§ 56-9 Road Name Signs

Road name signs shall display the name of each road within limits of the county, along with such other information required in the Road Naming and Structure Numbering Manual.

Standards and specifications for road name signs shall be established in the Road Naming and Structure Numbering Manual and shall

conform to all applicable State and Federal regulations.

Signs shall be placed at each road intersection, and at other places as deemed necessary by the Planning Director assignee.

§ 56-10 Road Name Sign Installation and Maintenance

a) The County is responsible for road sign installation for any public road or any private road/access easement serving three or more dwelling units or business structures.

b) At the time of application, a subdivision or site plan applicant shall pay a fee established by the Board of Supervisors for road sign installation for any public road or private access easement approved, subsequent to adoption of this ordinance, as a part of any subdivision or site development plan. The county shall install road signs for new public roads or private lanes before a certificate of occupancy is issued for the first structure on the road or lane.

c) After installation, the County shall maintain road signs.

§ 56-11 Uniform Numbering System

Two address numbers shall be assigned to each side of the road (odd and even) at intervals of 10.56 ft. (10ft.6.7in or 1/500th of a mile) so that at one mile the address would be 1000.

Odd numbers shall be applied on the left side and even numbers on the right side when standing at the beginning point of the road and facing the road.

- The beginning point for secondary roads and private lanes shall be the end of the road closest to the most likely origin of emergency service vehicles.
- For primary highways, the beginning point shall be at the highway's east end (Routes 7 & 50) or north end (Routes 340 & 522).

Except,

- the numbering system for the Towns of Berryville and Boyce shall be that established by the Towns,
- the numbering system for the Berryville Annexation Area and Route 7 Business shall be a continuation of the Berryville system, and
- the numbering system for Route 601 shall be that established by Loudoun County.

§ 56-12 Structure Numbers

The owner or other person responsible for each addressable structure in the county shall display the assigned number in a manner that is easily readable in accordance with standards set forth in the Road

Naming and Structure Numbering Manual.

Addressable structures with a Building Permit issued after December 31, 1998 and served by a named road, shall not be issued an Occupancy Permit until the address number is displayed.

§ 56-13 Maps to Be Developed and Maintained

The GIS Administrator or assignee shall prepare and maintain current maps showing all public and private roads, which are officially named under this ordinance within the county, the names of such road, and numbering of all properties.

§ 56-14 Enforcement

Any person who willfully fails to comply with any requirements and associated regulations of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the general penalty set forth in section 1-6(a) of this Code, for each day after the first day that such violation shall continue.

In addition to the penalty specified above, the County Administrator or designee may invoke any other lawful procedure including injunction to correct or abate such violation.

Amendments Chapter 56

1997-11-18	Chapter Adopted without number assigned. Number assigned by staff for consistency with other localities
1998-10-20	Amended to require a minimum traffic volume on a secondary route to be designated as a highway
1999-10-19	Amended to simplify procedure
2013-06-18	Updates to remove initial road naming process, add ongoing address system maintenance procedures, editorial changes CC-2013-01.

Chapter 57 Special Events

§ 57-1. Purpose and intent.

This ordinance is enacted pursuant to Virginia Code § 15.2-1200 for the purpose of providing necessary regulation for the holding of outdoor events.

The purpose of this ordinance is to promote public safety and to ensure that peace and quiet is maintained in the unincorporated areas of Clarke County. To meet these goals, it is critical that notice of the intent to conduct potentially disruptive events be provided to appropriate County officials and that a management plan sufficient to protect the health and safety of the event participants and prevent unnecessary or unwanted impacts on the residents of the county be prepared and approved.

This ordinance shall not be construed in a manner that shall infringe on any person's right to free speech or assembly and shall therefore not affect bona fide protests or picketing.

§ 57-2. Definitions.
[Amended 09-02-17]

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 indicated a different meaning:

Administrator — The County Administrator or his/her designee

Board — The Board of Supervisors

Event Day – Any day, or part thereof, during which the activity for which a permit has been issued occurs.

Permanent Enclosed Structure—A building, intended to be permanently located at the site, being fully enclosed by roof and walls, with windows and doors that are constructed and operated during the duration of any event so as to insure that light and sound emanating from the structure do not extend unreasonably beyond the boundaries of the site.

Adjacent Property Owner---The owner of property or properties immediately contiguous to or directly across public rights of way, private access easements, railroad rights of way/easements, any streams, rivers, or lakes, and state or county political boundaries) from the tax map parcel containing the site of the proposed outdoor event.

Public Property—property owned by or under the direct control of the United States, the Commonwealth of Virginia, or any political subdivision or agency thereof.

Special Event—

a) Any assembly, attraction, ceremony, event, festival, gathering, circus, carnival, or show at which rides, games, competitions, attractions, music, dance, or other performing arts are engaged in by participants or provided as entertainment by professional or amateur performers or by prerecorded means,

   1) Which involves the raising, charging, donating or re-couping of funds,

   2) Which is held at any place other than on property owned by

      (1) The United States Of America, the Commonwealth of Virginia, or the County Of Clarke, or

      (2) In a permanent enclosed structure;

   3) To which the public is invited or admitted;

   4) Which does not occur in the town of Berryville, the Berryville annexation area, or the town of Boyce, and

   5) Which occurs on a parcel of land of six or more acres (a parcel of land of six or more acres may include adjoining parcels with the same owner that have a total area of six or more acres).

b) Such an assembly shall not include demonstrations, parades, rallies, marches, or picketing activities.

Small Special Event – Special Events for 150 to 499 persons attending an event with not more than a total of five event days in a calendar year.

Medium Special Event – Special Events for 150 to 499 persons attending an event with six or more days in a calendar year and Special Events of 500 to 999 persons attending an event.

Large Special Event – Special Events of 1000 or more persons attending an event.

Persons Attending an Event – The number of participants and spectators that is the cumulative total number of people entering the site of a Special Event on an Event Day. For Events with multiple consecutive Event Days, the Day with the greatest number of persons attending shall be used to determine whether

an Event is Small, Medium, or Large.

§ 57.3. Permit required.
[Amended 09-02-17]

a) No person shall stage, promote, advertise, or hold any Special Event unless a permit has first been obtained from the County or unless excepted from obtaining a permit by other provisions of this ordinance.

b) The permit required by this ordinance, or the exemptions provided herein, shall not eliminate or substitute for any requirement for any business license or any other permit(s) which may be required by any federal, state, or local statutes, ordinances, rules, or regulations. Applicants are responsible for insuring that all such permits, licenses, and certificates are obtained from the appropriate authority.

c) The Administrator shall review applications for Small Special Events.

d) The Board shall review applications of Medium or Large Special Events.

§ 57.3.1. Special Event not allowed.

An activity that meets the definition of a Special Event, except for the stipulation that it occur on a parcel of six or more acres, is not allowed on a parcel of less than six acres.

§ 57.3.2. Exemptions from permit

A permit shall not be required for an assembly with less than 150 persons attending the event on a parcel of 6 or more acres (or adjoining parcels with the same owner that have a total area of six or more acres).

§ 57.4. Application for permit.
[Amended 09-02-17]

a) Written application for a Special Event permit shall be made to the Board of Supervisors or its designee. Such application shall contain such information and be on such forms as the Board of Supervisors, or its designee, may from time to time require. No application shall be submitted, or accepted, unless presented on the required forms along with all additional required plans, documents, approvals, fees, and other material required by this ordinance.

b) An application for a Small Special Event shall be submitted at least 30 calendar days before the date of the Event to allow for review of the application. An application for a Medium or Large Special event shall be submitted at least 120 calendar days before the date of the Event in order to allow for review of the application. However, such an application may be submitted at least 75 calendar days before the date of the Event if the application

contains written approval of all requirements as specified in Section 57.7.

c) Multiple applications for Special Event permits may be submitted together for a single parcel of property for events to be held during a calendar year.

d) No application for a Special Event may be filed more than one year before an Event is to be held or before the first Event Day for applications for multiple Special Event permits, except for an application for a Special Event that is substantially the same as a Special Event that has been previously approved.

e) The application shall include:

1) A description of the event and the type and nature of the performances, shows, and/or other activities.

2) A schedule of the dates and times of specific performances, shows, and/or other activities.

3) A description, plan, and/or documentation of how the applicant will comply with each of the Special Event requirements set forth in §57. 7.

4) A signed statement from the owner of the property on which the event is to be held to confirm that the owner has given permission for the specific Special Event to be held.

5) A list of all adjacent property owners, with addresses.

6) A copy of the written notice sent to adjoining property owners summarizing the Special Event[s] including date[s] and time[s] and a statement that adjoining property owners may contact the applicant or County Administrator with any comments and/or to review application within 15 working days of the date of the mailing of the notice. The address for such owners shall be that found in the records of the Commissioner of the Revenue or equivalent source for properties not located in Clarke County. Written notice shall be sent on the same date as the application is filed with the Administrator.

7) For Medium or Large Special Events, a scaled drawing depicting the following:

(a) The areas for performances or activities and for grandstands or seats, showing the location of all aisles for pedestrian travel and other crowd-control measures.

(b) All physical facilities existing or to be constructed on the premises, including, but not limited to, fences, ticket booths, grandstands, and stages.

(c) The location, capacity, and nature of all temporary lighting, sound, and public address facilities.

(d) The location, capacity, and nature of all temporary water, toilet, and all other public health-related facilities.

(e) Vehicle ingress, egress, and parking plan, to include emergency vehicle access.

§ 57.5. Permit Fee. A permit fee shall be paid at the time of submission of an application for a permit. The Board of Supervisors shall adopt a fee schedule for the various types of Special Events.

§ 57.6. Action on applications. [Amended 09-02-17]

a) Small Special Event. Upon receipt of a complete Small Special Event permit application, the Administrator, or his designee, shall review the application and shall, within 30 calendar days, upon finding that the Special Event would comply with the provisions of this ordinance, approve the permit subject to such reasonable terms and conditions established by the Administrator;

1) Provided, however, if the applicant requests additional public services or the Administrator has cause to believe that additional public services would be necessary:

– The Administrator shall forward the application to the public agency or agencies that would provide the additional services for comment and/or agency approval of the additional services.

– The public agency shall respond with comments and/or agency approval within 15 calendar days. Failure to respond within 15 calendar days shall be deemed approval by the agency.

– The Administrator shall act upon the permit within 10 calendar days of receipt of the comments and/or agency approval.

– The Administrator shall consider the application and agency

comments and shall approve the application, incorporating such reasonable terms and conditions as may be established by the Administrator or deny the application.

– If the Administrator approves multiple events and the conditions established are not followed, the Administrator may reconsider his/her approval action for any events that have not occurred.

– If the Administrator approves multiple events and the conditions established are determined by the Administrator to be ineffective in protecting the public health, welfare, or safety, the Administrator may modify such conditions. Such modifications shall be provided to the applicant in writing at least 5 calendar days before the next event.

2) The Administrator shall send notice of his action to all adjacent property owners within 5 calendar days after the decision being rendered.

3) The Administrator may approve any number of Special Events for multiple years at the same location.

b) Medium or Large Special Event. Upon receipt of a complete Medium or Large Special Event permit application,

– The County Administrator shall forward the completed application to the:

- Clarke County Building Official,
- Clarke County Sheriff,
- Chief of the Fire and Rescue Company serving the location, and
- Local offices of the Virginia Departments of Health, State Police, and Transportation for comment and/or agency approval. The public agency shall respond with comments and/or agency approval within 45 calendar days. Failure to respond within 45 calendar days shall be deemed approval by the agency.

– The Administrator shall:

- Forward the application and any agency comments and/or agency approvals to the Board, and
- Place the application on the agenda of the first regular meeting of the Board that occurs after 60 days after the

submittal of the application. At this meeting:

1) For Medium Special Events, the Board shall consider the application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established, deny the application, or set a public hearing on the application for the next regular meeting of the Board. After a public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.

2) For Large Special Events, the Board shall set a public hearing on the application for the next regular meeting of the Board. After a public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.

3) The Board shall send notice of its action to the applicant and all adjacent property owners by certified mail within 10 calendar days after the decision being rendered.

4) The applicant or any adjacent property owner may appeal in writing to the Circuit Court an action of the Board to approve or deny an application. Such appeal shall be filed within 30 calendar days of the date of the Board's decision.

5) The Board may approve any number of Special Events for multiple years at the same location.

§ 57.7. Special Event requirements.

All Special Events shall comply with the following terms, conditions, and requirements, unless express exception is requested and granted in any permit issued. The Administrator may waive any of the following for Small Special Events based on circumstances unique to the proposed event.

a) **Event hours.** Unless specifically approved by the reviewing entity, no stage presentation, music, dance, or other performance or activity shall take place at a Special Event between the hours of 12:00 a.m. and 7:00 a.m.

b) **Admission regulated.** The applicant shall regulate admission by admission ticket or other means acceptable to the County, so as to insure that the number of persons attending an event does not exceed the number allowed by terms of the permit.

b) **Limits to attendance.** The applicant shall not sell, give, or distribute a greater number of tickets than the number that the permit allows to attend. The applicant shall not admit any persons to an outdoor event if such admission would result in a greater number of persons present than allowed by the permit.

c) **Water supply.** The applicant shall provide an ample supply of potable water for drinking and sanitation purposes on the premises of the Special Event by providing to the satisfaction of the Health Department the location and type of water facilities.

d) **Toilet and/or lavatory facilities.** The applicant shall provide adequate toilet and/or lavatory facilities for sanitation purposes on the premises of the Special Event to the satisfaction of the Health Department.

e) **Waste management.** The applicant shall provide for the pickup and removal of refuse, trash, garbage, and rubbish from the site of the event on a daily basis, or more often if required by providing to the satisfaction of the Health Department the plans for pickup and removal of refuse and to clean up the premises and remove all trash and debris there from within 48 hours after the conclusion of the event.

f) **Medical facilities.** Adequate on-site medical facilities and emergency medical transport vehicles shall be provided to the satisfaction of the Health Department and the Chief of the Fire and Rescue Company providing service to the location at which the Special Event is to be held.

g) **Fire protection.** The applicant shall provide for adequate fire protection to the satisfaction of the Chief of the Fire Department providing service to the location at which the Special Event is to be held.

h) **Traffic and parking control.** The applicant shall provide for adequate ingress and egress and parking for the Special Event to the satisfaction of:

a. The Sheriff and State Police with a plan for ingress, egress and adequate parking and

b. VDOT with a plan calling for traffic control devices, signage, cones, barricades, or other activities to take place within the

public right-of-way.

i) **Security**. The applicant shall provide adequate on-site security for the entire duration of a Special Event to the satisfaction of the Sheriff with a security plan.

j) **Food & Beverage.** The applicant shall provide for adequate preparation and provision of any food or beverage for consumption during the Special Event to the satisfaction of the Health Department (and the Virginia Alcohol Beverage Control Board, if alcoholic beverages are to be served) with a plan for preparing and providing food and beverages).

k) **Illumination.** If outdoor lighting is to be utilized, such lights shall be located, or such shielding devices or other equipment shall be utilized so as to prevent unreasonable glow beyond the property on which the event is located. All necessary building permits shall be obtained before the event occurs.

l) **Temporary Structures**. All necessary building permits shall be obtained before the event occurs for any temporary structures such as tents or amusement rides.

m) **Sound.** Sound levels shall comply with the Clarke County Code § 120, which regulates noise.

n) **Communication system.** If the premises are without adequate communications systems, the applicant shall make arrangements, approved by the County, to provide for substitute, additional, or alternate means of communication with public safety and other government officials.

o) **Liability insurance.** The applicant shall provide evidence of adequate liability insurance. A certificate of insurance providing coverage in an amount of at least $1 million dollars, naming the County of Clarke as an additional insured, and showing the date(s) of the event, shall have been received by the Administrator before an application is placed on a Board agenda for action.

p) **Setbacks.** The approving entity may establish setbacks from property lines, rights of way, and access easements to the site of public assembly or parking for participants or spectators for a Special Event as determined necessary by the approving entity depending on site characteristics, the type of event, the

anticipated number of participants and spectators, and the impact on adjacent property owners.

q) **Permission for Entry.** The applicant shall provide written permission for the Administrator or designee and all duly constituted law enforcement officers to enter the property at any time during the Special Event to determine compliance with the approved permit and the provisions of this chapter.

r) **Other laws and rules.** The applicant shall comply with all federal, state and local laws, ordinances and regulations, including zoning ordinance provisions and any special use provisions applicable to the property.

s) **Necessary Safety Services.** The operator of the Special Event shall provide any services necessary to provide appropriate levels of safety over and above what public agencies determine that they are able to provide.

§ 57.8. Deposit.

As a condition of granting the permit, the Administrator or the Board may require the payment of a deposit to cover anticipated public clean-up costs, law enforcement costs, and/or emergency services costs beyond what is usual and customary. The applicant shall be responsible for such costs in excess of any deposit, and the applicant shall be refunded any portion of a deposit not needed to cover such costs.

§ 57.9. Permit not transferable.

No permit issued under the provisions of this chapter shall be transferable.

§ 57.10. Revocation or suspension of permit.

A permit issued under the provisions of this chapter may be revoked or suspended by the entity that approved the permit. The Sheriff or his/her designee may temporarily suspend the permit pending consideration, by the entity that approved the permit, of action to revoke or suspend a permit. Such action by the approving entity or the Sheriff or designee may be taken for any of the following reasons:

a) Any violation of one or more of the requirements of this chapter or any violation of one or more of the terms and conditions of a permit issued hereunder.

b) Any material misrepresentation in the application for a permit.

c) Any change in the ownership of the location of the permitted event, unless there is provided a signed statement from the new owner to

confirm that the new owner has given permission for the specific Special Event to be held.

d) Any material change in the condition of the facilities or ability of contracted organizations to provide required services or equipment.

e) Any state of emergency, disaster, hazardous weather condition, or other threat to the public health, safety, and welfare that has been declared or is anticipated to occur such that continuation of the event is deemed to be an undue or unnecessary risk to the participants, general public, or public safety providers.

Upon revocation or suspension of the permit, the permitee shall immediately cancel and/or terminate the event and provide for orderly dispersal of those in attendance.

§ 57.11. Violations and Penalties

Any person or entity that violates any provision of this chapter shall be guilty of a Class 1 misdemeanor. Each violation shall constitute a separate offense, and each day such violation may continue shall constitute a separate offense. The Board may bring suit in the Clarke County Circuit Court to restrain, enjoin, or otherwise prevent a violation of this chapter.

§ 57.12. Effective Date

This ordinance shall be effective as to all Special Events occurring after January 1, 2009 except for:

a) Those events for which a County permit had been approved before December 31, 2008; and

b) Those events for which no County permit was required before the adoption of this ordinance, if based upon documentation provided to the Administrator by the event sponsor, the Administrator finds that before the adoption of this ordinance:

(1) A date within one year of the adoption of this ordinance for the event had been set, and

(2) Promotion or planning of the event had been commenced by (i) paid advertising, (ii) dissemination of written materials, (iii) contracting with vendors or service providers, and/or (iv) ticket sales.

Amendments Chapter 57

2008-09-16 Chapter readopted with title change from Amusements to Special

Events; Reference Updates in Chapter 78 Dance Halls; Chapter 97 Fireworks; Chapter 112 Littering; Chapter 124 Nuisances; Chapter 165 Taxation CC-07-01

2009-02-17 Chapter 57, Special Events; §57-2, Definitions, so as to change the definition of Special Events to include activities that occur 10 or more times in a calendar year,; §57-3, Permit Required, and §57-4, Application for Permit, so as to clarify the requirements for a permit and the criteria for a permit application, and; §57-6, Action on Applications, so as to allow the Board of Supervisors and the County Administrator to approve any number of Special Events for multiple years at the same location.CC-09-02

2010-01-19 § 57-2. Amend definition of the term "Special Events"; § 57.4. Application for permit: so as to add the requirement to send written notice and remove the requirement to send the full application by certified mail; § 57.6. Action on applications: so as to remove the requirement of the County Administrator and/or Board to provide notice to applicant and adjacent property owners via certified mail. CC-10-01

Chapter 61 Animals

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Ch. 3 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 1 General Provisions
Chapter 120 Noise
Chapter 124 Nuisances

Code Of Virginia References

§ 3.1-796.66 et seq. - Comprehensive animal laws
§ 3.1-796.68. Care of animals by owner; penalty
§ 3.1-796.84 et seq. - Local ordinances; penalties
§ 3.1-796.93:1. - Control of dangerous or vicious dogs; penalties.
§ 3.1-796.98 et seq. Rabid animals
§ 3.1-796.121. - Disposal of dead companion animals
§ 3.1-796.104. - Position of animal control officer created
§ 3.1-796.122 et seq. - Cruelty to animals; penalty.
§ 3.1-796.128 - Unlawful acts; penalties
§ 18.2-144. - Maiming, killing or poisoning animals or fowl
§ 18.2-403.1 et seq. - Offenses involving animals - Class 1 misdemeanors
§ 18.2-403.2 et seq. - Offenses involving animals - Class 3 misdemeanors.
§ 18.2-403.3. Offenses involving animals - Class 4 misdemeanors.
§ 18.2-510 - Burial or cremation of animals or fowls which have died.
§ 32.1-48.1 et seq. - Regulation of State Health Commissioner declaring existence of rabies; display and publication
§ 55-202 et seq. - Estray, or boat adrift, to be valued and described
§ 55-306. Damages for trespass by animals; punitive and double damages.
§ 55-308. - Impounding animals
§ 55-310 et seq. - How governing body of county may make local fence law.

Article I General Provisions

§ 61-1. Violations and penalties.

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

§ 61-2. Position of Animal Warden created.

The Board of Supervisors shall appoint an officer, to be known as the "Animal Warden," who shall have the power to enforce the comprehensive animal laws of the state, all ordinances enacted pursuant to those laws and all laws for the protection of domestic animals. The Board may also appoint one or more Deputy Animal

Wardens to assist the Animal Warden in dog inspection activities and in dog law enforcement.

§ 61-3. Lawful fences declared; livestock running at large.

Pursuant to the provisions of the Code of Virginia, § 55-310, the Board of Supervisors hereby declares that all fences and the boundary line of each lot or tract of land on each side of each public road in the county shall be lawful fences as to any or all of the animals mentioned in the Code of Virginia, § 55-306. It shall be unlawful for the owner or manager of any horse, mule, cattle, hog, sheep or goat to permit any such animal, as to which the fences or boundaries of lots or tracts of land are made lawful fences by this section, to run at large beyond the limits of his own lands within the county.

§ 61-4. Straying fowl and livestock.

It shall be unlawful for any person to allow or permit any fowl or livestock of any description to stray to any highway or public property or private premises of another. All fowl and livestock shall be sufficiently confined or fenced up by the owner or person exercising control over such fowl and livestock, so as to prevent such fowl and livestock from trespassing or straying.

§61-5. Maintenance of places where animals are kept.

Each stable, pen, coop or other place where any animal or fowl is kept shall be maintained at all times in a safe and sanitary condition and so as not to constitute a nuisance[8]. Solid and liquid waste matter shall be removed as frequently as may be necessary to prevent offensive odors or to prevent accumulations constituting a hazard to the health or safety of any person.

§ 61-6. Dangerous animals[9].

No person shall suffer or permit any animal belonging to him or under his control and known to be dangerous or reasonably suspected of being dangerous to go at large within the county. If the owner or such person having control, upon notice that such animal is at large, fails to take it into custody forthwith and its running at large creates a danger to the public or to any person or property, the animal shall be killed forthwith by order of the Sheriff when deemed necessary for public safety.

§ 61-7. Cruelty.

A. Any person who performs any of the following, causes any of the following or as the owner of an animal permits any of the following to be done by another shall be guilty of a Class 1 misdemeanor:

(1) Overrides, overdrives, overloads, tortures, ill-treats, willfully inflicts inhumane injury or pain not connected with bona fide

[8] Editor's Note: See Ch. 124, Nuisances.

[9] Editor's Note: See Art. II, Dogs, of this chapter.

scientific or medical experimentation, cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another.

(2) Deprives any animal of necessary sustenance, food, drink or shelter.

(3) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal.

(4) Carries in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal or inhumane manner so as to produce torture or unnecessary suffering.

B. Nothing in this section shall be construed to prohibit the dehorning of cattle.

C. For the purposes of this section, the word "animal" shall be construed to include birds and fowl.

§ 61-8. Abandonment.

No person shall abandon any animal. "Abandonment" for the purposes of this section is defined as deserting, forsaking or intending to absolutely give up an animal without securing another owner or without providing the necessities set out in the Code of Virginia, § 3.1-796.68 Violation of this section shall be punishable as a Class 3 misdemeanor.

§ 61-9. Dead or infirm animals in public places; penalty.[10]

If any person casts any dead animal or fowl into a road or knowingly permits any dead animal or fowl to remain unburied upon his property when offensive to the public or, having in custody any maimed, diseased, disabled or infirm animal or fowl, leaves it to lie or be in a street, road or public place, he shall be fined in accordance with the fines for a Class 3 misdemeanor.

§ 61-10. Burial or cremation of dead animals.

A. When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, and, if he fails to do so, any Judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover from the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed $75, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to

[10] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

exceed $5, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

B. Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

Article II Dogs
[Added 7-18-1995]

§ 61-11. Definitions.

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

ANIMAL WARDEN -- Includes the Animal Control Officer or any duly authorized representative of the Animal Control Officer.

DANGEROUS DOG -- A canine or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal.

KENNEL -- An enclosure wherein dogs are kept other than in a residential setting and from which they cannot escape.

OWN -- To act, or to have the authority to act, as an owner.

OWNER -- Any person having a right of property in a dog, any person who keeps or harbors a dog or has it in his care or who acts as its custodian and any person who permits a dog to remain on or about any premises occupied by him.

VICIOUS DOG -- A canine or canine crossbreed which has killed a person; inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or continued to exhibit that behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

§ 61-12. Rights of owners.

A. All dogs in this county shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners may maintain any action for the killing of any such dogs or injury thereto or unlawful detention or use thereof as in the case of

other personal property. The owner of any dog which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.

B. An Animal Warden or other officer finding a stolen dog or a dog held or detained contrary to law shall have authority to seize and hold such dog pending action before a general district court or other court. If no such action is instituted within seven days, the Animal Warden or other officer shall deliver the dog to its owner.

C. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of such premises, but it shall be his duty to notify the Animal Warden, who shall take such dog in charge and notify its legal owner to remove him. The legal owner of the dog shall pay a reasonable charge, established by ordinance, for the keeping of such dog while in the possession of the Animal Warden.

§ 61-13. Unlawful acts.

The following shall be unlawful acts and constitute Class 4 misdemeanors:

A. Any person making a false statement in order to secure a dog license to which he is not entitled.

B. Any dog owner failing to pay the license tax required by Article III of this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.

C. Any dog owner allowing a dog to run at large in violation of this article.

D. Any person violating any other provision of this article, except as may be otherwise provided in this article.

§ 61-14. Poisoning, injuring or killing.

It shall be unlawful for any person to administer poison to any dog, expose poison where it may be taken by any dog, injure, disfigure, disable or kill any dog, except as otherwise provided in this article or state law.

§ 61-15. Nuisances.

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

PUBLIC NUISANCE DOG -- Any dog which:

(1) Is repeatedly found running at large;

(2) Damages the property of any person other than its owner;

(3) Is vicious;

(4) Causes unsanitary conditions or enclosures or surroundings;

(5) Causes fouling of air by odors;

(6) By loud, frequent or habitual barking or howling, causes annoyance and disturbs the peace and quiet of any person or neighborhood;

(7) Molests passersby or passing vehicles;

(8) Attacks other animals; or

(9) Has been designated by the Animal Warden to be a public nuisance dog by virtue of causing a menace to the public health, safety or welfare.

PUBLIC NUISANCE DOG HOLDING FACILITY -- Any holding facility harboring a public nuisance dog.

B. Public nuisance dogs or public nuisance dog holding facilities shall be unlawful.

C. The Animal Warden may, on receipt of a written complaint or at his own discretion, declare a dog or dog holding facility to be a public nuisance. The owners or custodians of any dog or dog holding facility in violation of this section shall be guilty of a Class 4 misdemeanor.

§ 61-16. Vicious dogs running at large.

It shall be unlawful for the owner of any vicious dog to permit such dog to run at large. For the purposes of this section, every dog who is known to have bitten a person or viciously attacked a person shall be deemed a vicious dog.

§ 61-17. Diseased or female dog at large.

It shall be unlawful for:

A. The owner of any dog with a contagious or infectious disease to

permit such dog to stray from his premises if such disease is known to the owner.

B. The owner of any female dog to permit such dog to stray from his premises while such dog is known to such owner to be in season.

§ 61-18. Dangerous or vicious dogs.

A. Any Animal Warden who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a Magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The Animal Warden or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this article. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1-796.119. Capturing, confining, and euthanizing companion animals by animal control officers; approval of drugs, etc., used of the Code of Virginia.

B. No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or provoking, tormenting or physically abusing the animal; or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring or its owner or owner's property shall be found to be a dangerous dog or a vicious dog.

C. The owner of any animal found by a court to be a dangerous dog

shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the Animal Warden for a fee of $50 in addition to other fees that may be authorized by law. The local Animal Warden shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

D. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination, if applicable, and that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined inside the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

E. While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such a manner so as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

F. If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

G. After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of the same, notify the local animal control authority if the animal is loose or unconfined; bites a person or attacks another animal; is sold, given

away or dies; or has been moved to a different address.

H. The owner of any animal which has been found by a court to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

I. All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required under § 3.1-796.105. Animal control officers and humane investigators; limitations; records; penalties of the Code of Virginia.

Article III Dog Licensing

§ 61-19. License required; exemptions; tags.

A. It shall be unlawful for any person to own a dog four months old or older in the county unless the dog is licensed pursuant to § 3.1-796.85. Unlicensed dogs prohibited; local ordinances for licensing cats. et seq. of the Code of Virginia and an annual fee has been paid for such dog or for a kennel at the office of the Treasurer. The owner shall submit evidence acceptable to the Treasurer when a dog has been neutered or spayed. [11]

B. No such fee shall be levied on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person. As used in this section, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

C. The Treasurer shall purchase necessary tags and receipt books to be paid for by the county, shall maintain necessary records and accounts and shall dispose of unsold tags when authorized by the Board of Supervisors. The tag shall be of such material and in such form as prescribed by the Treasurer and approved by the Board of Supervisors and shall be stamped or otherwise permanently marked with the words "Clarke County, Virginia," the sex of the dog, the calendar year for which issued and a serial number.

§ 61-20. Application.

A. Any resident of this county may obtain a dog license by making oral or written application to the Treasurer, accompanied by the amount

[11]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

of the fee and a certificate of vaccination as required by this article. The Treasurer shall have authority to license only dogs of resident owners or custodians who reside within the boundary limits of this county and may require information to this effect from any applicant. Upon receipt of proper application, together with the amount of the fee and display of the certificate of vaccination as required by this article, the Treasurer shall issue a license receipt for the amount of the fee, on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag and whether the license is for a male, unsexed female, female or kennel dog, and deliver the metal license tags or plates provided for in this article to such owner or custodian.

B. The information received under Subsection A of this section shall be retained by the Treasurer, open to public inspection, during the period for which such license is valid. The Treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of such licenses.

§ 61-21. Certificate of inoculation or vaccination.

No license tag shall be issued for any dog unless there is presented to the Treasurer at the time application for a license is made a certificate of inoculation or vaccination issued for such dog under the provisions of this article, which discloses that such dog is currently immune to rabies, or other evidence satisfactory to the Treasurer, showing that the dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian. [12]

§ 61-22. Payment of fee[13]

A. On or before January 1 and not later than January 31 of each year, the owner of any dog four months old or older shall pay the fee provided for in § 61-19.

B. If a dog shall become four months of age or if a dog over four months of age unlicensed by this county shall come into the possession of any person in this county between January 1 and October 31 of any year, the fee for the current calendar year shall be paid forthwith by the owner.

C. If a dog shall become four months of age or if a dog over four months of age unlicensed by this county shall come into the possession of any person in this county between November 1 and December 31 of any year, the fee for the succeeding calendar year shall be paid forthwith by the owner and shall protect the dog from

[12]Editor's Note: See Art. IV, Rabies, of this chapter.

[13]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the date of payment.

§ 61-23. Effect of payment of fee subsequent to summons.

Payment of the fee required in this article subsequent to a summons to appear before a court for failure to pay it within the time required shall not operate to relieve such owner from the penalties provided.

§ 61-24. Disposition of fees; liability for claims.

Fees collected by the Treasurer pursuant to the provisions of this article shall be paid by him into the general fund of the county treasury, and the limit of the county's liability for payment of claims that may arise against such fees in any fiscal year shall be the amount of revenue derived from such fees during the preceding fiscal year.

§ 61-25. Receipts; wearing of tags required; exemptions.

A. Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any Animal Warden or other officer.

B.[14] Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when the dog:

(1) Is engaged in lawful hunting;

(2) Is competing in a dog show;

(3) Has a skin condition which would be exacerbated by the wear collar;

(4) Is confined; or

(5) Is under the immediate control of its owner.

§ 61-26. Kennel dogs.

The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to any Animal Warden or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show. A kennel shall not be operated in such manner as to defraud the county of the license tax applying to dogs which cannot be

[14] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

legally covered thereunder or to in any manner violate other provisions of this article.

§ 61-27. Unlawful acts.

It shall be unlawful for any person:

A. Except the owner or custodian, to remove a legally acquired license tag from a dog.

B. To conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep it from being killed.

§ 61-28. Effect of dog not wearing tag as evidence.

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

§ 61-29. Fees. [Added 4-20-1993[15]]

The daily shelter fee, finder's fee and all license fees are on file in the office of the County Administrator.

Article IV Rabies Control

[Amended at time of adoption of Code. (See Chapter 1 General Provisions)

§ 61-30. Vaccination or inoculation required.

A. It shall be unlawful for any person to own or harbor any dog or cat four months or more of age within the county unless such dog or cat shall have been vaccinated or inoculated, by a currently licensed veterinarian, against rabies with a serum and in a manner approved by the State Board of Health and such vaccination or inoculation is currently effective to produce immunity to rabies as determined by the State Board of Health by reason of the type and dose of such vaccination or inoculation.

B. Any person bringing a dog or cat within the county to be kept within the county shall comply with the requirements of Subsection A of this section within 30 days.

§ 61-31. Certificate of inoculation or vaccination.

Upon the inoculation or vaccination of a dog or cat by a currently licensed veterinarian under the provisions of this article, the veterinarian shall issue to the person procuring such inoculation or vaccination a certificate bearing the signature of the veterinarian and stating that he is a veterinarian currently licensed by the state and setting forth the name and address of the owner or custodian of the dog or cat, a brief

[15]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

description of the dog or cat, the type and dose of inoculation or vaccination used, the date of inoculation or vaccination and the period of time thereafter during which such dog or cat is deemed to be immune to rabies. The veterinarian shall retain a duplicate or carbon copy of such certificate for so long as the immunity to rabies caused by such inoculation or vaccination is deemed to be effective.

§ 61-32. Impoundment, redemption and disposal of dog or cats at large without inoculation tags.

A. Any dog or cat four months or more of age found off the premises of its owner and not under the immediate control of a responsible person shall be impounded by the Animal Warden, and such dog or cat shall be held for a period of seven days. The dog or cat may be returned to its owners upon proof of ownership, vaccination of the dog or cat or proof of prior vaccination currently effective, procurement of a dog license if not currently licensed, payment of an impounding fee and payment of the costs of care and feeding of the dog or cat while impounded.

B. At the expiration of the seven-day period, any dog or cat not so claimed by the owner may be disposed of by giving it into possession of any person who will have the dog or cat inoculated or vaccinated pursuant to this article and, if such dog does not wear a license tag, will obtain a dog license pursuant to this article, and, if not so disposed of, such dog or cat shall be disposed of as authorized by the Code of Virginia, § 3.1-796.96. County or city pounds; confinement and disposition of animals; affiliation with foster care providers; penalties; injunctive relief, by the Animal Warden or other person designated for such purpose.

§ 61-33. Rabies emergencies.

A. Whenever, in the judgment of the Health Officer serving this county, a rabies emergency exists in the county or in any area thereof, the Health Officer shall issue a proclamation declaring such emergency to exist throughout all or a defined area of the county; and such proclamation shall require that all dogs or cats within the county or such defined area of the county be confined to the premises of their owners or custodians or, if held on leash by responsible persons, that they be securely muzzled; and it shall be unlawful for any person to violate any provisions of such proclamation while it is in force.

B. Each proclamation issued pursuant to this section shall be published as soon as possible in a newspaper of general circulation within the county, and copies thereof shall be provided to radio and television stations within the county. The original proclamation shall be filed in the office of the Health Officer.

C. When, in the judgment of the Health Officer serving this county, a proclaimed emergency ceases to exist, the Health Officer shall so proclaim, and the foregoing provisions of this section shall apply as to publication, release to radio and television stations and filing.

Amendments Chapter 61

1995-07-18	Article II Dogs -Added 7-18-1995

Chapter 67 Brush, Grass And Weeds

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References Chapter 124 Nuisances

Code Of Virginia References § 3.1-296.11 et seq. - Noxious Weed Law
§ 15.2-902. Authority of locality to control certain noxious weeds

Article I Control of Johnson Grass

[Adopted 1-19-1988 as Secs. 10-86 through 10-92 of the 1987 Code]

§ 67-1. Statutory authority. The provisions of this article are in accordance with the Code of Virginia, § 15.2-902.

§ 67-2. Nuisance declared. The existence of growth of a species of grass, Sorghum halepense, commonly known as "Johnson grass," as well as other Sorghum species with perennial rhizomes (includes perennial sweet Sudan grass, Sorghum almum and hybrids derived therefrom), is hereby declared to be a public nuisance in the county.

§ 67-3. Agreements. The Board of Supervisors may enter into an agreement with the State Department of Agriculture and Consumer Services for the purpose of the control of Johnson grass within the county and may accept funds from the Department as agreed upon.

§ 67-4. Johnson Grass Control Committee. There is hereby established a Johnson Grass Control Committee composed of eight members, each to be appointed by and to serve at the pleasure of the Board of Supervisors. Said Committee shall appoint all individuals responsible for a Johnson Grass Program and approve all expenditure of funds and administer the Johnson Grass Control Program.

§ 67-5. Duties of Committee. The Johnson Grass Control Committee or its representatives:

A. Shall conduct surveys to determine the location and amount of infestations of Johnson grass within the county.

B. Shall provide the necessary technical and other assistance to landowners in a cooperative control or eradication program.

C. May effect a program of spraying or other control practices on road rights-of-way, drainage ditch banks, parks, playgrounds, utility rights-

of-way and other public or private lands.

§ 67-6. Duties of landowners.

It shall be unlawful for any person to knowingly allow Johnson grass to set seed on any land in the county. It shall be the duty of each landowner to mow, fallow, treat with herbicides or use such other practices as may be approved by the Johnson Grass Control Committee as effective in preventing seed set on all Johnson grass or other perennial Sorghum species on his property. However, a landowner or lessee may enter into a written compliance agreement with the Johnson Grass Control Committee or its designee, specifying terms and conditions of a control program, and so long as all the terms and conditions are being complied with, there is no violation of this article.

§ 67-7. Importation.

It shall be unlawful to import Johnson grass into the county or to transport Johnson grass within the county in any form capable of growth or to knowingly contaminate any uninfested land with Johnson grass through the movement of rootstocks, plant parts, seed, soil, mulch, nursery stock, farm machinery or other media.

§ 67-8. Violations and penalties[16]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

[16] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 71 Building Construction

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 4-2 through 4-6 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 24 Officers And Employees, Article III Building Official/Department
Chapter 93 Fire Prevention
Chapter 148 Soil Erosion And Sedimentation Control
Chapter 161 Subdivision Of Land
Chapter 188 Zoning

Code Of Virginia References

§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.
§ 19.2-393 et seq. - Inspection warrants, definitions
§ 36-81. - Industrialized building safety requirements
§ 36-97 et seq. - Uniform Statewide Building Code

§ 71-1. Standards adopted by reference.

The Virginia Uniform Statewide Building Code is hereby adopted by reference for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties. The whole thereof, except such portions as are deleted, modified or amended by this chapter, of which not fewer than two copies are filed in the office of the County Administrator for inspection during regular business hours, is hereby incorporated herein as fully as if set out at length herein. The code adopted by this section shall be known and may be cited as the "Building Code."

§ 71-2. Fire limits.

Due to the absence of areas of highly congested business, commercial, manufacturing and industrial uses, as well as the absence of areas in which residences, retail stores, business and amusement centers exist or are developing in such manner as to present any significant fire hazard, the Board of Supervisors finds that the designation of any Fire District No. 1 or Fire District No. 2 is unnecessary; and the Board of Supervisors hereby designates the area of the whole county to constitute the outside fire limits of the county.

§ 71-3. Permit fees.

The Board of Supervisors may, by ordinance or resolution, establish and from time to time amend a schedule of fees for the issuance and amendment of building permits required by the Building Code; and no such permit for which a fee has been so established shall be issued or

amended until such fee has been paid to the Treasurer of the county, provided that during any period of time when an agreement is in effect by and between the county and another governmental body or private agency as authorized in Chapter 24, Officers and Employees, Article III, Building Official/Department, the fees shall be paid to such governmental entity or private agency as may be specified in such agreement.

§ 71-4. Removal or repair of dangerous buildings or structures.

A. Owners of property within the county shall, whenever prescribed by ordinance or resolution of the Board of Supervisors, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county.

B. The Board of Supervisors, 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 county when the owner of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure.

C. In the event that the Board of Supervisors, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of 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 county as taxes and levies are collected.

D. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property.

§71-5. Violations and penalties.[17]

Any person who shall fail, refuse or neglect to comply with or otherwise violate the provisions of this chapter, which includes the Building Code, shall be punished as provided in § 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants, of the Code of Virginia.

§71-6. Shrink/Swell Soil Testing

A. Testing Requirements

(1) Prior to the approval of a building permit, soil testing to determine soil expandability shall be performed if the building site is located

[17] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

within 500 feet of soils shown on the Clarke County Shrink Swell Soil Map (Clarke County Planning Department) as having moderate or high potential for shrink/swell. The Building Official may require permit applicants to submit a coy of the soils analysis at the time of filing the application. Copy of this ordinance and information concerning the potential damage from shrink/swell soils shall be available through the office of the Building Official.

(2) Building permits for the following activities shall be exempt from shrink/swell soil testing requirements:

(a) decks

(b) detached structures smaller than 600 square feet without habitable areas

(c) above ground swimming pools

(d) for detached structures smaller than 600 square feet or additions to existing residences, where a soils report with recommendations has previously been issued, is acceptable to the Building Official, and a proposed construction design is presented in accordance with previously submitted report.

(e) stoops

(f) manufactured homes (as defined in § 9-B113 of the Zoning Ordinance)

(g) detached structures constructed to the following standard:

1. Dwellings on crawl space:
Foundations for the structure to be extended to bear a minimum of four feet below final outside grade. Foundation concrete can then be placed to bear at this level or the footing excavation can be backfilled to original design bearing elevation, with lean-mix concrete having a minimum of 1500 PSI or greater;

2. Dwellings on Basement:
Foundations for the structure to be extended to bear a minimum of four feet below final outside grade. Foundation concrete can then be placed to bear at this level or the footing excavation can be backfilled to original design bearing elevation, with a lean-mix concrete having a minimum of 1500 PSI or greater. Slab sub-grade soils shall be undercut with a minimum of six-inch thick layer of well-graded aggregate VDOT 21B;

Backfill material (drainage media) shall consist of a

minimum 18-inch thick zone of free-draining aggregate (#57) separated from the fill by a filter fabric. The aggregate should be carried within one foot of the final outside grade. The final one foot of backfill shall consist of relatively impermeable clay soils. The final backfill surface shall be sloped away from the dwelling.

(h) Engineered in-ground swimming pools, and additions, detached garages, carports, accessory buildings greater than 600 square feet, where the property owner signs a "LETTER OF WAIVER" provided by the Clarke County Building Department.

(3) In all cases, the Building Official's reading of the shrink/swell map shall be conclusive, and soil testing may be required, regardless of the shrink/swell map identification, if in his/her professional opinion site conditions warrant. All sites shall be evaluated by and soil tests shall be performed by a competent soil professional. As used herein, soils professional means a Virginia licensed professional engineer, a Virginia certified soil scientist (CPSS), or a Virginia certified professional geologist.

B. Soil Sampling

All soil tests performed pursuant to this Policy shall be performed upon samples collected in the following manner from the site of the proposed construction: A minimum of two soil borings or test pits shall be taken at opposite corners of the proposed structure at a depth of at least five feet and at least two feet below the bottom of the recommended footing depth or to refusal of the auger or backhoe.

C. Soil Test Methodology

Selected soil samples shall be subjected to laboratory testing that will provide the appropriate information for soil classification in accordance with ASTM D-2487. The soils professional shall determine the appropriate test(s) to be performed in all cases based on the soil characteristics and any other known factors relating to the site and the proposed construction. Laboratory tests shall, as a minimum, include one sieve or grain size analysis and one Atterburg limits test using current ASTM test procedures.

D. Reporting

The professional report shall include:

(1) Soil bore logs from the site;

(2) A site sketch to scale which identifies bore or test pit locations at the building site;

(3) Soil laboratory test results;

(4) The original signature(s) and professional seal(s) of the soil

professional(s) who performed and/or supervised the soil sampling, conducted the laboratory testing and/or evaluation, and prepared the report (laboratory test procedures shall as a minimum, contain one set of index parameters which are performed using ASTM test procedures or Atterburg Limits; soil types need to be identified per the Unified Soil Classifications).

(5) A qualitative determination of the shrink/swell potential for all soil samples, the basis for the qualitative shrink/swell potential, and recommendations.

(6) Identification of other soil conditions such as wetness or differential depth to bedrock that may effect foundation or footer design.

E. Construction in Moderately or Highly Expandable Soils

For construction proposed on soils identified through testing and/or evaluation as moderately or highly expandable, a design for the footing and foundation shall be prepared by a Virginia licenses professional engineer or a Virginia licensed architect, who shall sign and seal the design, and shall be submitted to the Building Official for review prior to the approval of a building permit.

F. Creation of database and review of ordinance

The Building Official, with the assistance of county staff shall create a database of soils in the county with the information made available as the result of the policy adopted herein. A report shall be prepared describing said database and evaluating the effectiveness of the policy adopted herein, and submitted to the Board of Supervisors approximately one year after adoption of the ordinance.

Amendments Chapter 71

1999-10-19

§ 71-6. Shrink/Swell Soil Testing: Adopted.

2000-07-20

§ 71-6. Shrink/Swell Soil Testing: Amended by the Board of Supervisors on July 20, 2000 to allow builders to construct foundations to an increased standard designed to protect against the impact of shrink/swell soils, as an alternative to performing soil tests.

Chapter 72 Conservation Easement Purchase Program

[HISTORY: Adopted by the Board of Supervisors of Clarke County June 18, 2002; Amended October 19, 2004]

§ 72-1 Purpose

The general purpose of the Clarke County Easement Purchase Program (CEP Program) is to protect and preserve land with significant agricultural, natural, scenic, and historic resources. In furtherance of the general purpose, the specific purposes of the CEP Program include, but are not limited to:

A. Protection of quality farmland;

B. Preservation of open-space and the rural character of Clarke County;

C. Protection of environmentally sensitive areas important to water quality, plant life, and wildlife;

D. Protection of historic resources;

E. Protection of natural and scenic resources;

F. Promotion of tourism; and

G. Protection of water resources.

§ 72-2 Conservation Easement Purchases - General

Conservation easements shall be acquired pursuant to the provisions of this chapter and shall be in conformity with the Clarke County Comprehensive Plan. Any conservation easement acquired pursuant to this chapter shall be voluntarily offered by the owner.

§ 72-3 Conservation Easement - Definition

For purposes of this chapter, "conservation easement" shall mean a non-possessory interest in real property of one or more qualified easement holders under § 72-9 of this chapter, acquired pursuant to the Virginia Open-Space Land Act (§ 10.1-1700, et seq., Code of Va.) and this CEP Program, imposing limitations or affirmative obligations for the purpose of retaining or protecting natural or open-space values of the parcel or parcels, assuring availability for agricultural, forestry, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, or archaeological aspects of the parcel or parcels.

§ 72-4 Administration

The CEP Program shall be administered by the Clarke County Conservation Easement Authority (Authority). The county Planning Administrator shall serve as Clerk to the Authority, and the county Planning Department shall serve as staff to the Authority.

§ 72-5 Selection Criteria/Property Resource Score

Easements shall be purchased based upon a Property Resource Score and such other factors deemed applicable by the Authority. The Property Resource Score shall include criteria, established by resolution by the Board of Supervisors, which includes the following factors for each property:

A. agricultural value;

B. area;

C. number of dwelling unit rights;

D. location in regard to water resources or unique topographic features;

E. location in regard to significant publicly owned open space;

F. presence of threatened or endangered plant or animal species;

G. location in regard to primary and scenic highways;

H. location in regard to areas of scenic vistas; and

I. presence of historic or cultural resources.

§ 72-6 Income Criteria

Criteria for evaluating income of property owners (Income Criteria) shall be adopted by resolution by the Board of Supervisors to implement the purpose of focusing the expenditure of county funds in the CEP Program toward lower and middle-income property owners.

§ 72-7 Procedures
[Amended 04-10-19]

A. Any interested property owner may submit an application to offer a conservation easement for acquisition by the county. The application shall be submitted on a form provided by the Authority, and shall include the information and documents called for in the application. In addition, the property owner shall submit thereafter such additional information or documents deemed necessary by the Authority to consider the application.

B. The Authority shall rank the application in accordance with the Property Resource Score.

C. Based on the ranking determined by the Property Resource Score, the Authority shall select proposed easements to be purchased.

1. If the Authority determines that an appraisal of the easement is necessary, it shall commission an appraisal of the easement. Using the Property Resource Score, the Income Criteria, and such other factors deemed applicable by the Authority, the Authority shall determine the maximum amount of County funds that would be offered to the property owner (Purchase Price) for the purchase of the easement.

2. If the Authority determines that an appraisal of the easement is not necessary, using the Income Criteria, the Property Resource Score, such valuation methodology as established by the Authority, and such other factors that may be determined by the Authority, the Authority shall determine the maximum amount of County funds that would be offered to the property owner (Purchase Price) for the purchase of the easement.

D. Using the appraised value of the proposed easement, the Income Criteria, the Selection Criteria score of a property, and such other factors that may be determined by the Authority, the Authority shall determine the maximum amount of county funds that would be offered to the property owner (Purchase Price) for the purchase of the easement. [amended 04-10-19]

E. For each easement which the Authority proposes to submit to the Board of Supervisors for consideration of purchase, the Authority shall invite the property owner to submit a written offer, on a form provided by the Authority, to sell the easement to the county for the Purchase Price, and to donate to the county the balance, if any, of the fair market value of the easement, subject to the terms and conditions of the proposed deed of easement, which proposed deed of easement shall be prepared by the Authority and provided to the property owner. Nothing herein shall compel the property owner to submit an offer to sell.

F. After receipt of a written offer to sell, the Authority shall forward the offer to the Board of Supervisors for consideration and approval.

G. Upon formal approval by the Board of Supervisors of the purchase of an easement, the Authority shall arrange for a closing on the transaction and the recordation of the deed of easement in the Office of the Clerk of the Circuit Court of Clarke County.

H. The county shall pay all closing costs associated with the purchase

of an easement to include, without limitation, site assessments, appraisals and surveys commissioned by the Authority, grantee's recording costs, and grantor's tax (if any); provided, however, the county shall not pay fees incurred by the property owner for independent appraisals, or legal, financial, or other professional advice or services to the property owner, or fees and costs in connection with the release and/or subordination of liens to the easement purchased.

I. A property owner whose proposed easement is not purchased may reapply in the next fiscal year.

§ 72-8 Duties of the Authority

In administering the CEP Program, the Authority's duties shall include, but not be limited to:

A. Developing and proposing *Property Resource Score criteria* for adoption by the Board of Supervisors;

B. Developing and proposing Income Criteria for adoption by the Board of Supervisors;

C. Publicizing the CEP Program in Clarke County;

D. Identifying properties that would have high *Property Resource Scores* and target information to the owners of those properties;

E. Soliciting and receiving voluntary applications from property owners;

F. Ranking applications in accordance with the *Property Resource Scores;*

G. Selecting proposed easements to be appraised and commissioning appraisals;

H. Determining the Purchase Price for selected parcels using the appraised value of the proposed easement and the Income Criteria;

I. Establishing a methodology for valuation of proposed easements not appraised to determine the Purchase Price;

J. Submit written offers to sell to the Board of Supervisors for approval;

K. Complete closings on purchases and record deeds of easement;

L. Apply for and pursue grants, other funding, and gifts from the Virginia Land Conservation Fund, other state or federal agencies,

and private persons or entities;

M. Monitor properties to determine compliance with the terms of easements purchased, and take action to enforce compliance;

N. Have prepared application forms, written offer to sell forms, and other documents used in the administration of the CEP Program;

O. Have deeds of easement prepared;

P. Establish procedures consistent with the provisions of this chapter for the receiving and processing of applications and for the administration of the CEP Program;

Q. Conduct periodic reviews of the CEP Program to determine if its purposes are being met; and

R. Provide training programs for Board of Directors members and for staff.

§ 72-9 Deeds of Easement

A. Each conservation easement shall conform with the requirements of the Virginia Open-Space Land Act and this chapter.

B. The Board of Supervisors and the Authority shall be co-holders of all easements acquired under the CEP Program. In addition, where advisable the Authority shall seek an additional public body, as defined in the Virginia Open-Space Land Act, or, as permitted by law, other federal or state agency or private organization, to be an additional co-holder.

C. The deed of easement shall be perpetual.

D. The deed of easement shall be in a form approved by the county's attorney, shall include standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel, and shall include, without limitation, restrictions pertaining to: (1) the maximum number of dwelling unit rights which may be utilized on the parcel on which the easement is located; (2) a prohibition against the accumulation of trash and junk, mining, and commercial activities, but shall not prohibit agricultural, silviculture, horticulture, or home occupations (as defined in the Clarke County Zoning Ordinance); (3) the right of the Authority to conduct periodic inspections; and (4) the right of any one or more of the co-holders of the easement to enforce the easement.

E. In addition, the Authority may include in the deed of easement

restrictions or provisions that deal with the specific public values (agriculture, water resources, historic resources, scenic resources, etc.) being protected by the easement.

§ 72-10 Funding

The CEP Program may be funded annually by the Board of Supervisors in the county budget or by special appropriation.

§ 72-11 Non-Exclusive

The CEP Program is a non-exclusive means for the county to acquire conservation easements, and shall not limit the county or the Authority in acquiring, receiving, or holding conservation easements by other methods or under other programs. This chapter shall not limit the ability of property owners to establish conservation easements or other self-imposed limitations on land use or development, and shall not be construed in any way as a limitation on the county's authority to acquire land for public purposes.

§ 72-12 Five -Year Review

On or about July 1, 2007, *and every five years thereafter,* the Authority shall submit to the Board of Supervisors a report of the Authority's review of the CEP Program and its effectiveness in fulfilling its purposes.

Amendments Chapter 72

2004-10-19

§72-7, D, Procedures for the Clarke County Conservation Easement Authority, so that the Authority will use the Selection Criteria Score of a property and such other factors that it may be determined (in addition to the appraised value of the proposed easement, and the Income Criteria for property owners) when determining the maximum amount of county funds that would be offered to a property owner (Purchase Price) for the purchase of an easement. CC-04-05

2009-11-17

§ 72-5 Selection Criteria, so as to add reference to the Property Resource Score; 72-7 Procedures and 72-8 Duties of the Authority, so as to reference and reflect the proposed purchase policy; 72-12 Five Year Review, so as to provide a summary of the Authority's accomplishments to the Board every five years. CC-09-08

Chapter 74 County-Owned Property

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 2-2, 2-3, 9-6 and 9-7 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 152 Smoking

Code Of Virginia References

§ 15.2-1412. Reproductions of records and documents and legal status thereof; destruction of originals.
§ 18.2-137 et seq. - Injuring, etc., any property, monument, etc.
§ 18.2-138 et seq. - Injuries to public buildings

§ 74-1. Use of county-owned personal property for private purposes.

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

B. This section shall not be construed so as to limit the authority of the Board of Supervisors to authorize the use of county-owned personal property by municipalities or agencies of the commonwealth under mutually agreed upon terms and conditions.

§ 74-2. Unauthorized use of personal property.

No person shall, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any books, records, furniture, equipment, gear, apparatus, tools or other items of personal property belonging to, leased to or used by the county or any agency thereof.

§ 74-3. Unauthorized use of real property.

No person shall, without proper authority, knowingly destroy, damage, deface, molest or otherwise interfere with or trespass upon any real property belonging to, leased to or used by the county or any agency thereof.

§ 74-4. Protection of records and other papers.

A. No book, record, document or paper belonging to the county or any department, office, board, commission or other agency of the county shall be removed from the office of the custodian thereof without his permission, and then only upon the giving of a receipt therefore, except as may be provided otherwise by law in any case or except upon order of the Board of Supervisors or its Chairman or in compliance with a valid subpoena duces tecum issued by a court or officer having jurisdiction in the premises.

B. No person shall, without proper authority, destroy, tamper with, deface or otherwise damage or alter any book, record, document or paper belonging to the county or any department, office, board, commission or other agency of the county or fail to return any such item of property to its proper custodian after having taken it from its place of custody as authorized in Subsection A of this section.

§ 74-5. Violations and penalties[18]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1 General Provisions Article I.

[18] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 78 Dance Halls

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as § 9-8 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 57 Special Events
Chapter 120 Noise
Chapter 132 Peace And Good Order
Chapter 188 Zoning

Code Of Virginia References

§ 15.2-912.3. - Regulation of dance halls by counties, cities and towns.
§ 18.2-433. - Statutory authority

§ 78-1. Definitions.

A. For the purposes of this chapter, the following terms shall have the meanings indicated:

PUBLIC DANCE HALL -- Any place, open to the general public, where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received, either directly or indirectly, by cover charge or otherwise, or where refreshments or food or any form of merchandise are served for compensation before, during or after dancing; and the sale of any refreshments, food or any form of merchandise at such place or the exhibiting of such for sale shall be deemed direct compensation for any such dance hall as is contemplated by this chapter. A public dance hall shall also mean any place where any club, association, corporation, organization or group of persons conduct, operate or permit dances that are open to the public.

B. This definition shall not apply to dances held for benevolent or charitable purposes when conducted under the auspices of religious, civic, charitable, educational or military organizations.

§ 78-2. Permit required.

It shall be unlawful for any person to operate a public dance hall without first obtaining a permit from the Board of Supervisors.

§ 78-3. Revocation of permit.

A permit to operate a public dance hall may be revoked by the Board upon the presentation of evidence satisfactory to the Board that any requirements or provisions of this chapter have been violated or that any ordinance or law of the county or state has been violated. No such permit shall be revoked until after a hearing by the Board. The holder of such permit shall be given five days' notice, by certified or registered

mail sent to the address set forth on the application for the permit or to the last known address of the permit holder, of the time and place of such hearing to determine whether the special use permit shall be revoked.

§ 78-4. Hours.

It shall be unlawful for any person to operate or manage a public dance hall or to conduct dancing therein between the hours of 12:00 midnight on any Saturday and 6:00 a.m. on the next following Monday.

§ 78-5. Violations and penalties[19]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1 General Provisions, Article I.

[19] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 84 Emergency Operations Plan

The Emergency Operations Plan, is on file in the office of the County Administrator.]

Amendments Chapter 84

1994-09-20	Adopted
2003-11-18	Updated Emergency Operations Plan

Chapter 86 Explosives

Article I Prospect Hill Spring

§ 86-1. Purpose

Prospect Hill Spring is the public water source for the Town of Boyce and the communities of Millwood, Waterloo, and White Post. Use of explosives is hereby limited within the area of Prospect Hill Spring so as to protect the quality and quantity of spring water.

§ 86-2. Definition

For the purpose of this ordinance "explosive" shall be as defined in § 59.1-137. Explosives Definition, Code of Virginia.

§ 86-3. Prohibited Area

Use of explosives is prohibited within the Spring Conservation Overlay District as described in § 3-E-2 of the Clarke County Zoning Ordinance.

§ 86-4. Limited Area

Within the area described below and outside the Spring Conservation Overlay District, the use of explosives is allowed after submission and approval by the Clarke County Board of Supervisors (the Board) of a Blasting Plan that addresses the potential impact of the proposed blasting activity on the geology within this area:

- Beginning at the intersection of Virginia Route 620 and the Norfolk Southern Railroad right of way near the intersection of Virginia Route 620 with US Route 340;
- thence southwest along the south boundary of the Norfolk Southern Railroad right of way to Virginia Route 723;
- thence southeast along the northeast boundary of Virginia Route 723 to the intersection of Route 723 with the southeast boundary of present Tax Parcel 29-A-16A;
- thence northeast along the southeast boundary of Tax Parcel 29-A-16A to its eastern corner;
- thence in a straight line from the east corner of Parcel 29-A-16A to the corner of the intersection of the boundaries of present Tax parcel 30-A-1B and present Tax Parcel 30-A-7;
- thence northeast along the common boundary of Parcels 30-A-1B and 30-A-7 to Virginia Route 620;
- thence north along the west boundary of Virginia Route 620 to the point of beginning.

§ 86-5. Blasting Plan

The Blasting Plan shall include the following elements:

a. Demonstration that the proposed improvements, including

construction of buildings, earthwork operations, road construction, utility installation, and storm drainage/storm water management facilities, for which blasting is to occur are located and designed so as to require the least intensive degree of blasting necessary and that it is necessary to remove the rock rather than relocating development improvements, changing elevations, etc.;

b. Geotechnical investigation evaluating the impact of the proposed blasting on the quantity and quality of groundwater recharging Prospect Hill Spring. The investigation shall include electrical resistivity and/or seismic refraction testing to show the limits, hardness and characteristics of rock, location of voids, groundwater levels, etc. Test pit evaluation where improvements are planned may be required by the Board after its initial review and approval;

c. A program for a pre-blast survey of existing water quality and quantity of Prospect Hill Spring and public utilities within the area defined in section 4 above;

d. A blasting schedule identifying the location, size, and time period of blasting activities;

e. A statement indicating that:

   i) all blasting shall be done by licensed blasters and the contractor shall conform to all federal, state, and local laws and regulation regarding transportation, storage, and use of explosives; and

   ii) the contractor shall be fully responsible and liable for all damage incurred to publicly owned facilities as a result of the contractor's use of explosives and blasting operations regardless of whether or not the contractor had complied with such federal, state, or local laws and regulations.

f. A monitoring plan conducted by a independent third party,

g. Blasting work shall be performed in the presence of a licensed blaster;

h. Other requirements that in the opinion of the Board ensures protection of Prospect Hill Spring.

§ 86-6. Insurance

The contractor shall take out and maintain, during the period of blasting operations plus 30 days, special liability and property damage insurance for all personal and property damage incurred as a result of the contractor's use of explosives and blasting operations. The Board shall

approve the coverage and amount of such insurance. No explosives shall be delivered to the site until proof of such insurance coverage is delivered to the Board. If the coverage or amount of insurance is not deemed sufficient, a special bond covering the blasting operations may be required by the Board and the bond's costs shall be paid by the contractor.

§ 86-7. Notice

All governmental agencies as required by law, including the Board, shall be notified before the period of blasting commences.

§ 86-8. Review Costs

The Contractor shall pay the county's costs for professional consultant review of the Blasting Plan.

Article II County-wide

§ 86-9. Purpose

More than 3,000 existing dwellings in Clarke County rely on private wells and septic systems for their water source and sewage disposal systems. In addition, portions of public water and sewer systems traverse areas of the county outside of town corporate limits. Use of explosives is hereby limited near:

a. private wells so as to protect the quality and quantity of private well water,

b. private septic systems so as to insure their effectiveness in processing sewage and the potential contamination of the groundwater, and

c. public waterworks and sewer system and treatment works so as to ensure such facilities are not damaged.

§ 86-10. Definitions

For the purpose of this ordinance "explosive" shall be as defined in § 59.1-137. Explosives Definition, Code of Virginia. For the purpose of this ordinance "perennial spring" shall be as defined in § 143 and § 184 of the Code of Clarke County

§ 86-11. Prohibited Area

Except in incorporated towns and the Berryville Annexation Area, use of explosives is prohibited within 100 feet of private wells, public waterworks, private sewage disposal systems, public sewerage system and treatment works, and perennial springs.

§ 86-11. Limited Area

Between 100 feet and 500 feet of private wells, public waterworks, private sewage disposal systems, public sewerage system and treatment works, and perennial springs the use of explosives is allowed only after submission and approval by the Clarke County Board of Septic and Well Appeals (the Board) of a Blasting Plan that addresses

the potential impact of the proposed blasting activity on such facilities.

§ 86-12. Blasting Plan

The Blasting Plan shall include the following elements:

a) Demonstration that the proposed improvements, including construction of buildings, earthwork operations, road construction, utility installation, and storm drainage/stormwater management facilities, for which blasting is to occur are located and designed so as to require the least intensive degree of blasting necessary and that it is necessary to remove the rock rather than relocating development improvements, changing elevations, etc.;

b) A program for a pre-blast survey of all existing above and below ground facilities within 500 feet of the site proposed for the use of explosives;

c) A blasting schedule identifying the location, size, and time period of blasting activities;

d) A statement indicating that:

   i) all blasting shall be done by licensed blasters and the contractor shall conform to all federal, state, and local laws and regulation regarding transportation, storage, and use of explosives; and

   ii) the contractor shall be fully responsible and liable for all damage incurred to publicly owned facilities as a result of the contractor's use of explosives and blasting operations regardless of whether or not the contractor had complied with such federal, state, or local laws and regulations.

e) A statement that blasting work shall be performed in the presence of a licensed blaster;

f) Other requirements that in the opinion of the Board ensures protection of wells, water works, drain fields, and sewage disposal systems.

§ 86-13. Insurance

The contractor shall take out and maintain, during the period of blasting operations plus 30 days, special liability and property damage insurance for all personal and property damage incurred as a result of the contractor's use of explosives and blasting operations. The Board shall approve the coverage and amount of such insurance. No explosives shall be delivered to the site until proof of such insurance coverage is delivered to the Board. If the coverage or amount of insurance is not deemed sufficient, a special bond covering the blasting operations may

be required by the Board and the bond's costs shall be paid by the contractor.

§ 86-14. Notice All governmental agencies as required by law, including the Board, shall be notified before the period of blasting commences.

§ 86-15. Review Costs The Contractor shall pay the county's costs for professional consultant review of the Blasting Plan.

Amendments Chapter 86

2003-04-08 Adopted Article I Prospect Hill Spring Explosives Ordinance. Chapter number assigned by staff.

2003-12-16 Added Article II County-wide Explosives Ordinance. Number assigned by staff.

Chapter 93 Fire Prevention

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 16 Fire Companies, Volunteer
Chapter 52 Alarm Systems
Chapter 71 Building Construction
Chapter 97 Fireworks

Article I Open Burning Restrictions

[Adopted 1-19-1988 as § 5-1 of the 1987 Code]

§ 93.1. Open Burning Restrictions.

a. The Board of Supervisors shall impose such restrictions as it shall deem necessary to limit or prohibit open burning that will be offensive or objectionable due to smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous.

b. The Board of Supervisors may delegate to the County Administrator the authority to promulgate, impose, or rescind, any such regulations or permits as may be consistent with the Board's action in limiting or banning open burning.

c. Violation of any restriction, regulation or ban imposed by this section shall be considered a Class 1 misdemeanor.

Amendments
Chapter 93

1999-10-19 § 93.3. Open Burning Restrictions. Added

2014-10-21 Chapter 93 Article I Conduct at Fire Scenes rename to Open Burning Restrictions, Delete § 93-1. Obedience to and authority of officers and § 93-2. Authority of Fire Marshal, Renumber § 93.3. Open Burning Restrictions to § 93.1. Delete Code of Virginia References. CC-2014-3

Chapter 97 Fireworks

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 5-16 through 5-23 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 57 Special Events
Chapter 93 Fire Prevention

Code of Virginia References

§ 15.2-974. - Permits for display of fireworks; use and exhibitions.

§ 97-1. Purpose.

The purpose of this chapter is to provide for the issuance of permits to fair associations, amusement parks and organizations and groups of individuals for the display of fireworks and to regulate the use and display of fireworks upon the granting of permits.

§ 97-2. Application for permit.

A. Written application for a permit to display fireworks shall be made in triplicate to the County Administrator, stating the time, place, type of fireworks and circumstances under which they are proposed to be displayed.

B. Each such application shall name at least one person who shall participate in displaying the fireworks who has had experience in displaying the type of fireworks proposed to be displayed.

§ 97-3. Approval of application; start of thirty-day period approved for storage.

Upon approval of an application for a permit to display fireworks, the County Administrator shall write across such application the wording "Approved," and the application shall be dated and signed by him, which date shall constitute the beginning of a thirty-day storage permitted for such fireworks as provided in § 97-7, and all fireworks covered by such permit shall be displayed or discharged within such thirty-day period.

§ 97-4. Disposition of permit and copies.

One copy of each application for a permit to display fireworks shall be kept on file by the County Administrator until after the date the fireworks are displayed, and two copies, after being approved as aforesaid, which will then become a permit to display fireworks, shall be returned to the applicant, who shall keep one copy on file for 60 days after displaying such fireworks, and one copy shall be in the possession of the person in charge of displaying the fireworks at the time and place they are being displayed.

§ 97-5. Supervision of display.

Permits under this chapter shall provide that fireworks be displayed under the supervision of a peace officer of the county, who shall be

present at the time such fireworks are displayed.

§ 97-6. Persons authorized to conduct display.

Not more than three persons, in addition to the officer mentioned in § 97-5, shall participate in displaying fireworks at one time, and all shall be persons over the age of 18 years.

§ 97-7. Storage of fireworks.

Prior to the use of fireworks pursuant to a permit, they shall be stored in a metal container in a building of masonry, concrete or other firm construction so that members of the public cannot have access to them. Such fireworks shall not be stored in the county for a period in excess of 30 consecutive days.

§ 97-8. Proximity of spectators.

No spectator or member of the public other than those who are participating in displaying or discharging fireworks shall be closer than 50 feet to the place where such fireworks are being displayed or discharged.

§ 97-9. Violations and penalties. [20]

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished by confinement in jail not to exceed 12 months, or by a fine not exceeding $1,000, or both such fine and imprisonment.

[20] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 106 Hunting And Firearms

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References Chapter 1 General Provisions

Code of Virginia References
§ 15.2-915.2. Regulation of transportation of a loaded rifle or shotgun.
§ 15.2-1209.1. Counties may regulate carrying of loaded firearms on public highways.
§ 29.1-520. Times for hunting
§ 29.1-523. - Killing deer by use of certain lights; acts raising presumption of attempt to kill
§ 29.1-526. Counties and cities may prohibit hunting or trapping near primary and secondary highways

Article I Hunting

[Adopted 1-19-1988 as Secs. 9-13 and 9-14 of the 1987 Code]

§ 106-1. Prohibited areas for hunting and trapping.

A. It shall be unlawful for any person to hunt or attempt to hunt with a firearm any game bird or game animal while the hunting or attempting to hunt is on or within 100 yards of any primary or secondary highway in the county.

B. It shall be unlawful to trap or attempt to trap any game animal or fur bearer within 50 feet of the shoulder of any primary or secondary highway in the county without the written permission of the landowner.

C. For the purpose of this section, the terms "hunt," "attempt to hunt," or "trap" shall not include the necessary crossing of such highways for the bona fide purpose of going into or leaving a lawful hunting or trapping area.

§ 106-2. Use of artificial light; exception.

A. It shall be unlawful for any person to throw or cast the rays of a flashlight, spotlight, headlight or other artificial light in any manner so as to shine directly upon or illuminate any field, forest, woodland, poultry range or building for the purpose of hunting game; and the doing of any such act by any person then in possession of a firearm or other weapon for the discharge of missiles, without good cause, shall raise a presumption of an attempt to hunt game in violation of this section.

B. The provisions of Subsection A of this section shall not apply to the headlights of any motor vehicle being operated on a public roadway in the usual and ordinary manner of travel; nor shall they apply to landowners upon their own land, their agents or persons in their employ or under their control.

§ 106-3. Violations and penalties.[21]

Any person who violates this article shall be guilty of a Class 3 misdemeanor.

Article II Firearms

[Adopted 1-19-1988 as Secs. 9-15 and 9-16 of the 1987 Code]

§ 106-4. Transporting loaded rifle or shotgun.

A. It shall be unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road or highway within the county; provided, however, that the foregoing shall not apply to duly authorized law enforcement officers nor military personnel in the performance of their lawful duties nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

B. All law enforcement officers authorized to act as such within the county shall have the power to enforce this section, including but not limited to all duly appointed and Acting Game Wardens.

C. A "loaded rifle or shotgun," as used in this section, is defined as a rifle or shotgun with ammunition within the action chamber, magazine or clip.

§ 106-5. Carrying loaded firearm on highway.

A. It shall be unlawful for any person to carry or have in his possession while on any part of a public highway within this county a loaded rifle or shotgun when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking.

B. All law enforcement officers authorized to act as such within the county shall have the power to enforce this section, including but not limited to all duly appointed and Acting Game Wardens.

C. A "loaded rifle or shotgun," as used in this section, is defined as a rifle or shotgun with ammunition within the action chamber, magazine or clip.

[21] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles nor to persons acting at the time in defense of persons or property.

§ 106-6. Violations and penalties. [22]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

§ 106-7. Fingerprinting Applicants for Concealed Handgun Permits. [Amended 2007-01-16; Repealed 2012-08-21]

The repeal of this section shall be effective July 1, 2012.

The remaining sections and subsections of Chapter 106 of the Code of Clarke County not amended hereby shall remain in effect as previously enacted.

Chapter 106 Amendments

1999-02-16

§ 106-7. Section added for fingerprinting applicants for concealed handgun permits

2007-01-16

§ 106-7. Hunting and Firearms § 106-7 Fingerprinting Applicants for Concealed Handgun Permits Add C. If an applicant possesses a current, valid concealed handgun permit and applies for a renewal of said permit, fingerprints shall not be taken nor required as part of said renewal process. CC-06-04.

2012-08-21

Hunting and Firearms Article II Firearms 106.7 Fingerprinting Applicants for Concealed Handgun Permits; Repeal section effective July 1, 2012 an ordinance amending Chapter 106 of the Code of Clarke County, Virginia, entitled "Hunting and Firearms," Article II, Entitled "Firearms," by repealing Section 106-7, consistent with recently amended Virginia code section 18.2-308, which removes the option for a locality to require that an applicant for a concealed handgun permit submit fingerprints as part of the application. .

[22]Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 112 Littering

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Ch. 10, Art. II, of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 57 Special Events, § 57.7. Special Event requirements.
Chapter 71 Building Construction
Chapter 124 Nuisances
Chapter 137 Property Maintenance

Code of Virginia References

§ 10.1-1408.1. - Permit required; open dumps prohibited
§ 10.1-1414 Definitions
§ 10.1-1415 et seq. - Litter Control Program.
§ 10.1-1424. - Allowing escape of load material; penalty.
§ 33.1-346. - Dumping trash, companion animals, etc., on highway, right-of-way or private property; penalty
§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties.
§ 19.2-76.2. - Mailing of summons in certain cases.

Article 1 General Provisions

§ 112-1. 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 -- Any public or private establishment which educates, instructs, treats for health purposes or otherwise performs a service or need for the community, region, state or nation.

LITTER -- All waste materials, including but not limited to bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, disposal packages or containers thrown or deposited as prohibited herein, but not including the properly disposed waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

LITTER RECEPTACLE -- A container with a capacity of not less than 10 gallons, constructed and placed for use as a depository for litter.

PERSON -- Any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary or representative or group of individuals or entities of any kind.

PRIVATE PROPERTY -- Property owned by any person, including but

not limited to yards, grounds, driveways, entrances or passageways, parking areas, storage areas, any body of water, vacant land and recreation facilities.

PUBLIC PROPERTY -- Any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks, parking lots, medians, lakes, rivers, streams, ponds or other bodies of water.

VEHICLE -- Every device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat, ship, vessel, barge 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 are not operated on any public highway for purposes other than crossing such public highway or along such highway between two tracts of the owner's land.

§ 112-2. Enforcement; prosecution; presumption.

A. Sworn deputies of the county Sheriff's Department are hereby empowered to issue citations to or arrest persons violating any provision of this chapter and may serve and execute all warrants and other process issued by the court in enforcing the provisions of this chapter. In addition, mailing by registered mail of such process to his last known place of residence shall be deemed as personal service upon the person charged, for the purposes of this chapter.

B. Prosecution for a violation of any provision of this chapter may be initiated by any law enforcement officer who witnesses such offense or who discovers an article of litter bearing a person's name or address on the property of another, on any public highway or upon any other public property except property that is designated for solid waste disposal. Such prosecution may be initiated by any private citizen who witnesses an offense or discovers evidence.

C. Any article of litter bearing a person's name or address found on the private property of another or on any public property as designated herein shall be presumed to be the property of such person whose name or address appears thereon and that such person placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence.

§ 112-3. Litter receptacles required at institutions. [23]

It shall be the duty of any person owning or operating any institution to provide litter receptacles adequate to contain the litter generated at said institution.

§ 112-4. Use of receptacles .[24]

It shall be unlawful to deposit any item or items except litter in any receptacle placed for public use as a depository for litter.

§ 112-5. Cleanup of premises by county.

A. Ten days after due notice is given to any owner, agent, occupant or lessee of any private property to remove litter from the premises, the county is authorized to clean up said private property and bill the owner or his agent for the costs thereof.

B. If the bill has not been paid within 30 days, execution may be issued by the county against the property for the amount expended in the cleaning work, and such execution shall constitute a lien on the property until the claim has been satisfied. Execution of the notice to remove litter shall be in writing.

§ 112-6. Violations and penalties. [25]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

Article II Moving Violations

§ 112-7. Littering prohibited. [26]

A. It shall be unlawful for any person to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within the county, including but not restricted to any street, sidewalk, park, body of water or vacant or occupied lot, except in public receptacles or in authorized private receptacles provided for public use or in an area designated by the State Department of Waste Management as a permitted disposal site.

B. When a violation of the provisions of this section has been observed by any person and the matter dumped or disposed of in the highway, right-of-way, property adjacent to 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; provided, however, that such presumption shall be rebuttable by competent evidence.

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[23] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
[24] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
[25] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
[26] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 112-8. Allowing escape of load material.

A. No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that 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 substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having that responsibility.

B. Subsection A shall not apply to:

(1) Any motor vehicle which is used exclusively for agricultural purposes and which is not operated on or over any public highway for any other purpose other than for the purpose of operating it across a highway or along a highway from one point of the owner's land to another part thereof, irrespective of whether or not the tracts adjoin.

(2) Any agricultural vehicle, tractor or other vehicle exempted from registration and licensing requirements pursuant to the Code of Virginia, § 46.2-303. Licenses not required for operating road roller or farm tractor. et seq.[27]

(3) Any motor vehicle transporting poultry or livestock.

C. No vehicle used to transport litter or other items likely to fall or be blown from such vehicle shall be driven or moved, stopped or parked on any highway unless such vehicle is covered to prevent its contents from blowing, dropping or falling from such vehicle.

D. 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 such public highway shall immediately cause the highway to be cleaned of all glass or objects and shall pay any costs therefore.

Article III Stationary Violations

§ 112-9. 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 said establishment or institution.

[27]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 112-10. Keeping residential property clean.[28]

It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. These areas shall include, but not be restricted to, sidewalks, alleys and driveways; yards and grounds, fences, walls and property lines; drainages; and vacant lots in residential areas.

§ 112-11. Sweeping litter into streets.

It shall be unlawful to sweep or push litter into streets. Such litter shall be deposited in a proper receptacle, which shall be covered to prevent scattering by wind and animals.

§ 112-12. 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 same to prevent scattering other bulk litter on a daily basis. All litter shall be removed from such site not less than once a week.

§ 112-13. 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.

§ 112-14. Indiscriminate dumping or discarding of litter and solid waste.[29]

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 said private property or except in receptacles provided for public use for the deposit of said material or except in an area designated by the State Department of Waste Management as a permitted disposal site.

B. Any article of litter bearing a person's name or address found on the private property of another or on any public property shall be presumed to be the property of such person whose name or address appears thereon and that such person placed or caused to be placed such article of litter; however, such presumption shall be rebuttable by competent evidence.

[28]Editor's Note: See Ch. 137, Property Maintenance.

[29]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 120 Noise

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 57 Special Events, § 57.7. Special Event requirements
Chapter 61 Animals, § 61-15 Barking or howling dogs
Chapter 78 Dance Halls
Chapter 132 Peace And Good Order

Code Of Virginia References

§ 15.2-919. Regulation of motorcycle noise
§ 46.2-113. Violations of this title; penalties
§ 46.2-1047. Muffler cutout, etc., illegal

Article I Noise

[Adopted 1-19-1988 as § 8-10 of the 1987 Code]

The Board of Supervisors hereby finds and declares that excessive or unwanted sound is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of Clarke County have a right to and should be free from an environment of excessive or unwanted sound. Therefore, it is the policy of the County and the purpose and intent of this article to prohibit such excessive or unwanted sound as provided herein.

State law reference—Va. Code § 15.2-1200.

§ 120-1. Administration and enforcement.

The Sheriff is hereby designated the agent of the Board of Supervisors in the administration and enforcement of this article. Employees of the Building Department, Planning Department, and other officers and employees of the County may assist the Sheriff in the enforcement of this article.

State law reference—Va. Code § 15.2-1200.

§ 120-2. Applicability.

This article shall apply to sound generated within the County, regardless of whether the complainant or the receiving property is within or without the County. This article shall be in addition to any sound or noise regulations set forth in the County Zoning Ordinance.

State law reference –Va. Code § 15.2-1200.

§ 120-3. Definitions.

The following definitions shall apply to this article. The definitions of any sound related terms not defined herein shall be obtained from the American National Standard Acoustical Terminology, ANSI S1.1-1994 (ASA 111-1994). Standards Secretariat, Acoustical Society of America,

120 Wall Street, 32nd Floor, New York, New York 10005-3993, if defined therein.

A. **Emergency operation**. The term "emergency operation" means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

B. **Motorcycle**. The term "motorcycle" means any motorized vehicle, whether registered as a motor vehicle or not, designed to travel on not more than three (3) wheels in contact with the ground and any mopeds, self-propelled scooters, all-terrain vehicles and off road motorcycles for the purposes of this chapter shall be deemed to be motorcycles.

C. **Motor vehicle**. The term "motor vehicle" shall mean every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, upon, or by which any person or property is or can be transported or drawn upon a highway, except devices moved by human or animal power and devices used exclusively upon stationary rails or tracks.

State Code reference – Va. Code § 8.01-307

D. **Noise**. The term "noise" means any sound, which is excessive or unwanted, but does not include any sound, which is exempt pursuant to section 120-6.

E. **Person**. The term "person" means any natural person, association, partnership, corporation or other legal entity.

F. **Road**. The term "road" means a public or private thoroughfare, which affords access to abutting property.

State law reference—Va. Code § 15.2-1200.

§ 120-4. Prohibited noises.

It shall be unlawful for any person to create or allow to be created any unreasonably loud, disturbing, raucous or unnecessary noise. Noise of such character, when its intensity and/or duration is detrimental to the life or health of any person, or which unreasonably disturbs or annoys the quiet, comfort or repose of any person, is hereby prohibited. Prohibited noise may include, but is not limited to, noise levels

exceeding 70dBA at the property line and such levels shall be prima facie evidence of a violation of this chapter but may be rebutted by competent evidence. A sound level meter shall be used in determining decibel levels.

State law reference—Va. Code § 15.2-1200.

§ 120-5. Prohibited acts enumerated.

The following acts are declared to be unreasonably loud, disturbing, raucous or unnecessary noise prohibited by section 7-104, but this enumeration shall not be deemed to be exclusive:

a) **Motor vehicle or motorcycle operation**. The operation, or permitting the operation, of any motor vehicle or motorcycle so as to create an unreasonably loud sound resulting from: (i) the removal, alteration or failure to property maintain its muffler-exhaust or other noise-control equipment; (ii) jackrabbit starts, spinning tires, racing engines, or other operations; or (iii) a refrigeration unit mounted on a motor vehicle.

b) **Radios, tape players, televisions, musical instruments, sound amplification equipment, and electronic and similar devices.** The operation, or permitting the operation, of any radio, tape player, television, musical instrument, sound amplification equipment, electronic or other similar device in such a manner: (i) as to annoy or disturb the quiet, comfort or repose of any person in a dwelling, hotel or other type of residence; (ii) as to annoy or disturb the quiet, comfort or repose of any person across any real property boundary when such device is operated in or on a motor vehicle which is parked; or (iii) as to be audible by someone of normal hearing, from outside a motor vehicle at a distance of 100 feet or more, when such device is located within a motor vehicle which is parked or is being operated on a road.

c) **Places of public or private entertainment.** The operation, or permitting the operation, of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to annoy or disturb the quiet, comfort or repose of any person not within the place of public or private entertainment.

d) **Noise near institutions**. The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while such institution is in session, or adjacent to any medical related facility which unreasonably interferes with the workings of

such institution or disturbs or unduly annoys patients in the medical related facility; provided that conspicuous signs are visible in such streets indicating that such street is a school, medical related facility or court street.

e) **Sound level exceeding 70 decibels**. The creation of sound which causes seventy (70) dBA in the sound level as measured at the property line of the sound source.

State law reference—Va. Code § 15.2-1200.

§ 120-6. Exempt sounds.

The following sounds shall not be prohibited by this article:

a) **Emergency operations**. Sound generated in the performance of emergency operations including, but not limited to, audible signal devices, which are employed as warning or alarm signals in case of fire, collision or imminent danger.

b) **Silvicultural or agricultural activities**. Sounds generated during lawfully permitted bona fide silvicultural or agricultural activities including, but not limited to, logging activities and sounds caused by livestock.

c) **Construction, demolition and/or maintenance activities**. Sounds generated from construction, demolition and/or maintenance activities between 7:00 a.m. and 10:00 p.m., except that the aforesaid time limitations shall not apply to the construction or maintenance of public roads.

d) **Transient sounds from transportation**. Transient sounds generated by land or air-based transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit.

e) **School athletic contests or practices, and other school activities**. Sounds generated from school athletic contests or practices, and other school activities, but only if conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.

f) **Parades, fireworks and similar officially sanctioned events**. Sounds generated from parades, fireworks or other similar events, which are officially sanctioned, if required. This exemption shall not apply to private fireworks displays.

g) **Yard maintenance activities**. Sounds generated from routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing.

h) **Public facilities**. Sounds generated from the operation of a public facility or public use, including events at the Clarke County Ruritan Grounds between 7:00 a.m. and 10:00 p.m.

i) **Warning devices**. Sounds generated by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

j) **Bells or chimes**. Sounds generated by bells or chimes.

k) **Firearms**. Sounds generated from the lawful discharge of a firearm for the purposes of hunting, protection, local law enforcement exercises and lawfully permitted sport shooting ranges (as defined in Va. Code Section 15.2-917)

l) **Protected expression**. Any other lawful activity, which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.

State law reference—Va. Code § 15.2-1200.

§ 120-7. Complaints of noise.

No person shall be charged with a violation of the provisions of section 120-4 unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of a police officer, the officer shall have the authority to initiate charges.

State law reference—Va. Code § 15.2-1200.

§ 120-8.Violation and penalty.

Any person who violates any provision of this article and/or creates a noise disturbance, shall be deemed to be guilty of a class 1 misdemeanor. The person operating or controlling a sound source shall be guilty of any violation caused by that source. If the sound source cannot be determined, any owner, tenant or resident physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the sound device. Penalties for such violations shall be in compliance with Virginia Code § 15.2-1429.

State law reference—Va. Code § 15.2-1200.

Amendments Chapter

120

2009-02-17	Chapter 120 Noise, so as to delete the current text in its entirety and adopt new text so as to update and clarify these provisions. CC-09-01
2011-12-20	Chapter 120 Noise § 120-6. Exempt sounds. c) Construction, demolition and/or maintenance activities. Add , *except that the aforesaid time limitations shall not apply to the construction or maintenance of public roads*. CC-11-05

Chapter 124 Nuisances

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 9-36 through 9-41 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 57 Special Events
Chapter 61 Animals
Chapter 67 Brush, Grass And Weeds, Article I Control of Johnson Grass
Chapter 112 Littering
Chapter 132 Peace And Good Order
Chapter 137 Property Maintenance
Chapter 171 Vehicles, Abandoned
Chapter 180 Water And Wastewater, Article I Sewage Disposal

Code of Virginia References

§ 19.2-59. - Search without warrant prohibited
§ 32.1-25. - Right of entry of health officials
§ 48-1 et seq. - Investigation of complaint by special grand jury
§ 48-7 et seq. - Houses and contents are nuisances subject to abatement

§ 15.2-900 - Abatement or removal of nuisances by localities; recovery of costs.

§ 18.2-347 - Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.

§ 124-1. Supplemental nature of chapter.

This chapter is supplemental to other provisions of this Code in which nuisances are defined and prohibited. The provisions of this chapter relating to the abatement of nuisances shall be alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are not provided.

§ 124-2. Nuisances prohibited.

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 Board of Supervisors at any place within the county.

§ 124-3. Nuisances enumerated.

A. The following acts when committed or conditions when existing within the county 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, unhealthy, injurious or annoying to the public.

(3) All trees and other appendages 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, unhealthy, injurious or annoying to the public.

(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 annoyance of the public.

(5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance 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 annoyance to the public. [30]

(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 for poultry permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public. [31]

(8) All structures and places where explosive or combustible substances, liquids or gases are stored or used in such manner as to constitute a hazard to the safety or health of persons or a hazard to property.

B. The nuisances described in this section shall not be construed as

[30] Editor's Note: See also Ch. 157, Streets and Sidewalks, Art. I, Obstructions by Vehicles.
[31] Editor's Note: See also Ch. 61, Animals, Art. I, General Provisions.

exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the county, is hereby declared to constitute a nuisance.

§ 124-4. Offensive or unhealthy substances.

No persons owning or in possession of any lot, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and adequate drainage therefore so that no offensive, baneful or disagreeable liquids shall flow or seep into any street. Any violation of this section is hereby declared to be a nuisance.

§ 124-5. Responsibility of property owners, tenants and occupants.

Each owner, lessee, tenant, occupant or person in charge of any real property within the county and each agent or representative of any such person shall maintain and use such real property in such manner that no use of or activity or condition upon or within such real property shall constitute a nuisance. All such persons shall comply with all of the provisions of this chapter, 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 county.

§ 124-6. Inspections, investigations and complaints.

The Sheriff and the Health Officer, each within the scope of his official responsibility, shall cause inspections to be made from time to time of all portions of the county to determine whether any condition exists or activity is being practiced which constitutes a nuisance. Each such officer shall cause an investigation to be made upon complaint made by any responsible person.

§ 124-7. Right to enter private premises; reasonable notice; duty of occupants.

The Sheriff and his deputies and the Health Officer and his assistants shall have the right to enter upon private premises for the purposes specified in § 124-6, 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.

§ 124-8. Notice to cease and desist.

If at any time the Sheriff or the Health Officer shall find an activity or practice which constitutes a nuisance, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

§ 124-9. Notice to

A. If at any time the Sheriff or the Health Officer shall find a condition

abate; appeal; imminent hazard.

which constitutes a nuisance, 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 10 days.

B. 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 Board of Supervisors, in which case the terms of such notice shall be stayed pending action of the Board, which shall be final.

C. If the Sheriff or the Health Officer shall state in such notice that the condition which constitutes a nuisance is an imminent 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.

§ 124-10. Recourse when notice to abate nuisance is ignored.

A. Upon the failure of any person to whom notice has been given pursuant to § 124-9 to comply with the terms of such notice or with the terms imposed by the Board of Supervisors on appeal, as the case may be, the Sheriff or the Health Officer shall forthwith cause the remedying of the condition which is the subject of such notice, and the expense incurred in so doing shall be charged to the addressee of such notice, to be collected in the same manner as county taxes or in any other manner authorized by law.

B. Independently, or in cooperation with the Health Officer, the county may cause the remedying of nuisances. It may obtain injunctive relief in an appropriate court in cases of noncompliance. The county may collect its costs, expenses and other appropriate fees from the owner of the property affected.

C. Abatement of any condition which constitutes a nuisance and reimbursement to those entitled thereto of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

§ 124-11. Violations and penalties. [32]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

[32]Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 132 Peace And Good Order

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 9-1, 9-3, 9-4, 9-5, 9-9, 9-10, 9-11, 9-12, 9-17 and 9-18 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 52 Alarm Systems
Chapter 57 Special Events
Chapter 74 County-Owned Property
Chapter 78 Dance Halls
Chapter 120 Noise
Chapter 124 Nuisances.

Code Of Virginia References

§ 15.2-925. Regulation, etc., of assemblies or movement of persons or vehicles under certain circumstances
§ 18.2-18 et seq. - Principals and accessories
§ 18.2-57 et seq. - Assault and battery
§ 18.2-119 et seq. - Trespass to realty
§ 18.2-137 et seq. - Injuring, etc., any property, monument, etc.
§ 18.2-174 et seq. - Impersonating officer
§ 18.2-178 et seq. - False pretenses
§ 18.2-325 et seq. - Gambling
§ 18.2-388. - Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center
§ 18.2-404 et seq. - Obstructing free passage of others
§ 18.2-415. - Disorderly conduct in public places
§ 18.2-460 et seq. - Obstructing justice

§ 132-1. Violation or avoidance of provisions.

A. It shall be unlawful for any person to attempt to commit any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet the commission or attempted commission of any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

B. It shall be unlawful for any person to attempt to avoid the doing of any act which is required by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet the avoidance or attempted avoidance of any act which is required by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority

thereof.

C. Every person who attempts to violate this Code shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt.

§ 132-2. Interference with officers and employees.

No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the county who is engaged in, en route to or returning from the performance of official duty, whether such interference, hindrance or obstruction is by threat, assault or otherwise.

§ 132-3. Impersonation of officers or employees.

No person shall falsely represent himself to be an officer or employee of the county or, without proper authority, wear or display any uniform, insignia or credential which identifies any county officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the county, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose, provided that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

§ 132-4. Courtesy to and from officers and employees.

A. County officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any county officer or employee in violation of this section may bring such matter to the attention of the Chairman of the Board of Supervisors, without prejudice to any other recourse to which such aggrieved person may be entitled.

B. Members of the public shall be courteous in their transactions with county officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise debase or insult, whether by act, word or gesture, any county officer or employee at any time or place while such county officer or employee is lawfully engaged in the performance of official duty.

C. Any person who violates this section shall be guilty of a Class 3 misdemeanor. [33]

§ 132-5. Acts

A. Any person who shall do or engage in any of the following shall be

[33] Editor's Note: See Ch. 1, General Provisions, Art. I.

constituting disorderly conduct.

guilty of the offense of disorderly conduct:

(1) Act in a violent or tumultuous manner toward another whereby any person is placed in danger of safety of his life, limb or health.

(2) Act in a violent or tumultuous manner toward another whereby public property or property of any other person is placed in danger of being destroyed or damaged.

(3) Endanger lawful pursuits of another by acts of violence or threats of bodily harm.

(4) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.

(5) Assemble or congregate with another or others and cause, provoke or engage in any fight or brawl.

(6) Assemble in bodies or in crowds and engage in unlawful activities.

(7) Assemble or congregate with another or others and engage or attempt to engage in illegal gaming.

(8) Frequent any public place and obtain money from another by an illegal and fraudulent scheme, trick, artifice or device, or attempt to do so.

(9) Assemble with another or others and engage in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person, or attempt to do so.

(10) Utter, in a public place or any place open to the public, any obscene words or epithets.

(11) Frequent any place where illegal gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.

(12) Use fight-provoking words directed towards any person who becomes outraged and thus creates turmoil.

(13) Assemble or congregate with another or others and do bodily

harm to another.

(14) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered to do so by a peace officer or other person having authority.

(15) Damage, befoul or disturb public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

(16) Conduct himself in a noisy, boisterous or tumultuous manner to the disturbance of the peace of the county or the peace and quiet of the neighborhood or of any lawful assembly of people; or to be intoxicated to such a degree as to be noisy or annoying to a neighborhood or any of the inhabitants thereof.

(17) Conduct himself upon any street or other public place in any manner which shall harass another; or to willfully shove, injure, obstruct or hinder any person passing along or upon any sidewalk or street.

(18) Engage in any conduct of a disorderly nature or to engage in any conduct tending toward a breach of the peace. The causing or making of any unnecessary loud noise or shouting or yelling shall be considered disorderly conduct.

(19) Be in any of the places mentioned in this section and there engage in any brawl, quarrel, loud or offensive talking or engage another in any dispute or argument, the effect of which is to draw a crowd and block or partially block any of such places for public use and travel.

(20) Act in any manner that is in violation of the Code of Virginia, § 18.2-415. Disorderly conduct in public places.

B. Any person who violates Subsection A shall be guilty of the following classes of misdemeanors:

(1) Subsection A(10) or (16), Class 4.

(2) Subsection A(14), Class 3.

(3) Any other subsection, Class 1.

§ 132-6. Disorderly conduct in public conveyance.

It shall be unlawful for any person, whether a passenger or not, while in or on any public conveyance to behave in a riotous or disorderly manner or to engage in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed. The person in charge of such public conveyance may require such person to discontinue his riotous or disorderly conduct, and if he refuses to do so may eject him with the aid, if necessary, of any persons who may be called upon for such purpose (Code of Virginia 1974, § 11-10. Compromise by creditor with co-obligor, etc.).

§ 132-7. Disorderly conduct in other public places.

No person shall behave in a riotous or disorderly manner in any street, highway, public building or any other public place, other than those mentioned in § 132-5, or cause any unnecessary disturbance in or on any public conveyance by running through it, climbing through windows or upon the seats, failing to move to another seat when lawfully requested to so move by the operator or otherwise annoy passengers or employees therein.

§ 132-8. False alarms. [34]

A. No person shall knowingly give or cause to be given any false alarm of fire.

B. No person shall knowingly give or cause to be given any false alarm of explosion or impending danger of explosion.

C. No person shall knowingly give or cause to be given any false alarm of the need for police protection or assistance or any false report to the Sheriff's Department.

D. No person shall knowingly give or cause to be given any false alarm of the need for an ambulance or medical assistance.

E. In addition to other penalties, any person who violates this section shall pay a fee. [35]

§ 132-9. Interference with personal property.

No person shall, knowingly and without proper authority, use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any personal property of another.

§ 132-10. Interference with real property.

No person shall, knowingly and without proper authority, destroy, damage, deface, molest or otherwise interfere with or trespass upon any real property of another.

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[34]Editor's Note: See also Ch. 52, Alarm Systems.

[35]Editor's Note: Fees are on file in the office of the County Administrator.

§ 132-11. Violations and penalties. [36]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

[36]Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 137 Property Maintenance

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 10-1 through 10-4 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 67 Brush, Grass And Weeds, Article I Control of Johnson Grass
Chapter 71 Building Construction
Chapter 112 Littering
Chapter 124 Nuisances
Chapter 171 Vehicles, Abandoned.

Code Of Virginia References

§ 3.1-296.11 et seq. - Noxious Weed Law
§ 10.1-1414 et seq. - Litter control and recycling
§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties.
§ 15.2-903. Ordinances taxing and regulating "automobile graveyards," "junkyards," and certain vacant and abandoned property.*"*

§ 137-1. Prohibited disposition of wastes.

It shall be unlawful for any person to dispose of any garbage, trash, litter, refuse, rubbish or other waste matter, whether liquid or solid, in any well, spring, reservoir, watercourse or body of water or upon any street, sidewalk or public grounds other than grounds designated by the Board of Supervisors for such purpose, and then only in the manner provided by regulations relating thereto.

§ 137-2. Disposal of waste upon property of another person.

It shall be unlawful for any person to dispose of any garbage, trash, litter, refuse, rubbish or other waste matter, whether liquid or solid, upon the property of another without the consent of the owner, occupant or person in charge of such property, and then only in such manner that it will not endanger the health or safety of persons or be subject to scattering by the elements of nature or otherwise constitute a nuisance.

§ 137-3. Maintenance of premises.

It shall be the duty of each owner, occupant and person in charge of any real property in the county to maintain such property at all times free from any accumulation of garbage, trash, litter, refuse, rubbish or other waste matter, whether liquid or solid, which might endanger the health or safety of residents of the county or otherwise constitute a nuisance and to provide for the cutting thereon of grass, weeds and other foreign growth as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and to prevent other hazards to the health or safety of residents of the county or other nuisances.

§ 137-4. Investigation and notice.

The Sheriff or the Health Officer may, and upon complaint by any responsible person that conditions exist on any real property in violation of § 137-3 shall,

- Investigate conditions existing on real property in the county at any time; and
- Upon determination by either such officer, following investigation, that the owner, occupant or person in charge of any real property in the county stands in violation of his duty as provided in § 137-3, such officer shall give written notice to the owner of record of such property and to the person primarily responsible, if different from the owner, stating the facts which constitute violation of § 137-3 and
- Directing him to take such action as may be necessary to rectify such conditions within such time, not more than 10 days, as shall be stated in the notice.

§ 137-5. Failure to comply; abatement of conditions; cost to become a lien.

A. If 10 days after the service of any notice under § 137-4 the directive thereof has not been complied with, the officer giving such notice shall proceed to have such work done as may be necessary to abate any condition which might endanger the health or safety of residents of the county or otherwise constitute a nuisance, and all expenses resulting therefrom shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected, and all charges not so collected shall constitute a lien against such property.

B. Independently, or in cooperation with the Sheriff or the Health Officer, the county may cause the abatement of conditions described in this chapter. It may obtain injunctive relief in an appropriate court in cases of noncompliance. The county may collect its costs, expenses and other appropriate fees from the owner of the property affected.

Chapter 143 Septic Systems

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 71 Building Construction
Chapter 161 Subdivision Of Land
Chapter 180 Water And Wastewater, Article I Sewage Disposal
Chapter 184 Wells
Chapter 188 Zoning

Code of Virginia References

§ 15.2-2157. Septic tanks and sewage disposal when sewers not available
§ 32.1-163 et seq. - Sewage disposal

Article I Permits, Septic Tank Cleaners

[Adopted 1-19-1988 as Secs. 12-46 through 12-49 of the 1987 Code]

§ 143-1. Permit for installation.

It shall be unlawful for any person to install or have installed in the county an onsite sewage system without first obtaining a permit from the Health Department.

§ 143-1.1 Education Requirement

Prior to issuance of an operation permit for an Onsite Sewage System, the applicant shall be required to review educational material describing the operation and maintenance requirements for such system and demonstrate a basic understanding of the requirements by completing a short questionnaire provided by the Health Department.

§ 143-2. Inspection and approval of design and location.

A. The Health Department shall determine whether or not the land available for the installation of an onsite sewage system is adequate and satisfactory as to size, topography, characteristics of the soil, and the nature and location of the water supply. The Health Department shall approve the system design and capacity and the location of the septic tank. The system shall be maintained and operated to conform to the requirements of the State Board of Health. Any information which is needed by the Health Department as to the characteristics of the soil and the topography of the area shall be provided by the property owner.

A. Septic tanks shall be inspected and approved by the Health Department before they are permitted to be used.

B. The Health Department may inspect any and all onsite sewage disposal systems maintained at all premises in the County for the

purpose of determining if such system is being operated and maintained in a sanitary manner. Such inspection shall be done at reasonable times and, whenever practical, in the company of the owner or occupant of the premises.

C. Prior to issuance of an operations permit by the Health Department, any Alternative Onsite Sewage System located within an active livestock area (pasture) must be fenced so as to exclude access by livestock. In all other areas vehicular access must be prevented by fencing or landscaping the system site.

D. No alternative onsite sewer system shall be approved for use until the owner or owners of the property have provided to the County a written indemnity agreement, in a form approved by the County, indemnifying the County and other property owners in the County from any damages or liabilities resulting from the malfunction or failure of the alternative onsite sewer system. The indemnity agreement shall remain in force for the duration of the validity of the permit for the alternative onsite sewer system. In the event of the sale or conveyance of the property, the owner may obtain a release of the indemnity agreement upon the new owner or owners providing the required indemnity agreement.

§ 143-3. Standards for professional septic tank cleaners.

No person shall engage in the business of cleaning septic tanks unless and until the equipment to be used by such person in connection with the operation of such business complies with the following standards and has been inspected and approved in writing by the Health Department:

A. The tank into which the septic tank sludge is pumped or delivered and carried shall be fully enclosed and watertight.

B. All inlets and outlets to such tank shall be fully enclosed and provided with watertight valves.

C. Suction and discharge hose shall be watertight and provision shall be made for carrying such hose in a manner that will prevent any leakage therefrom.

D. All exposed surfaces shall be painted and maintained in a sanitary condition by frequent washings.

E. The name and address of the person owning or operating such equipment shall be painted thereon in letters at least four inches high.

§ 143-4. Disposition of sludge.

It shall be unlawful for any person, whether or not engaged in the business of cleaning septic tanks, to dispose of the sludge and other material removed from septic tanks except by depositing it in such a manner that it will not endanger the source of domestic food or water supplies or by depositing it into a public sewer system or sewage treatment plant except at such designated locations and under such conditions as may be promulgated by the owners or operators of such public sewer system or treatment plant. In any event, the sludge or other material shall be carefully deposited and the surface of the ground, manholes, tanks, etc., into which the deposit is made shall be maintained in a sanitary condition. Any covering of such surfaces with sludge or other material shall be promptly and completely removed.

§ 143-5. Violations and penalties.[37]

Penalties for violation of the provisions of this article shall be as provided in Chapter 1, General Provisions, Article I.

Article II Siting and Installation
[Adopted 12/15/87, as amended through 06/15/10]

§ 143-6. Intent; state regulations; exceptions. [Amended 02-11-19; 05-03-15]

The intent of this article is to minimize the potential for groundwater contamination resulting from improper siting and construction of onsite sewage systems in Clarke County. Clarke County has Karst topography and fragile hydrogeology and has the potential for depletion and contamination of water sources and the potential for hazards to public health, safety and welfare as a result. To protect the health, safety and welfare of the general public, the standards as set forth hereafter in this chapter are established for all onsite sewage systems constructed or installed in the County. Pursuant to these goals, the Board of Supervisors hereby exercises its power, as granted by § 15.2-2157 of the Code of Virginia (1950, as amended), to regulate onsite sewage systems.

To that end, standards and procedures for soil evaluation, system siting and system design and installation are addressed herein, followed by conditions for obtaining a variance to the provisions of this article and the penalties associated with the violation of this article. Definitions of technical terms contained herein are addressed in § 143-7.

A. This article is based on the current Virginia Department of Health's Sewage Handling and Disposal Regulations, as amended, but extends some of the requirements of that document in order to meet

[37] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the special needs of Clarke County's fragile hydrogeology, as allowed by the Code of Virginia.

B. Permits issued prior to December 15, 1987, shall be subject to provisions of this article after July 1, 1992.

C. Conditional permits shall not be issued for applications submitted after November 19, 2002, unless specifically requested by the Health Department and only if approved by the Board of Septic & Well Appeals.

§ 143-7. Definitions. [Added 95-12-19; Amended 04-04-20; 05-03-15; 07-03-20]

Definitions of terms contained in this article shall be those given in the Sewage Handling and Disposal Regulations, Virginia Department of Health (VDH), as amended, except as noted herein. The following definitions shall apply:

ALTERNATIVE DISCHARGING SEWAGE TREATMENT SYSTEM OR DISCHARGING SYSTEM -- A device or system that results in a point source discharge of treated sewage for an individual single family dwelling or a multifamily dwelling with flows less than or equal to 1,000 gallons per day. Such system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all weather stream, an intermittent stream, a dry ditch, or other location.

- ALTERNATIVE ONSITE SEWAGE SYSTEM, AOSS, or ALTERNATIVE ONSITE SYSTEM -- A treatment works providing a minimum of secondary treatment that is not a conventional onsite sewage system and does not result in a point source discharge.

CONVENTIONAL ONSITE SEWAGE SYSTEM or COSS, – A treatment works consisting of one or more septic tanks providing only primary sewage treatment with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface soil treatment area.

FLOODPLAIN DISTRICT -- The channel of a river, stream or other watercourse and the adjacent land area required to carry and discharge a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year). [Added 12-19-1995]

FLOODWAY -- The channel of a river, stream or other watercourse and the adjacent land area required to carry and discharge a flood that, on the average, is likely to occur once every 10 years (i.e., that has a ten-percent chance of occurring each year). [Added 12-19-1995]

GEOTECHNICAL ENGINEER (GE): a Virginia Certified Professional Engineer specializing in geotechnical engineering or a Virginia Certified Professional Geologist specializing in geotechnical engineering geology, either with a minimum of 5-years experience.

HEALTH DEPARTMENT -- The Clarke County Office of the Virginia Department of Health (VDH) and its authorized employees and agents.

LIMITING FEATURE – A feature of the soil that limits or intercepts the vertical movement of water, including seasonal, perched, or permanent water table, soil horizons having an estimated or measured percolation rate greater than 120 minutes per inch, soils having a high shrink-swell potential, fragipans or other pans, soil restrictions and impervious strata, soil horizons containing greater than 75% (by volume) coarse fragments, and pervious or impervious bedrock. The Soil Survey of Clarke County, Virginia, 1982 shall be consulted for soil characteristic information such as soil type, permeability, and high shrink-swell potential.

ONSITE SEWAGE SYSTEM – Also known as a "septic system" or "Sewage disposal system" and includes conventional onsite sewage systems or alternative onsite sewage systems and all components for conveyance, treatment, and disposal of sewage therewith.

SOIL TREATMENT AREA ("Drain field") -- The physical location in or on the naturally-occurring soil medium where final treatment and dispersal of onsite sewage system effluent occurs.

SPRING -- A spring is defined as a feature:

1) which is a natural issue of water from the earth or a rock formation or fracture onto the land or into a body of water via defined channel, the place of issuance being relatively restricted in size; or

2) shown as a spring on the USGS 71/2-Inch Quadrangle Map (incomplete) or, Virginia Division of Mineral Resources Publication 102, Map of Hydrogeologic Components for Clarke County, Virginia Plate 2 (incomplete); or

3) identified in the USGS Water-Resources Investigations Report 90-413, Ground-Water Hydrology and Quality in the Valley and Ridge and Blue Ridge Physiographic Provinces of Clarke County, Virginia; or

4) which is currently used as a domestic drinking water source; or,

5) which is currently used as a source of water for watering animals; or,

6) which feeds a pond or lake less than 500 feet from where the spring issues; or,

7) which has been designated as a significant hydrologic feature by the Clarke County Board of Supervisors prior to the filing of an application for an on-site waste disposal system (a list of such designated features is on file with the Clarke County Planning Department); or

8) which by right maybe used as a source of water by an adjoining property owner; or

9) which has manmade features indicating past or present use as a water supply.

§ 143-8. Soil evaluation criteria; field testing. [Amended 05-03-15]

Minimal soil evaluation criteria for suitability of an onsite sewage system are established in the current Sewage Handling and Disposal Regulations, Virginia Department of Health (VDH), as amended. Soil characteristics shall be estimated by field-testing by a Health Department Environmental Health Specialist or by a licensed Onsite Soil Evaluator with the Department of Professional and Occupational Regulation (DPOR) Board of Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals. The Soil Survey of Clarke County, Virginia, 1982, provides a general guide for soil treatment area suitability, but is not definitive for individual onsite sewage systems.

§ 143-8.1 Closure of Onsite Inspection Pits.

A. Any property owner causing or permitting inspection pits to be excavated for the purpose of determining soil suitability for the installation of a septic system shall have the pits filled within thirty days of final determination of suitability of the site for installation of a system. "Final determination" shall be defined as the latter of the following: the date of determination of suitability or unsuitability by the Health Department; the date of a determination of suitability by a licensed Onsite Soil Evaluator, or, the date of any decision by any appellate board or court having review jurisdiction.

B. The Health Department representatives, licensed Onsite Soil Evaluators, and Excavation Contractors providing service relating to the investigation of suitability of any site for the installation of an onsite sewage system shall inform property owners of this requirement of the Clarke County Code. Failure of any of the above

to so notify the property owner shall not be a defense against non-compliance.

C. This Ordinance shall be administered and enforced by the Zoning Administrator who shall have all necessary authority on behalf of the governing body to administer and enforce the Ordinance, including the ordering in writing of the remedying of any condition found in violation, and the bringing of legal action to compel compliance with the Ordinance or provide for the imposition of the penalties hereinafter provided. The assistance of appropriate officials of Clarke County, including, but not limited to, the Health Department, Sheriff, and the Commonwealth's Attorney shall be provided upon request.

§ 143-9. System siting. [Adopted 99-08-17; Amended 04-06-15; 05-03-15; 05-07-19, 08-12-16]

A. In all cases, the soil and site evaluation shall determine if a Conventional Onsite Sewage System can be designed to serve the proposed use. If so, the COSS shall be proposed. If a COSS cannot be designed for the site, a statement must accompany the soil evaluation, signed by a licensed Onsite Soil Evaluator that states the site restrictions that restrict the site to an Alternative system.

B. Soil restrictions for Onsite Sewage Systems.

(1) Alternative Onsite Sewage Systems must be installed a minimum below the ground surface in naturally occurring, in-situ soil as follows:

a. In karst soils as defined in Section 143-9-G – installation of the dispersal system must be no shallower than 10 inches.

b. In all other soils - Installation of the dispersal system must be no shallower than 3” or half the total depth of the A, A1 and A2 horizons, whichever is greater.

(2) Conventional Onsite Sewage Systems must be installed a minimum of 18 inches below the ground surface in naturally occurring, in-situ soil.

(3) Onsite Sewage Systems installed at less than 18” depth require at least 12 inches of soil cover in the soil treatment area, unless the system is an AOSS installed in a wooded area where trees will not be removed.

(4) Effluent dispersed from an AOSS, may only be discharged to a soil treatment area when the vertical and horizontal separation from the soil treatment area to a limiting feature consists of at

least 18 inches of naturally-occurring, in-situ soil.

(5) Effluent dispersed from a COSS may only be discharged to a soil treatment area when the vertical and horizontal separation from the soil treatment area to a permeability-limiting feature consists of at least 24 inches of naturally-occurring, in-situ soil, and the vertical separation to seasonal water table, seasonal wetness indicators, or pervious strata must be a minimum of 20 inches.

(6) Onsite Sewage System soil treatment areas shall be a minimum of 10 feet horizontally from surface rock outcrops.

(7) Onsite Sewage System soil treatment areas, utilizing gravel less dispersal, shall have no reduced footprints.

(8) Onsite Sewage Systems shall not be installed in soil horizons having "high shrink-swell potential", soils classified as "poorly drained" or having "slow permeability", or having known descriptions of pans of any type. A soil test is required to confirm the aforementioned characteristics. If the percolation rate is satisfactory, all vertical and horizontal siting requirements must also be satisfied.

B. Site restrictions; Table 1. Minimum distances between components of septic systems and site features are prescribed in the current Sewage Handling and Disposal Regulations, Virginia Department of Health, as amended. Onsite sewage system components shall be prohibited or restricted on sites as described in Table 1, Minimum Separation Distances.

Table 1
[Amended 05-03-15]

Minimum Separation Distances
Minimum Distance From

Structure or Topographic Features	Soil Treatment Area or Vault Privies (feet)	Septic Tanks (feet)	All Other Parts of the Septic System (feet)
Slopes greater than 25%	Not permitted	N/A	N/A
Free flowing streams, natural lakes or impounded waters (measured from edge)	100	100	50
Intermittent stream	50	50	50
Drainage ways (measured from low point)	50	50	N/A
Wells	100	100	50
Discernible edge of sinkholes and cave entrances	100	100	50
Springs at a lower elevation than the septic system	500	500	100
Springs at a higher elevation than the septic system	200	200	100
Utility Easement (edge of) Upslope Downslope	 10 25	 10 25	 10 10

NOTES: N/A = Not applicable.

C. Floodplain. New Onsite Sewage Systems shall not be permitted in the floodway portion of the Flood Plain District.

D. Replacement, repairs, and expansions of existing approved onsite sewage systems, may encroach on minimum separation distances for site features listed in Table I, so long as they are no closer to those features than the existing onsite sewage system and so long as the encroachment is not likely to cause a significant threat to public health or the environment as determined by the Health Department. [Added 99-08-17, Amended 10-06-15]

E. Easements. Easements for off-site installation of onsite sewage systems are not permitted:

(1) Except for residences constructed prior to December 15, 1987.

(2) Except for commercial uses:

(a) Located in a commercial zoning district.

(b) In operation prior to March 17, 1992, or located on a previously undeveloped parcel in a commercial zoning district of less than three contiguous acres, zoned for commercial uses prior to December 15, 1992.

(3) Provided that such off-site onsite sewage systems for such qualifying commercial uses:

(a) Do not constitute a mass drain field (that is with loading rates in excess of 1,200 gallons per day for any acre and containing more than 2,000 linear feet of percolation piping).

(b) Have a one-hundred-percent reserve area.

(c) Have a maintenance program which includes pumping out of the septic tank every three years at a minimum.

(d) Need not be located in a commercial zoning district.

(e) Shall be shown on an approved site plan and placed under an easement, recorded in the land records of Clarke County within six months of site plan approval. Such easement shall show the land area encompassing the septic facilities, provide means of access and state the party responsible for the maintenance of the septic system.

(f) Shall be abandoned if public sewer service becomes available to the property being served by the off-site septic system easement. Hookup to the public sewer system is required and the requirement for an easement shall terminate.

F. The distance from a house to the nearest point of the soil treatment area shall not be greater than 400 feet. [Added 04-06-15, Amended 10-06-15]

G. Subsurface Investigations [Added 7/19/05]

This section is to establish review procedures and performance standards for non-invasive subsurface investigations designed to identify the potential for voids beneath primary and reserve onsite sewage system soil treatment areas so as to avoid locating in areas where subsidence may occur.

Site Review

Whenever an application is filed for a onsite sewage system permit or certification letter with the Health Department, except for emergency repair applications, as determined by the Health Department, after July 19, 2005, in any region underlain with limestone, dolomite, calcareous shale, or marble, specifically described as areas containing soils derived from these materials, which include soil types (4, 5B, 5C, 10, 15B, 15C, 17B, 18, 23, 24, 30B, 31B, 32B, 33B, 35B, 35C, 36B, 36C, 37B, 38B, 38C, 38D2, 39B, 39C, 39D2, 43C, 44B, 45B, 46B, 47B, 47C, 48B, 51B, 55D, 56, 57C2, and 57D2) (as identified in the Clarke County Soil Survey, 1982), the applicant will hire a Geotechnical Engineer (GE) to conduct Electrical Resistivity tests to determine if voids or other anomalies are located beneath the proposed soil treatment area.

Resistivity testing

Testing shall be performed by an individual with a 4-year degree in geology or engineering with a minimum of 2-years' experience conducting resistivity testing;

Testing shall utilize dipole-dipole resistivity surveying array;

Testing shall consist of a minimum of two lines laid out through the soil treatment area (two lines each primary and reserve area, unless contiguous), perpendicularly to the strike of the bedrock, and extending a minimum distance beyond the drain field area of 60 feet so as to provide a minimum depth of penetration of 20 feet at the edge of the field, and allow for movement of the field should irregularities be identified;

Testing shall include use of a minimum of 24 electrodes per 100 feet of line, so as to provide a minimum of 200 soundings;

Testing shall provide minimum reading depth of 40 feet;

Electrode contact resistance shall be less than 5000 ohms, if not a salt-water mix shall be poured over the soil where electrodes are placed;

Lines shall be clearly marked at each end with stakes or other

identifiable markers;

Results of test shall be included in a report which includes, in part, the following, to be provided to the county Natural Resource Planner:

a. summary of methods,

b. resistivity described in Ohm-meters,

c. electrode spacing,

d. directional orientation,

e. plan maps describing the line layout and in relation to onsite system soil treatment areas

f. color image profiles detailing the results and identifying any hazards, images shall maintain a consistently applied color scale ranging from blue-green-yellow-red, and indicate the location of the soil treatment area relative to the profile. The Ohm-m scale shall range from 0 to 4000 to provide consistency between consultants. Hazards shall be labeled on the profile so as to indicate the type of irregularity as described below,

g. irregularities in the profile shall include pinnacle/cutter topography, float rocks, soft zones, voids, mud-filled voids, extreme fracturing, and any other such anomaly,

h. the amount of overburden,

i. surface elevations shall be integrated with ER profiles,

j. discuss the significance of the geologic structure,

k. quantify qualitative terms such as “low”, “moderate” or “high” risk

l. implications of findings, i.e. should drain fields be located as proposed, and if so why, and

m. discuss the possible benefits if any of relocating a soil treatment area;

If the profiles show irregularities, and the engineer recommends use of the site, then air track drilling is recommended to explore rock discontinuities. In questionable soil (like cutters) conventional test borings are preferable. In either case the drilling/test shall be conducted to determine the extent and significance of the irregularity. The location of drilling or borings shall be documented and the findings of each described in detail, including a summary of the implications of

the feature, if the site continues to be recommended for use, and why the feature is inconsequential;

If evidence of voids is documented beneath the proposed soil treatment area, or if irregularities encompass 20% or more of the proposed site, or the implications of findings recommend avoidance of the site, then the soil treatment area shall be relocated and the new area evaluated as described above; and

Subdivision plats and onsite sewage system permits shall include the following statement:

"Subsurface investigations have been conducted for the onsite sewage system sites on the parcels identified herein. Reports detailing the findings are available at the Clarke County Planning Department."

§ 143-10. Design and installation.
[Amended 00-04-17; 02-02-19; 05-03-15; 06-05-16; 08-12-16; 09-08-18; 10-06-15; 11-03-15]

A. Onsite sewage systems, that provide unsaturated soil conditions (enhanced flow) within the soil treatment area shall be required in the following soils:

(1) Soils that have an estimated or measured percolation rate of 16 or less minutes per inch.

(2) Soils that have an estimated or measured percolation rate of 91 to 120 minutes per inch.

(3) Soil horizons containing between 50% and 75% (by volume) coarse fragments

(4) Spring Conservation Overlay District (SC) as described in Section 3-E-2-b of the Clarke County Zoning Ordinance.

B. Privies. The Health Department may issue permits only for portable or vault privies. No other type of new privy shall be permitted except in remote areas where vehicular access is unavailable. (Refer to § 143-9C, Table 1, Minimum Separation Distances.)

(1) Portable privies.

(a) Portable privies are allowed only for use in association with government owned facilities or for temporary activities such as construction sites, entertainment events or agricultural or forestry activities.

(b) Within the Flood Plain District (one-hundred-year floodplain),

portable privies:

[1] Require a permit from the Health Department.

[2] May not be located on a parcel for more than 15 consecutive days between October 1 and April 30.

[3] Shall be located at least two feet above the elevation of the annual floodplain.

[4] Shall be removed from the Ten-Year Floodway of the Shenandoah River when flooding of the river is predicted by the National Weather Service.

[5] Shall submit a maintenance contract with the waste hauler, indicating that the privy will be pumped when the tank is 3/4 full, with the permit application.

(c) Agricultural activities requiring the use of pit privies are exempt from Subsection B(1) and (2).

(2) Vault privies are not allowed within the Ten-Year Floodway of the Shenandoah River. Outside of the Ten-Year Floodway, vault privies are allowed only for primitive recreational areas with intermittent use and no plumbing facilities. A maintenance contract with the waste hauler, indicating that the privy will be pumped when the tank is 3/4 full, shall be submitted with the permit application.

(3) All non-portable privies within the Ten-Year Floodway of the Shenandoah River shall be abandoned and removed by May 1, 1995. Abandonment and removal shall be accomplished by removing the structure, liming the pit and covering the pit with at least two feet of soil and otherwise complying with any applicable regulations of the State Board of Health for pit privy abandonment.

C. Pump and Haul [Added 00-04-17, Amended 02-02-19]
The Board of Septic and Well Appeals has the authority to approve a variance to this ordinance for the temporary pumping and hauling of untreated sewage (pump and haul) in lieu of on site sewage treatment. Such variance requests must meet the criteria of Section 143-11-C-1-b.

D. Explosives or pneumatic hammers. The use of explosives or

pneumatic hammers (other than hand-held pneumatic hammers) shall not be permitted for the excavation associated with septic tanks or onsite sewage systems or within 50 feet of any soil treatment areas (except blasting may be permitted for installation of one-piece septic tanks fitted with rubber boots).

E. Reserve area. An onsite sewage system reserve area with a capacity at least equal to that of the primary area shall be provided in accordance with the provisions of this article regardless of parcel recordation date. If existing lots must be merged to create a satisfactory building lot, then a 100% reserve area is required.

F. Reutilization of Existing system.

This section is to establish review procedures and performance standards for:

- The reutilization of existing on-site sewage disposal systems in the event of replacement of a structure having been lost by fire or other circumstances, or
- When the applicant desires to substantially modify an existing structure, or
- When the applicant proposes a change of use, or when an existing system's use has been discontinued or utilized under design capacity.

A County official will determine the need for and must request an existing system review by the Health Department.

In order to be considered for reutilization the following criteria must be met, as determined by the Health Department:

- The system must have no known history of failure or malfunction either since installation or previously authorized repair or replacement.
- Adequate information about the system must exist or be determined in order to make a judgment as to its adequacy for the proposed use. This information may include, but is not limited to, the following:
    - system location, landscape, setbacks, etc.
    - tank size and integrity
    - size of the absorption system
    - construction and materials
    - design plan

- The system shall be of a nature previously or presently approved by the Health Department.
- The owner shall supply evidence that the septic tank has been pumped within the last 5 years.
- The structure that the system is proposed to serve must have been in recent and continuous service, as determined by the Health Department. Any structure not in use for the previous two years must meet current standards for a new system.
- The proposed effluent quantity shall not exceed the amount previously applied to the system unless it can be established the system was utilized below design capacity. In no case shall the original design capacity be exceeded.
- A reserve area shall be provided as described in Section 143-10-E.

System Evaluation

In cases where Health Department records are insufficient, the following procedure shall be completed in order to determine the adequacy of the system:

- If needed, hold a preliminary fact-finding meeting with the applicant to discuss status of the existing system and requirements for completing a soil evaluation report, as-built drawings, and an inspection report.
- Conduct a physical walkover of the site to insure that there is no evidence of ponding on the ground surface. Also the perimeters of the site shall be checked to ensure that there are no discharges of sewage or gray water.
- Put dye in suspicious systems (possible straight pipes, wet spots, etc.) and conduct follow up visits as needed to ensure proper system operation.
- Note any structures, driveways, trees, etc. built over system components and make recommendations for removal as needed.
- Confirm the footprint of any new proposed addition conforms with current separation distances to sewage disposal system(s) and well(s).
- Any proposal for an increase in waste-loading rate more than the design will require a standard site and soil evaluation to pursue a septic system construction permit for expansion.

- At a minimum, all distribution boxes, both lids of the septic tank(s), and the end of the last line shall be uncovered by the owner for further evaluation.
- Check number of outlet ports and attempt to estimate size.

Reporting

The Health Department shall:

- Forward a letter to the County official requesting the evaluation that describes the system and any recommendations.
- A disclaimer shall be attached to the report stating, "This report is only intended to address the above referenced request. This report is not intended for use as part of a real estate transfer or any other unauthorized use. There is no implied guarantee of future system performance based on this report. In the event of sewage disposal malfunction, the owner will be responsible for any repairs or other actions deemed necessary to correct the situation."

§ 143-11. Appeals & variances.
[Amended 99-08-17; 00-04-17, 02-02-19, 04-02-17; 05-08-16]

A. Board of Septic and Well Appeals [Amended 99-08-17; 00-04-18; 04-02-17; 05-08-16]

(1) Appeals of administrative interpretations of this article, and applications for variances, shall be heard by a Board of Septic and Well Appeals ("The Board").

(2) The Board of Septic and Well Appeals shall consist of three members:

(a) the member of the Board of Supervisors, who serves as the Board's liaison to the Planning Commission, with The Vice Chairman of the Board designated as his/her alternate,

(b) a Chairman of Planning Commission with the Vice Chairman designated as his/her alternate, and

(c) a member of the public, who is a resident of the county with the Vice Chairman of the Planning Commission designated as his/her alternate. [Amended 05-08-16]

All members shall be appointed by the Board of Supervisors at their first regular meeting of each year. [Added 99-08-17, Amended 04-02-17]

(3) The Board shall have the following powers and duties:

(a) To hear and decide appeals from any order, requirement, decision or determination made by the Clarke County Health Department in the administration or enforcement of this article.

(b) To hear and decide applications for variances in accordance with the provisions of this section.

B. Appeals. (1) Any appeal shall be filed within 30 days of the date of the order, requirement, decision, or determination appealed from.

(2) Any person seeking an appeal shall apply in writing to the Board. Such application shall include:

(a) A citation to the order, decision, determination or regulation to which an appeal of interpretation or application is requested;

(b) Any relevant analytical results, including results of tests conducted pursuant to the requirements of this article;

(c) Other information, if any, deemed pertinent by the applicant; and

(d) Such other information as the Board may require.

(3) The Board shall act on any appeal request within 30 calendar days of receipt.

(4) All appeals shall be consistent with the intent of this article. The Board may attach reasonable conditions consistent with the intent of this article in granting appeals.

(5) No appeal may be heard except after notice and hearing as required by § 15.2-2204, Code of Virginia and in accordance with the requirements of Section 10-E of the Clarke County Zoning Ordinance.

(6) An appeal of a decision of the Board shall be made within 30 days to the Board of Supervisors. Any appeal of the decision of the Board of Supervisors shall be made within 30 days to the Circuit Court of Clarke County.

(7) The concurring vote of two members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance, or to effect any variance from the Ordinance. [Added 04-02-17]

C. Variances. [Amended 98-04-21; 01-01-16; 02-02-19; 04-02-17; 04-09-21; 05-08-16]

(1) Variance criteria.

a. General (other than Temporary Pump and Haul). In order to be eligible for a variance, the applicant must meet one of the following criteria:

(i) A habitable building for which the variance is requested is currently occupied.

(ii) A habitable building has been destroyed by circumstances beyond the control of the owner or occupant of the building within one year of the variance application.

(iii) The building is eligible to be on the Virginia Landmarks Register or the National Register of Historic Places or is eligible to be a contributing property in an historic district listed in the Virginia Landmarks Register or the National Register of Historic Places.

(iv) The variance is requested so as to provide for septic systems or water supply systems replacing existing septic systems or water supply systems that are more consistent with the regulations of this article. A habitable building must be located on the property with the existing septic system or water supply system.

(v) The entire parcel of land has been placed under a permanent conservation easement granted to the Clarke County Conservation Easement Authority, Lord Fairfax Soil and Water Conservation District, Virginia Foundation and/or Virginia Board of Historic Resources.

b. Temporary Pump and Haul.

(i) Temporary pump and haul may be allowed if public sewer service or other means of approved sewage disposal is imminent and if all of the following criteria are met:

a) The structure to be served is one of the following:
1) An existing occupied dwelling;
2) An existing structure used as a place of worship;
3) A new or existing school structure; or
4) A new or existing commercial structure on a property in a commercial zoning district; and

b) The Health Department has rejected an application for an onsite sewage system or an off-site system as permitted under this ordinance.

(ii) Temporary pump and haul may be allowed for up to three years if public sewer service or other means of approved sewage disposal is not imminent and if all of the following criteria are met:

a) The structure to be served is an existing dwelling without indoor plumbing and is converting to indoor plumbing, or an existing septic system has failed;

b) For at least one continuous year, the applicant has been the owner and full-time resident of the dwelling to be served; and,

c) The Health Department has rejected an application for an onsite sewage system or an off-site septic system, as permitted under this ordinance

d) There shall be no additional bedrooms added to the dwelling as a result of the permitting of temporary pump and haul.

(2) Variance procedure:

If the proposed variance involves a request to locate a soil treatment area farther than 400 feet from the house site, the applicant must provide an affidavit signed by the soil consultant stating that no suitable area could be found within the 400 feet radius. Attached to the affidavit shall be a written report detailing the reasons why no site could be found, including but not limited to soil test pit locations and profiles, site conditions such as topography, and/or setback restrictions. [Added 05-08-16]

(a) Any person seeking a variance shall apply in writing to the Board. Such application shall be in writing and shall include:

(i) A citation to the order, decision, determination or regulation from which a variance is requested.

(ii) Identification of which of the variance criteria in paragraph C.(1) applies;

(iii) The nature of the variance requested.

(iv) Any relevant analytical results, including results of tests conducted pursuant to the requirements of this article.

(v) Statements or evidence why the public health and welfare as well as the groundwater resources would not be degraded if the variance were granted.

(vi) Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on public health and welfare or groundwater resources.

(vii) Other information, if any, deemed pertinent by the applicant.

(viii) Such other information as the Board may require.

(b) The Board Of Septic And Well Appeals shall act on any variance request within 30 calendar days of receipt of the request

(c) The Board may attach reasonable conditions consistent with the intent of this article in granting variances. If a variance is granted for a property eligible to be on the Virginia Landmarks Register or the National Register of Historic Places or is eligible to be a contributing property in an historic district in the Virginia Landmarks Register or the National Register of Historic Places, the property owner shall apply for a county historic overlay district for the subject property.

(d) In acting upon a request for a pump and haul system the Board shall require the following:

(i) The maximum capacity of a sewage holding tank serving a residence shall be 3,000 gallons;

(ii) The property owner shall provide copies of an agreement to pump and haul the sewage with a contract hauler, holding a sewage handling permit, and a letter of acceptance from the operator of a certified sewage treatment plant. The property owner shall provide the county with a copy of the invoice(s) from the contract hauler every three months. A pump and haul variance shall be void if the property owner does not provide such an invoice, or a in the absence of an invoice, a letter of explanation, within any six month period;

(iii) The property owner shall enter into an agreement with the county to construct and operate a pump and haul system in accord with all State Health Department regulations.

(e) In acting upon a variance request for temporary pump and haul, the time limit for the pump and haul variance shall be

determined by the board based on the circumstances of each application. However, the time limit for a pump and haul variance where public sewer service or other means of approved sewage disposal is not imminent shall be no longer than five years.

(f) In granting a variance request for temporary pump and haul, the Board shall require a guarantee of the payment of hauling costs for the term of the variance, up to one year, in one of the following forms:
   (i) cash escrow;
   (ii) cash, corporate or property bond, with surety satisfactory to the board; or,
   (iii) a bank letter of credit in a form satisfactory to the board.

(g) A renewal of a variance for temporary pump and haul may be requested. In acting upon such request, the Board shall determine whether there have been any changes in conditions since the granting of the last variance that eliminates the need for a pump and haul system.

(h) No variance may be granted except after notice and hearing as required by § 15.2-2204, Code of Virginia, and in accordance with the requirements of Section 10-E of the Clarke County Zoning Ordinance except as provided for in § 143-11C(2) of the County Code. Posting and notification of adjacent property owners are waived for existing failed systems requiring emergency repairs, which alter the configuration of the existing system as determined by the county Health Department.

(i) A denial of a variance, or an appeal from the terms and conditions set forth in the variance, shall be made within 30 days to the Board of Supervisors. Any appeal of the decision of the Board of Supervisors shall be made within 30 days to the Circuit Court of Clarke County.

(j) All variances are transferable unless otherwise stated.

(k) Each variance shall be attached to the permit to which it is granted. Each variance is revoked when the permit to which it is attached is revoked.

(l) Variances for emergency repairs shall be heard by the county Natural Resources Planner. The Natural Resources Planner shall consult with the Board of Septic Appeals before acting on

such a variance request. [Amended 04-02-17]

(m) Variances shall be approved to alleviate a clearly demonstrable hardship approaching confiscation involving existing improvements, as described in Section (C)(1), above, as distinguished from a special privilege or self-imposed (elective) convenience or option sought by the applicant. [Added 01-01-16]

(n) Variances shall be heard by the county Natural Resources Planner for Systems that substantially comply with the intent of this ordinance. Substantial compliance is defined as a variance of not greater than 10% from the stated regulations. The Natural Resources Planner shall consult with the Board of Septic Appeals before acting on such a variance request. [Added 04-02-17]

§ 143-12. Fees.[38] [Amended 99-11-16; 00-03-21, 00-04-18]

The Board of Supervisors shall set by resolution such fees as it deems necessary and reasonable to defray the cost of permits and/or licenses, inspections and testing as are required to be issued under this article.

§ 143-13. Violations and penalties.[39]

Penalties for violation of the provisions of this article shall be as provided in Chapter 1, General Provisions, Article I.

[38]Editor's Note: Fees are on file in the office of the County Administrator.

[39]Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Article III Recordation of Onsite Sewage Disposal Permit Limitations
[Adopted 05/15/07; Amended 11/20/07]

§ 143-14 New Systems.
[Amended 07-11-20]

Upon issuance by the Virginia Department of Health ("VDH") of an onsite sewage disposal system Operation permit ("Operation Permit") for a structure, the owner(s) of the property for which the Operations Permit is issued shall record in the Clarke County Circuit Court land records, within ten (10) days of the issuance of the Operations Permit, a Notice of Onsite Sewage Disposal Limitations, setting forth the limitations on the structure to be served by the approved onsite sewage disposal system, with a copy of the Operation Permit attached. The Notice of Onsite Sewage Disposal Limitations shall be on a form prepared by and available in the Clarke County Department of Planning.

§ 143-15 Recordation of Certification Letter.
[Amended 07-11-20, 08-12-16]

Any owner(s) of an existing lot that is issued a VDH Certification Letter shall record said Certification Letter in the Circuit Court land records, within 90 days of issuance.

Prior to Health Department approval of a subdivision plat, the owner(s) of the property to be subdivided must apply for a VDH Certification Letter, at the Clarke County Health Department, for each lot to be created by the subdivision, and record said Certification Letters in the Circuit Court land records within 90 days after approval of the subdivision.

§ 143-16 Certificate of Use and Occupancy
[Amended 07-11-20]

Any applicant requesting a Certificate of Use and Occupancy from the Clarke County Building Department, for a structure to be served by an onsite sewage disposal system, which is either new construction or the conversion of an existing structure to an occupied structure, or the addition to an existing structure so as to increase the number of bedrooms or to change the use of the structure so as to increase the gallons per day, shall record in the Circuit Court land records a Notice of Onsite Sewage Disposal Limitations, setting forth the limitations on the structure to be served by the approved onsite sewage disposal system, with a copy of the Operation Permit for that structure attached, and shall file with the building department a photocopy of the recorded Notice of Onsite Sewage Disposal Limitations, showing the Clerk's recording stamp. No such Certificate of Use and Occupancy shall be issued unless such a Notice of Onsite Sewage Disposal Limitations has been recorded for the structure.

§ 143-17 Building Permits
[Amended 07-11-20]

Any application for a building permit not requiring a certificate of occupancy when completed, which is served by an onsite sewage disposal system, shall comply with either A. or B.:

A. <u>Notice of Onsite Sewage Disposal Limitations not previously</u>

recorded

Record in the Circuit Court land records a Notice of Onsite Sewage Disposal Limitations for the structure, with a copy of the Operations Permit attached for each such structure on the property. If an Operation Permit has not been issued then a copy of the onsite sewage disposal system permit ("Sewer Permit") shall be attached. A photocopy of the recorded Notice of Onsite Sewage Disposal Limitations and Sewer Permit, showing the Clerk's recording stamp, shall be filed with the building permit application; or

B. Notice of Onsite Sewage Disposal Limitations previously recorded

The applicant shall file with the application a photocopy of the previously recorded Notice Onsite Sewage Disposal Limitations with a copy of the Operations Permit attached for each such structure on the property. If an Operation Permit has not been issued then a copy of the Sewer Permit, showing the Clerk's recording stamp, shall be attached. A photocopy of the recorded Notice of Onsite Sewage Disposal Limitations and Sewer Permit, showing the Clerk's recording stamp, shall be filed with the building permit application.

No building permit, except for emergency repairs as described below, shall be issued unless a Notice of Onsite Sewage Disposal Limitations has been recorded for the structure.

Emergency Repairs. If the application for a building permit is for repairs that must be performed in an emergency situation, as determined by the building official, the Notice of Onsite Sewage Disposal Limitations shall be submitted to the building official within 5 working business days of issuance of the building permit.

§ 143-18 Existing Systems.
[Amended 07-11-20]

Prior to the sale or transfer of any interest in any real property on which is located a structure or structures served by an onsite sewer disposal system,

if a Notice of Onsite Sewage Disposal Limitations has not previously been recorded for each structure on the property, the owner of the property, prior to the recordation of the deed transferring ownership, shall record in the Circuit Court land records a Notice of Onsite Sewage Disposal Limitations for each structure on the property for which a Notice of Onsite Sewage Disposal Limitations has not previously been recorded, with a copy of the Operations Permit attached for each such structure on the property.

If the owner of the property fails to record the Notice of Onsite Sewage

Disposal Limitations prior to recordation of the deed transferring ownership, the grantee under the deed shall record a Notice of Onsite Sewage Disposal Limitations, with a copy of the Operations Permit attached, within thirty (30) days of recordation of the deed. If an Operation Permit has not been issued then a copy of the Sewer Permit shall be attached.

§ 143-19 No Sewer Permit Available. [Amended 07-11-20]

If an owner of property is unable to obtain a copy of a Sewer Permit after completing a VDH "File Search of Records" with the VDH, then in lieu of the recordation of the Notice of Onsite Sewage Disposal Limitations required under Sections 143-16 and 143-17, owner shall record in the Clarke County Circuit Court land records a Notice of No Sewer Permit Availability, with a signed VDH "File Search of Records" form attached, indicating that a copy of a Sewer Permit for the property is not available.

The File Search of Records form is available from the Clarke County Health Department.

Under the foregoing circumstances, the recordation of the Notice of No Sewer Permit Availability shall satisfy the requirements of Sections 143-16 and 143-17 for the recordation of a Notice of Onsite Sewage Disposal Limitations.

§ 143-19.1 Sewer Permits

If a Sewer Permit is attached to a Notice of Onsite Sewage Disposal Limitations pursuant to 143-17 or 143-18, above, it shall be identified on this Notice of Onsite Sewage Disposal Limitations as complete or incomplete. A definition of complete or incomplete Sewer Permits for the purposes of this Article is available in the Clarke County Department of Planning.

§ 143-20 Violations [Amended 07-11-20]

Any person violating the provisions of this Article shall be subject to a fine of $100.00. Each day the violation continues shall constitute a separate offense.

Article IV Limitation on Residents in Single-Family Dwelling Served by On-Site Sewage Disposal Systems
[Adopted January 20, 2009]

§143-21 Limitation on Residents in Single-Family Dwelling Served by On-Site Sewage Disposal Systems
[Added 09-01-20]

A. Effective July 20, 2009, the number of persons who are permanent full-time residents occupying a single-family dwelling served by an on-site sewage disposal system with a Virginia Department of Health permit shall not exceed two per the number of bedrooms allowed by that permit.

B. Upon being notified by the County of a violation of this ordinance the owner of the property shall take action within thirty (30) days of such notice to cure the violation by (i) reducing the number of residents in the dwelling or (ii) applying to the Virginia Department of Health to expand the current onsite sewage system for a sufficient number of bedrooms to accommodate the number of full-time resident occupants in the dwelling, and, if the application for expansion is denied, to apply, if eligible, to the Board of Septic and Well Appeals for a variance for a system designed to accommodate the number of full-time resident occupants in the dwelling. In the event an owner applies for such an expansion of the system and/or for such a variance, an action for a violation of this ordinance shall not be initiated by the County while any such application is pending. If any such application is granted, the owner of the property shall have ninety (90) days from the granting of the variance to install the approved system.

C. No person shall be charged with a violation of the provisions of this Article based upon the number of persons occupying a dwelling prior to July 20, 2009.

Amendments Chapter 143

1998-05-19	§ 143-8.1 Closure of Onsite Inspection Pits. Added 98-05-19
1999-08-17	§ 143-9 System Siting, so as to add § 143-9 to allow replacement, repairs, and expansions of existing systems to encroach upon the minimum setbacks from site features…; § 143-11 Administrative Appeal Process, so as to modify the membership of the Board
1999-11-16	§ 143-12 Variance Process add A-5 to allow variances for parcels placed under an easement granted by VOF and/or VBHR.
2000-03-21	§ 143-12 Variance Process so as to establish a procedure to consider a variance when the entire tract of land has been placed under an

easement granted to the VOF and/or VBHR.

2000-04-18 § 143-10 Design and Installation so as to add criteria whereby a pump and haul septic system is permitted; § 143-11 & § 143-12 appeal and Variance Process so as to reorganize and merge these two sections; § 143-12-A-(4) Variance process, so as to allow variances only when an existing habitable structure is present on the parcel.

2001-01-16 § 143-11 (C) Variances, so as to modify the criteria for granting variances.

2002-02-19 § 143-10-D, Design and Installation, and § 143-11, Appeals and Variances, so as to clarify that pump and haul may be used only as temporary method of sewage disposal.

2002-11-19 § 143-8.1 Intent; State Regulations; Exceptions, so as to add Section D restricting the issuance of conditional septic permits.

2004-02-17 § 143-11 Appeals & variances so as to restructure the appeals board and variance procedure.

2004-04-20 § 143-8.1 Definitions Revise definition of Spring

2004-06-15 § 143-9. System Siting - so as to add Section G limiting the maximum distance a drain field may be located from a house to 400 feet.

2004-09-21 § 143-9. Appeals and variances C. Variances 1.(v) so as to delete additional criteria for open space easement properties eligible for a variance.

2005-03-15 § 143-6, -7, -8, -10 so as to clarify and update sections CC-05-01

2005-07-19 § 143-9 – Add H, Subsurface Investigations. CC-05-02

2005-08-16 *§ 143-11-A-(2)* to provide an alternate to the public member of the Board. CC-05-03; Section 143-11-C-(2) Variance procedure so as to require an affidavit for soil work within 400 feet of a house. CC-05-03a

2006-05-16 § 143-10 C Add Use of any alternative sewage treatment systems shall require a monitoring and maintenance contract meeting the county requirements, as outlined in a resolution adopted by the Board of Supervisors entitled "Monitoring and Maintenance Requirements for Alternative Sewage Treatment Systems". CC-06-02

2007-03-20 § 143-07 Remove definition of Professional Soil Scientist CC-06-07

2007-05-15	§ 143-15 thru § 143-19 add Article III Recordation of Onsite Sewage Disposal Permit Limitations
2007-11-20	§143-15 thru § 143-19 amend Article III Recordation of Onsite Sewage Disposal Permit Limitations add 143-20 & 21
2008-12-16	§143-9 amend to allow exception for emergency repairs; §143-10. Design and installation. To require 100% reserve area for merged lots; and §143-16 Recordation of Certification Letter to allow 90 days for recordation. CC-08-03
2009-01-20	§143-21, Article IV, Limitation on Residents in Single-Family Dwelling Served by On-Site Sewage Disposal Systems.
2009-08-18	§ 143-10 add Section 143-10-G, Reutilization of Existing System, so as to require new sewage disposal systems for new construction. CC-09-04.
2009-09-15	§ 143-01 throughout section remove subsurface and add "septic" where applicable. 143-17 remove "for existing structures" throughout section. CC-09-05.
2009-10-20	§ 143-16 thru –20 Section 143-16 Recordation of Onsite Sewage Disposal Permit Limitations, so as to require recordation of sewer permits prior to issuance of any building permit; Sections 143-16, 17 and 18, so as to delete the reference to the definition and form regarding complete or incomplete sewage disposal records and add a section in Section 143 so as to reference the form defining complete or incomplete sewage disposal permits, and; Section 143-17, so as to require the grantee to record the Notice of On-site Sewage Disposal Limitations, if the owner fails to record such Notice prior to property transfer.; Add 143-19.1 Sewer Permits CC-09-07.
2010-06-15	Chapter 143 § 143-2-D, § 143-2-E, § 143-9-B-(8), so as to establish standards for the siting and installation of alternative onsite sewage systems. CC-10-04
2011-03-15	Chapter 143 § 143-10. Design and installation B. Privies, (1) Portable privies. Change to read: (a) Portable privies are allowed only for use in association with government owned facilities or . . . CC-11-01

Chapter 148 Soil Erosion And Sedimentation Control

[HISTORY: Adopted by the Board of Supervisors of Clarke County 10-16-1990. Amendments noted where applicable.]

General References

Chapter 71 Building Construction
Chapter 161 Subdivision Of Land
Chapter 188 Zoning.

Code Of Virginia References

§ 10.1-560 et seq. Erosion and Sediment Control Law
§ 10.1-604 et seq. - Dam Safety Act

§ 148-1. Title Purpose and Authority.

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of Clarke County." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the Clarke County by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (Sec. 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.

§ 148-2. Definitions.

As used in the ordinance, unless the context requires a different meaning:

A. **Agreement in lieu of a plan** means a contract between the Zoning/Code Enforcement Officer and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the Zoning/Code Enforcement Officer in lieu of a formal site plan.

B. **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.

C. **Board** means the Virginia Soil and Water Conservation Board.

D. **Certified inspector** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such

program within one year after enrollment.

E. **Certified plan reviewer** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

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

H. **County** means the Clarke County.

I. **Department** means the Department of Conservation and Recreation.

J. **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.

K. **Director** means the Director of the Department of Conservation and Recreation.

L. **District or Soil and Water Conservation Distric**t refers to the Lord Fairfax Soil and Water Conservation District.

M. **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.

N. **Erosion and Sediment Control Sketch Plan** means a plat or drawing of the property indicating the elevation contours and detailing the proposed areas of disturbance, including but not limited to the driveway, house site, and clearing that identifies the location and type of proposed erosion and sediment control practices to be installed prior to any land disturbing activity.

O. **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 [or to shorelines where the erosion results from wave action or other coastal processes.]

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

Q. **Filling** means any depositing or stockpiling of earth materials.

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

S. **Grading Permit** means a permit issued by the Zoning/Code Enforcement Officer for the purpose of excavating and filling of earth materials or any combination thereof, including the land in its excavated or filled conditions.

T. **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 Commonwealth, 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 repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk

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, de-silting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 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 (Sec. 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 Sec. 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 of less than 10,000 square feet in size including water wells. However, the Clarke County reserves the right to require all persons to obtain a Minor Land Disturbance permit for land disturbing activities less than 10,000 square feet in area.

10) Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;

11) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the 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

12) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control

plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Zoning/Code Enforcement Officer.

U. **Land-disturbing Permit** means a permit issued by the Code/Zoning Code Enforcement Officer or their designee for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

V. **Local erosion and sediment control program or local control program** means an outline of the various methods employed by the Clarke County 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.

W. **Minor Land Disturbance Permit** means a permit issued by the Code/Zoning Code Enforcement Officer for any land disturbing activity less than 10,000 square feet in area.

X. **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.

Y. **Notice to Comply** means a written notice sent to the responsible land disturber or owner, or appropriate agent that stops all land disturbing activity on the project for a specified time period.

Z. **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, firm or corporation in control of a property.

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

BB. **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.

CC. **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 Commonwealth, any interstate body, or any other legal entity.

DD. **Plan Approving Authority** means the Zoning/Code Enforcement Officer or their designee as having the responsibility for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

EE. **Program authority** means the Clarke County which has adopted a soil erosion and sediment control program that has been approved by the Board.

FF. **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 (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

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

II. **State erosion and sediment Control program or state program** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.

JJ. **State waters** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

KK. **Stop Work Order** means a written notice sent to the responsible land disturber or owner or appropriate agent that stops all land disturbing activity on the project for a specified time period.

LL. **Town** means the incorporated town of Boyce.

MM. **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.

NN. **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.

OO. **Zoning/Code Enforcement Officer** means the person who is responsible for implementing and enforcing the County Erosion and Sediment Control Ordinance.

§ 148-3. Local Erosion And Sediment Control Program

B. Pursuant to section 10.1-562 of the Code of Virginia, Clarke County hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the 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. Said 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.

C. Before adopting or revising regulations, Clarke County 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 Clarke County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if Clarke County proposes or revises regulations that are more stringent than the state program.

C. In addition, in accordance with §10.1-561 of the Code of Virginia, 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.

D. In accordance with § 10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater 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 (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, 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.

E. Pursuant to Sec. § 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until a certified plan reviewer reviews it. A certified inspector shall conduct inspections of land-disturbing activities. The Erosion Control Program of Clarke County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

F. Clarke County designates the County Zoning/Code Enforcement Officer or their designee as the plan-approving authority.

G. The program and regulations provided for in this ordinance shall be made available for public inspection at the offices of the Clarke County Planning Department.

§ 148-4. Submission And Approval Of Plans; Contents Of Plans

A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Zoning/Code Enforcement Officer an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the Zoning/Code Enforcement Officer. 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 Zoning/Code Enforcement Officer.

B. The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control

Handbook as amended and the Clarke County Erosion and Sediment Control Ordinance are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The Zoning/Code Enforcement Officer, 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. Any person whose land disturbing activity involves building, dumping or otherwise trespassing upon or over or encroaching upon or taking or using any materials from the beds or rivers, streams or creeks which are the property of the commonwealth shall be required to obtain a permit from the Virginia Marine Resources Commission, unless such act is pursuant to statutory authority.

D. Any person whose land disturbing activity involves lands that are within 100 feet from a perennial stream or perennial spring, or 50 feet from an intermittent stream shall have an approved erosion and sediment control plan.

E. Any person whose land disturbing activity involves construction of a pond that exceeds 10,000 square feet shall have an approved erosion and sediment control plan. Construction of ponds less than 10,000 square feet shall have an approved Minor Land Disturbance Permit and shall include a plan regarding erosion and sediment controls, emergency overflow and stormwater management. Ponds specifically related to agricultural activities where the owner has a Conservation Farm Management Plan approved by the Clarke County Zoning Administrator and by either the regional Soil and Water conservation District or the federal Natural Resources conservation Service and qualifies for use-value taxation for agriculture shall be exempt from the requirement.

F. A person engaging in land disturbing activities must obtain either an Erosion and Sediment Control Plan, Land Disturbance Permit, Minor Land Disturbance Permit, or an Agreement in Lieu of an Erosion and Sediment Control Plan as such is warranted and be approved by the Zoning/Code Enforcement Officer. A Minor Land Disturbance Permit is required for disturbance activities less than 10,000 square feet in area. An Erosion and Sediment Control Plan is required for land disturbing activities of 10,000 square feet or greater in area, although land disturbing activities of 10,000 square feet or greater when involving the construction of a single family

residence shall require an Agreement in Lieu of an Erosion and Sediment Control Plan. An Erosion and Sediment Control Sketch Plan shall be required for all Agreements in Lieu of an Erosion and Sediment Control Plan and be approved by the Zoning/Code Enforcement Officer. All persons required to provide an Erosion and Sediment Control Plan shall obtain a Land Disturbance Permit prior to any land disturbing activity. In addition to the applicant obtaining either a Land Disturbance Permit or an Agreement in Lieu of an Erosion and Sediment Control Plan. The owner or applicant may be required to also obtain a Grading Permit before commencing any land disturbing activity. A grading permit shall be limited to the elements that have been reviewed and approved by the County consultant engineer in an Erosion and Sediment Control Plan as was submitted by the applicant. An Erosion and Sediment Control Sketch Plan shall be required for all land disturbing activities of 10,000 square feet or greater in area, including Agreements in Lieu of an Erosion and Sediment Control Plan. An Erosion and Sediment Control Sketch Plan may be required for all land disturbing activities less than 10,000 square feet as determined by the Zoning/Code Enforcement Officer based on site specific conditions.

G. Any person requiring an Erosion and Sediment Control Plan shall submit to the Zoning/Code Enforcement Officer three copies of a Conservation Plan in conformity with the current edition of the Virginia Erosion and Sediment Control Handbook. One such copy shall be referred to the County consulting engineer for review. One copy shall be referred to the Zoning/Code Enforcement Officer. One copy shall be kept in the offices of the Clarke County Planning Department.

H. The Zoning/Code Enforcement Officer shall review conservation plans submitted to him/her and grant written approval within 45 days of the receipt of the plan the Officer 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 Zoning/Code Enforcement Officer, as provided by § 10.1-561 of the Virginia Erosion and Sediment Control Code, 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 before 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.

1) However, the Zoning/Code Enforcement Officer 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 of the § 10.1-561 Virginia Erosion and Sediment Control Code. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

I. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When the plan is determined to be inadequate, the Zoning/Code Enforcement Officer 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.

J. An approved plan may be changed by the Zoning/Code Enforcement Officer 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 ordinance, are agreed to by the Zoning/Code Enforcement Officer and the person responsible for carrying out the plans.

K. The Zoning/Code Enforcement Officer 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:

2) 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 that are

allowed by the Zoning/Code Enforcement Officer shall be documented in the plan.

3) During construction, the person responsible for implementing the approved plan may request a variance in writing from the Zoning/Code Enforcement Officer. The Zoning/Code Enforcement Officer shall respond in writing either approving or disapproving such a request. If the Zoning/Code Enforcement Officer does not approve a variance within 10 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.

L. In order to prevent further erosion, the Zoning/Code Enforcement Officer may require approval of a plan for any land identified in the local program as an erosion impact area.

M. 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.

N. Where fill is transported from off site to the site utilizing such, the contractor delivering the fill shall certify that the subject fill does not contain any contaminants that could be hazardous to the soils, groundwater, surface water or to human health as determined by the Virginia Department of Environmental Quality or other applicable federal, state, and/or local agencies. In addition, the contractor shall state the location or locations from which the fill has been excavated and the amount of fill to be delivered to the receiving site. All fill operations shall obtain all required permits from the Zoning/Code Enforcement Officer.

O. In accordance with the procedure set forth by §10.1-563 (E) of the Code of Virginia, 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.

P. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.

§ 148-5. Permits; Fees; Security For Performance

A. 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. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit and where applicable, a Virginia Stormwater Management Permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance, and has paid the fees and posted the required bond.

C. An administrative fee as set by the Board of Supervisors in the Clarke County fee schedule shall be paid to the Clarke County Treasurer at the time of submission of the erosion and sediment control plan. Fees incurred from inspections shall also be paid to Clarke County.

D. 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. All applicants for permits shall either:
   1. shall sign a statement acknowledging that the Certificate of Occupancy may be withheld for completed portions of projects and/or Building Permits for unconstructed portions of projects should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity, or
   2. provide a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Zoning/Code Enforcement Officer to ensure that measures could be taken by Clarke County 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 by the approved plan as a result of his land-disturbing activity
      a. The amount of the bond or other security for performance 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 costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the Clarke County to take such conservation action, Clarke County may collect from the applicant any costs in excess of the amount of the surety held.

b. Within sixty (60) days of adequate stabilization, as determined by the Zoning/Code Enforcement Officer in any project or section of a project, 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.

§148-6. Monitoring, Reports, And Inspections

A. The Zoning/Code Enforcement Officer may require the person responsible for carrying out the plan to monitor 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. The Zoning/Code Enforcement Officer shall periodically inspect the land-disturbing activity in accordance with Sec 4 VAC50-30-60 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. Professional fees incurred as a result of the inspections shall be paid by either: the permittee, owner, or 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.

1) If the Zoning/Code Enforcement Officer 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.
2) 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 ordinance and shall be subject to the penalties provided by this ordinance.

C. Upon determination of a violation of this ordinance, the Zoning/Code Enforcement Officer may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, 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.

1) If land-disturbing activities have commenced without an approved plan, the Zoning/Code Enforcement Officer may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.
2) 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 Commonwealth, 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 ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.
3) 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 Clarke County.
4) 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 Zoning/Code Enforcement Officer 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 Clarke County.
5) The owner may appeal the issuance of an order to the Circuit Court of Clarke County.

6) Any person violating or failing, neglecting or refusing to obey an order issued by the Zoning/Code Enforcement Officer may be compelled in a proceeding instituted in the Circuit Court of Clarke 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.
7) Nothing in this section shall prevent the Zoning/Code Enforcement Officer from taking any other action authorized by this ordinance.

§148-7. Penalties, Injunctions, And Other Legal Actions

A. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of Clarke County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than $100 nor more than $1,000, except that the civil penalty for commencement of land disturbing activities without an approved plan shall be $1,000. 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 $10, 000, 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. (Code of Virginia, § 10.1-562 J)

B. The Zoning/Code Enforcement Officer 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 Clarke County to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.

1) However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the Zoning/Code Enforcement Officer, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the Zoning/Code Enforcement Officer has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

C. In addition to any criminal penalties provided under this ordinance, any person who violates any provision of this ordinance may be

liable to Clarke County in a civil action for damages.

D. 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 for each violation. Clarke County may bring a civil action for such violation or failure. Any civil penalties assessed by a court shall be paid to the Treasurer of Clarke County 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.

E. 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 ordinance, Clarke County 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.

F. The Commonwealth's Attorney shall, upon request of the Zoning/Code Enforcement Officer, take legal action to enforce the provisions of this ordinance.

G. Compliance with the provisions of this ordinance 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.

§148-8. Appeals And Judicial Review

A. Any applicant under the provision of this ordinance who is aggrieved by any action of the Zoning/Code Enforcement Officer in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing provided that the Board of Supervisors and other involved parties have at least 30 days prior notice. In reviewing the Zoning/Code Enforcement Officer's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and Zoning/Code Enforcement Officer. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify the action. The Board of Supervisor's decision shall be final,

subject only to review by the Circuit Court of Clarke County.

B. Final decisions of Clarke County under this ordinance shall be subject to review by the Circuit Court of Clarke 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.

Amendments Chapter 148

2004-02-17	§ 148-4 Definitions add "or drilling of a water well to Agreement In Lieu of a Plan; Add to J. excluding water wells to Land Disturbing Activity
2005-06-21	§ 148-4. Definitions. Erosion And Sediment Control Sketch Plan [05-06-21] Add Erosion and Sediment Control Sketch Plan, G. remove ponds, § 148-6 add F. and renumber modify G and H
2008-12-16	§ 148 Soil Erosion and Sedimentation Control, so as to update this section and bring it into conformance with the Code of Virginia

Chapter 152 Smoking

[HISTORY: Adopted by the Board of Supervisors of Clarke County 11-21-1989. Amendments noted where applicable.]

General References

Chapter 74 County-Owned Property.

Code of Virginia References

§ 15.2-2801. Statewide regulation of smoking

§ 152-1. Statement of intent.

Because smoking of tobacco or any other weed or plant is a positive danger to the health of the inhabitants of the County of Clarke, Virginia, and is further a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces in which smoking occurs, and in order to serve the public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco or any weed or plant in certain public places as defined herein, except in designated smoking areas.

§ 152-2. Definitions.

For the purpose of this chapter, these words and phrases shall have the following meanings:

COUNTY BUILDING -- Any portion of a building owned or leased by and exclusively managed and controlled by the government of the County of Clarke or any of its component departments, offices and agencies which is open to the public or in which the public is invited or permitted.

SMOKE or SMOKING -- The act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind or the lighting of a cigar, cigarette or pipe of any kind.

§ 152-3. Smoking prohibited in county buildings.

It shall be unlawful for any person to smoke in any of the following facilities: county buildings.

§ 152-4. Exceptions.

The prohibition of this chapter shall not apply to the following:

A. Lawfully designated smoking areas.

B. Private offices.

§ 152-5. Designated smoking area.

The person or entity in charge of any building in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted, provided that:

A. Designated smoking rooms or areas shall be reasonably separate from the rooms or areas entered by the public in the normal course of business or use of the facilities and shall be indicated by sign(s) in the area.

B. In designated smoking areas, existing physical barriers and/or ventilation systems shall be used when possible to minimize the toxic effect of smoke in adjacent nonsmoking areas. In any event, it shall be the responsibility of the person or entity in charge of such to provide smoke-free areas for nonsmokers within the building.

§ 152-6. Posting of signs.

A. The person or entity in charge of any building in which smoking is prohibited shall post conspicuous sign(s) at least five inches in height, which shall read as follows:

NO SMOKING
COUNTY ORDINANCE
PROHIBITS THE CARRYING
OF LIGHTED TOBACCO
PRODUCTS OF ANY KIND
$25.00 FINE

B. The letters in the words "No Smoking" on the sign required by this section shall be at least 11/2 inches in height.

§ 152-7. Violations and penalties. [40]

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

[40] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 154 Stormwater Management

[HISTORY: Adopted by the Board of Supervisors of Clarke County August 17, 2010. Amendments noted where applicable.]

General References To Be added

Code Of Virginia References The Virginia Stormwater Management Law ("Law"), § 10.1-603.3. Establishment of stormwater management programs by localities, of the Code of Virginia, enables localities to adopt, by ordinance, a stormwater management program consistent with state regulations promulgated pursuant to the Law.

§ 154-1 General Provisions

§ 154-1-A Findings of Fact

It is hereby determined that:

1. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

2. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

3. Improper design and construction of stormwater best management practices (BMPs) can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

4. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

5. Substantial economic losses can result from these adverse impacts on the waters of the municipality;

6. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

7. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater runoff from development.

8. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.

§ 154-1-B Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, as well as to protect, sustain, recycle, and enhance the surface and ground water resources of Clarke County. Drainage and stormwater management practices shall be utilized as directed herein to achieve the following objectives:

1. To inhibit the deterioration of water resources resulting from development.

2. To protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment.

3. To control the rate, quality <u>and volume</u> of stormwater originating from development and redevelopment sites so that surface water and groundwater are protected and flooding and erosion potential are not increased.

4. To control nonpoint source pollution and stream channel erosion.

5. To maintain the integrity of stream channels and networks for their biological functions, drainage, and natural recharge of groundwater.

6. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects

7. To protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions.

8. Maintain the existing water balance in all watersheds, sub-watersheds, and streams in Clarke County, and protect and/or restore natural hydrologic characteristics and habitats wherever possible throughout the watershed systems.

9. To provide long-term responsibility for and maintenance of stormwater BMPs.

10. To facilitate the integration of stormwater management and pollution control with other ordinances, programs, policies, and the comprehensive plan of Clarke County.

11. Establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this ordinance.

12. Preserve the natural infiltration of groundwater to maintain the quantity and quality of groundwater resources.

13. Protect against and minimize the pollution of public drinking water supplies resulting from development and redevelopment.

14. Protect impaired waters as identified by the Department of Environmental Quality from further degradation from stormwater discharge.

§ 154-1-C Title

This chapter is identified and may be cited as the "Stormwater Management Ordinance of Clarke County, Virginia."

§ 154-1-D Adoption of State Requirements

This ordinance adopts and incorporates the provisions of the Virginia Stormwater Management Regulations VR 625-02-00, except as provided herein.

§ 154-1-E Applicability

1) This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to 154-1-E-2 or *Section 154-4-K*. These provisions apply to any new development or redevelopment site within Clarke County that meets one or more of the following criteria:

   a. Land development that creates five-thousand (5,000) square feet or more of impervious cover.

b. Land development projects that disturb 10,000 square feet or more of land area.

c. Redevelopment that creates, adds, or replaces five-thousand (5,000) square feet or more of impervious cover.

d. Land development activities that are smaller than the minimum applicability criteria set forth above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

2) The following activities are exempt from these stormwater performance criteria:

a. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Act;

b. Tilling, planting or harvesting of agricultural, horticultural, or forest crops;

c. Single-family residences separately built and not part of a subdivision or phased development project that is otherwise subject to this ordinance, including additions or modifications to existing single-family detached residential structures;

d. Structures considered ancillary to single-family detached and semidetached residences, duplexes, and townhouses, including, but not limited to, garages, decks, patios, and barns.

e. Land development projects that disturb less than 10,000 square feet of land area; however, the program administrator may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply.

f. Maintenance and repair to any stormwater BMP deemed necessary by the Program Administrator.

g. Any emergency project that is immediately necessary for the protection of life, property, or natural resources.

h. Linear construction projects, such as pipeline or utility line installation that do not result in the installation of any impervious cover, as determined by the Program Administrator. Such projects must be designed to minimize the number of stream crossings and width of disturbance, and are subject to the County Erosion and Sediment Control Ordinance.

i. Any part of a land development that was approved by the Soil and Water Conservation District prior to the effective date of this ordinance.

§ 154-1-F Compatibility with other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other or ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

§ 154-1-G Administration

This chapter shall be administered and enforced by the program administrator. The program administrator or designee, upon proper identification, shall have the right to enter upon any land for the purpose of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this chapter.

§ 154-1-H Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

§ 154-1-I Liability

Any person who undertakes or causes to be undertaken any land development shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of this ordinance are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.

By approving a plan under this regulation, Clarke County does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.

§ 154-1-J Reference Documents

The Program Administrator may utilize the information from the following documents, for the proper implementation of the requirements of this ordinance. These documents include lists of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. These manuals may be updated and expanded from time to time, based on improvements in engineering, science, monitoring, and local maintenance experience.

1) Clarke County Stormwater Management Design Manual prepared by Clarke County, Virginia, dated October 2009 and subsequent modifications and updates thereof.

2) Virginia Stormwater Management Handbook, Volumes I and II, prepared by the Virginia Department of Conservation and Recreation dated 1999 and subsequent modifications and updates thereof.

3) Low-Impact Development Design Strategies: An Integrated Design Approach, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-003 dated June 1999 and subsequent modifications and updates thereof.

4) Low-Impact Development Hydrologic Analysis, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-002 dated June 1999 and subsequent modifications and updates thereof.

5) Northern Shenandoah Valley Regional Urban Manual for Low Impact Design, Northern Shenandoah Valley Regional Commission, October 2005.

6) Low Impact Development Design Strategies—An Integrated Design Approach, prepared by Prince Georges County, Maryland, January 2000.

7) LarBranche, Adrienne, Hans-Otto Wack, David Crawford, Ed Crawford, Nickolas J. Sojka, Cabell Brand. 2007. Virginia Rainwater Harvesting Manual. Salem, Virginia. The Cabell Brand Center.

8) Technical Memorandum: The Runoff Reduction Method Center

for Watershed Protection & Chesapeake Stormwater Network April 18, 2008.

9) Chesapeake Stormwater Network Technical Bulletin No.2: Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed, Version 2.0 June 2009.

§ 154- 2 Definitions

ACT means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

ADEQUATE CHANNEL means a watercourse that will convey the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks, or overbank sections of the same. A wetland may be considered an adequate channel provided the discharge from the designated frequency storm event does not cause erosion in the wetland.

APPLICANT means any person submitting a stormwater management plan for approval.

BUILDING means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CARBONATE BEDROCK – Rock consisting chiefly of carbonate minerals, such as limestone and dolomite; specifically a sedimentary rock composed of more than 50% by weight of carbonate minerals that underlies soil or other unconsolidated, superficial material.

CISTERN - An underground reservoir or tank for storing rainwater.

CLOSED DEPRESSION **-** A distinctive bowl-shaped depression in the land surface. It is characterized by internal drainage, varying magnitude, and an unbroken ground surface.

CHANNEL means a natural stream or manmade watercourse with a defined bed and banks that conducts continuously or periodically flowing water.

COMPREHENSIVE STORMWATER MANAGEMENT PLAN means a plan, which may be integrated with other land use plans or regulations, that specifies how the water quality components, water quantity components or both of stormwater are to be

managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

DEDICATION means the deliberate appropriation of property by its owner for general public use.

DETENTION means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

EASEMENT means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

ELIGIBILITY CRITERIA are defined as design factors – such as sizing, pretreatment, flow path geometry, vegetative condition, and treatment processes – that allow a BMP to achieve the RR and PR rates.

EROSION AND SEDIMENT CONTROL PLAN means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

EVENT MEAN CONCENTRATION (EMC) is defined as the average concentration of a pollutant in runoff for a monitored storm event.

FLOOD FRINGE is the portion of the floodplain outside of the floodway.

FLOODING means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

FLOODPLAIN means any land area susceptible to being inundated by water from any source. It includes the floodway and flood-fringe areas.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation

more than one foot or as otherwise designated by the Federal Emergency Management Agency.

GROUNDWATER MANAGEMENT AREA means a geographically defined area that may be particularly sensitive in terms of groundwater quantity and/or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special management measures are deemed necessary to protect groundwater and surface water resources.

GROUNDWATER RECHARGE Replenishment of existing natural underground water supplies.

GROUNDWATER RECHARGE VOLUME (REV) The portion of the water quality volume (WQv) used to maintain groundwater recharge rates at development sites.

HOTSPOT means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

HYDROLOGIC SOIL GROUP (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

HYDROLOGIC UNIT CODE (HUC) means a watershed unit established in the most recent version of Virginia's 6th Order National watershed Boundary Dataset.

IMPAIRED WATERS means those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

IMPERVIOUS COVER means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any conventional concrete, asphalt, or compacted gravel surface.

INDUSTRIAL STORMWATER PERMIT means a National Pollutant Discharge Elimination System (NPDES) permit issued to a

commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILL DEVELOPMENT means land development that occurs within designated areas based on local land use, watershed, and/or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

INFILTRATION means the process of percolating stormwater into the subsoil.

INFILTRATION FACILITY means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

INTEGRATED MANAGEMENT PRACTICE means low-impact development microscale and distributed management techniques used to maintain predevelopment site hydrology. Integrated management practices shall include bioretention facilities, dry wells, filter/buffer strips, grassed swales, rain barrels, cisterns, infiltration trenches and amended soils as specified in the low-impact development design manuals.

JURISDICTIONAL WETLAND means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

KARST AREA means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious subsurface karst features.

KARST FEATURES means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

LAND DEVELOPMENT or LAND DEVELOPMENT PROJECT means a manmade change to the land surface that potentially changes its runoff characteristics.

LAND DISTURBANCE OR LAND DISTURBANCE ACTIVITY means

a manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, or excavation associated with a construction activity regulated pursuant to the federal Clean Water Act, the Act, and this chapter.

LANDOWNER means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LOCAL STORMWATER MANAGEMENT PROGRAM means the various methods employed by a locality or the department to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, permit requirements, policies and guidelines, technical materials, plan review, inspection, enforcement, and evaluation consistent with the Act and this chapter.

LOCALITY means a county, city, or town.

LOW-IMPACT DEVELOPMENT MEANS a hydrologically functional site design with pollution-prevention measures to reduce impacts and compensate for development impacts on hydrology and water quality.

MAINTENANCE AGREEMENT means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

MAINTENANCE PLAN means a component of the stormwater management design plan describing the stormwater management structures and facilities at the land development project and identifying maintenance items that will be performed by the landowner to ensure proper functioning of said structures and facilities.

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 bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

NATURAL STORMWATER CONVEYANCE SYSTEM means the main channel of a natural stream, in combination with the

floodway and flood fringe.

NATURAL STREAM means a tidal or non-tidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT means a permit issued by the EPA, or by a State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE means any discharge to the storm drain system that is not composed entirely of stormwater.

NON-STRUCTURAL MEASURE means a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff and/or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures include, but are not limited to: minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and on-lot practices such as rain barrels, cisterns, and vegetated areas that intercept roof and driveway runoff.

NONPOINT SOURCE POLLUTION means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

OFF-SITE FACILITY means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

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, firm or corporation in control of a property.

PERMANENT STORMWATER BMP means a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

POLLUTANT REMOVAL (PR) is defined as the change in EMC as runoff flows into and out of a BMP. Pollutant removal is accomplished via processes such as settling, filtering, adsorption, and biological uptake. This does not account for changes in the overall volume of runoff entering and leaving the BMP.

PRETREATMENT means the techniques employed in a stormwater management plan to provide storage or filtering to help trap course materials before they enter the stormwater BMP. Pretreatment is required on some BMPs to help avoid costly maintenance.

PROGRAM ADMINISTRATOR means the County Planning Director or his/her designee, which is responsible for coordinating the review, approval, and permit process as defined by this ordinance.

QUALIFIED GEOTECHNICAL PROFESSIONAL a licensed professional geologist or a licensed professional engineer who has a background or expertise in geology or hydrogeology.

RECEIVING STREAM OR CHANNEL means the body of water or conveyance into which stormwater runoff is discharged.

RECHARGE means the replenishment of underground water reserves.

REDEVELOPMENT means the process of developing land that is or has been previously developed.

REGIONAL STORMWATER means stormwater BMPs designed to control stormwater runoff from multiple properties or a particular land use district, and where the owners or developers of the individual properties may participate in the provision of land, financing, design, construction, and/or maintenance of the facility.

RESPONSIBLE PARTY means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

RUNOFF REDUCTION (RR) is defined as the total annual runoff volume reduced through canopy interception, soil infiltration, evaporation, transpiration, rainfall harvesting, engineering infiltration, or extended filtration.

STOP WORK ORDER means an order issued which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT CONCEPT PLAN means a generalized plan provided with the preliminary plan of subdivision or preliminary site development plan describing how stormwater runoff through and from a land development project will be conveyed and controlled.

STORMWATER DESIGN MANUAL means an engineering and/or project review document maintained by the Program Administrator containing technical standards and specifications, policies, procedures, and other materials deemed appropriate by Program Administrator to assist with compliance with the provisions of this ordinance.

STORMWATER MANAGEMENT means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

STORMWATER POLLUTION PREVENTION PLAN or “SWPPP" means a document that is prepared in accordance with good

engineering practices and that identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the construction site or its associated land-disturbing activities. In addition the document shall describe and ensure the implementation of best management practices, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion and sediment control plan, a post-construction stormwater management plan, a spill prevention control and countermeasure (SPCC) plan, and other practices that will be used to reduce pollutants in stormwater discharges from land-disturbing activities and to assure compliance with the terms and conditions of this chapter. All plans incorporated by reference into the SWPPP shall be enforceable under the permit issued or general permit coverage authorized.

STORMWATER BEST MANAGEMENT PRACTICE (BMP) means a measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER RETROFIT means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

STORMWATER RUNOFF means flow on the surface of the ground, resulting from precipitation.

STREAM BUFFER means an area of land at or near a streambank, wetland, or waterbody that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to water quality.

TOTAL REMOVAL (TR) is the nutrient mass reduction, which is the product of both Runoff Reduction (RR) and Pollutant Removal (PR).

URBAN DEVELOPMENT AREA (UDA) means an area designated by Clarke County to be annexed by an incorporated town because it is appropriate for concentrations of commercial and/or residential development due to its proximity to transportation

facilities, the availability of a public or community water and sewer system, and proximity to an incorporated town and as further defined in Code of Virginia section 15.2-2223.1.

WASTELOAD ALLOCATION or WASTELOAD or WLA means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

WATERCOURSE means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERSHED means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

WATERSHED OR SUBWATERSHED MANAGEMENT PLAN means a document, usually developed cooperatively by government agencies and other stakeholders, to protect, restore, and/or otherwise manage the water resources within a particular watershed or sub-watershed. The plan commonly identifies threats, sources of impairment, institutional issues, and technical and programmatic solutions or projects to protect and/or restore water resources.

WETLAND HYDROPERIOD means the pattern of fluctuating water levels within a wetland caused by the complex interaction of flow, topography, soils, geology, and groundwater conditions in the wetland.

§ 154- 3 Stormwater Management Program Permit Procedures and Requirements

§ 154-3-A Stormwater Management Concept Plan and Consultation Meeting

Each owner subject to this ordinance shall submit to the Program Administrator for review and approval a stormwater management concept plan as provided herein:

1) **Stormwater Management Concept Plan:** All preliminary plans of subdivision and site plans shall provide a stormwater management concept plan describing, in general, how stormwater runoff through and from the development will be

treated and conveyed. The concept plan shall also identify important natural features identified though a Natural Resources Inventory conducted in accordance with Section 154-4-A-16. All other land development projects subject to this ordinance shall submit a stormwater management concept plan prior to preparation of the stormwater management design plan.

2) **Application Requirements:** The stormwater management concept plan submittal shall contain a completed application form provided by the Program Administrator, the fee required by Section 154-3-I, and a stormwater management concept plan that satisfies the requirements of this section and the Stormwater Design Manual.

3) **Concept Plan Prior to Design Plan**: The stormwater management concept plan must be approved prior to submission of a stormwater management design plan (as part of the construction or final site plan) for the entire development, or portions thereof.

4) **Meetings with Program Administrator:** All applicants are encouraged to hold a pre-submittal consultation meeting with the Program Administrator to discuss potential approaches for stormwater design and opportunities to use design techniques to reduce runoff rates, volumes, and pollutant loads. In addition, the applicant or his representative shall meet on-site with a designee of the Program Administrator prior to approval of the stormwater management concept plan for the purposes of verifying the conditions of the site and all receiving channels.

5) **Maximize Use of Techniques to Reduce Runoff by Design:** The stormwater management concept plan shall utilize to the maximum extent practicable site planning and design technique that reduce runoff rates, volumes, and pollutant loads. Such techniques include, but are not limited to, minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and distributed practices that intercept and treat runoff from developed areas.

§ 154-3-B Stormwater Management Design Plan

Each owner subject to this ordinance shall submit to the Program Administrator for review and approval a stormwater management design plan as provided herein:

1) **Stormwater Management Design Plan**: A stormwater management design plan containing all appropriate information as specified in this Ordinance shall be submitted to the Program Administrator in conjunction with the final subdivision plat, final site plan, construction plan, or any other land development plan subject to this ordinance.

2) **Application Requirements:** The stormwater management design plan submittal shall contain a completed application form provided by the Program Administrator, the fee required by Section 154-3-I, a stormwater management design plan that satisfies the requirements of this section and the Stormwater Design Manual, a stormwater maintenance plan, and a certification stating that all requirements of the approved plan will be complied with. Failure of the owner to demonstrate that the project meets these requirements, as determined by the Program Administrator, shall be reason to deny approval of the plan.

3) **Consistency between Concept & Design Plans:** Any discrepancies between the concept and design plans should be documented by the applicant.

4) **Stormwater Management Design Plan Content:** The stormwater management design plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, citations to supporting references, a record of all major permit decisions, and other information as may be necessary for a complete review of the plan, and as specified in the latest version of the Stormwater Design Manual.

5) **Stormwater Management Design Plan Submittal:** Stormwater management plans shall be submitted for review and be approved prior to commencement of land-disturbing activities. Stormwater management plan review shall begin upon submission of a complete plan. A complete plan elements include: responsible party contact information, topographic map, locations of discharge points and locations of proposed SWM facilities, calculations, soil information, maintenance plan, landscaping plan, maintenance easements, maintenance agreement, erosion and sediment control plan for construction of stormwater management measures, other required environmental permits and all other elements as detailed in the Stormwater Design Manual.

6) **Professional Requirements:** Elements of the stormwater

management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations.

7) **Determination of Plan Completeness:** Completeness of a plan and required accompanying information shall be determined by the Program Administrator, and the applicant shall be notified of any determination, within 15 calendar days of receipt.
   a. If within those 15 days the plan is deemed to be incomplete based on the criteria set out in Section 154-3-B-5, the applicant shall be notified in writing of the reasons the plan is deemed incomplete.
   b. If a determination of completeness is made and communicated to the applicant within the 15 calendar days, an additional 60 calendar days from the date of the communication will be allowed for the review of the plan.
   c. If a determination of completeness is not made and communicated to the applicant within the 15 calendar days, the plan shall be deemed complete as of the date of submission and a total of 60 calendar days from the date of submission will be allowed for the review of the plan.
   d. The Program Administrator shall act within 45 days on any plan that has been previously disapproved and resubmitted.

8) **Action of Program Administrator:** During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or their designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter as determined by the Program Administrator.

9) **Default Approval:** If a plan meeting all requirements of this chapter and the Program Administrator is submitted and no action is taken within the time specified above, the plan shall be deemed approved.

10) **Initial Stormwater Management Plan:** Notwithstanding the requirements of Section 154-3-B-5, if allowed by the Program Administrator, an initial stormwater management plan may be submitted for review and approval when it is accompanied by an erosion and sediment control plan, preliminary stormwater design

for the current and future site work, fee form, and 50% of the fee required by Section 154-3-I. Such plans shall be limited to the initial clearing and grading of the site unless otherwise allowed by the Program Administrator. Approval by the Program Administrator of an initial plan does not supersede the need for the submittal and approval of a complete stormwater management plan and the updating of the erosion and sediment control plan, Virginia Stormwater Management Permit and/or SWPPP prior to the commencement of activities beyond initial clearing and grading and other activities approved by the Program Administrator. The initial plan shall include information detailed in Section 154-3-B-5 to the extent required by the Program Administrator and such other information as may be required by the Program Administrator.

11) **Plan Modification:** Each approved plan may be modified in accordance with the following:
   a. Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Program Administrator. The Program Administrator shall have 60 calendar days to respond in writing either approving or disapproving such requests.
   b. Based on an inspection, the Program Administrator may require amendments to the approved stormwater management plan to address the noted deficiencies and notify the permittee of the required modifications.

§ 154-3-C Plan Preparation and Certification

1) **Certification by Plan Preparer:** The stormwater management design plan shall be prepared by a licensed landscape architect, certified professional surveyor, or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater BMPs meet the requirements in this ordinance.

2) **Certification by Owner:** The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

§ 154-3-D Coordination with Other Approvals and Permits

1) **Approval of Other Permits:** No grading or building permit shall be issued for land development without approval of a stormwater management design plan.

2) **Coordination with Other Plans:** Approval of the stormwater management design plan shall be coordinated by the Program Administrator with approval of an erosion and sediment control or

construction stormwater plan with regard to the location, schedule, and/or phasing for temporary and permanent stormwater management measures. If natural drainage features or other natural areas are to be preserved, then these areas must be shown and measures provided for their protection on both the erosion and sediment control plan and the stormwater management design plan. If other elements of the stormwater management design plan utilize soils, vegetation, or other natural features for infiltration or treatment, then these areas must be shown on the erosion and sediment control plan and measures provided for their protection during construction

3) **Other Permits or Approvals May Be Needed:** Approvals issued in accordance with this ordinance do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or local agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to: construction stormwater discharge permits, applicable state and federal permits for stream and wetland impacts, and applicable dam safety permits. Applicants are required to show proof of compliance with these regulations before the Program Administrator will issue a grading, building, or zoning permit.

4) **Stormwater Measures within Flood Plain:** Construction of stormwater measures or facilities within a Federal Emergency Management Agency (FEMA) designated floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater BMP construction shall be in compliance with all applicable requirements of the Zoning Ordinance Section 3-E-1 Flood Plain District.

§ 154-3-E Maintenance Agreement and Plan

Prior to approval by the Program Administrator of a stormwater management design plan, each owner shall submit a maintenance agreement and maintenance plan in accordance with the following:

1) **Responsible Party:** The owner shall be responsible for the operation and maintenance of such measures and shall pass such responsibility to any successor owner.

2) **Requirement for Maintenance Agreement & Plan:** If a stormwater management design plan requires structural or non-structural measures, the owner shall execute a stormwater maintenance agreement prior to the Program Administrator granting final approval for the plan, or any plan of development or

other development for which a permit is required under this Ordinance. The agreement shall be recorded in the office of the clerk of the circuit court for Clarke County and shall run with the land.

3) **Required Elements for Maintenance Agreement & Plan:** The stormwater maintenance agreement shall be in a form approved by Clarke County, and shall, at a minimum:

a) **Designate Responsible Party:** Designate for the land development the owner or other legally established entity (responsible party) which shall be permanently responsible for maintenance of the structural or non-structural measures required by the plan.

b) **Pass Responsibility to Successors:** Pass the responsibility for such maintenance to successors in title.

c) **Right of Entry for Stormwater Authority**: Grant the Program Administrator and its representatives the right of entry for the purposes of inspecting all stormwater BMPs at reasonable times and in a reasonable manner. This includes the right to enter a property when the Program Administrator has a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Ordinance.

d) **Maintenance Plan:** Ensure the continued performance of the maintenance obligations required by the plan and this ordinance through a maintenance plan (which may be an attachment to the actual maintenance agreement). The plan shall include a list of inspection and maintenance tasks, a schedule for routine inspection and maintenance, actions to be taken when maintenance is required, and other items listed in the Stormwater Design Manual.

§ 154-3-F Easements

Storm drainage easements shall be required where the conveyance, storage, or treatment of stormwater is identified on the stormwater management design plan, or where access is needed to structural or non-structural stormwater measures.

The following conditions shall apply to all easements:

1. **Dimensions:** Easements shall be of a width and location

specified in the Stormwater Design Manual.

2. **Easements Approved Before Plat Approval:** Easements shall be approved by the Planning Commission prior to approval of a final plat and shall be recorded with the Clerk of the Circuit Court of Clarke County and on all property deeds.

3. **Deeds of Easement:** A deed of easement shall be recorded along with the final plat specifying the rights and responsibilities of each party to the easement.

§ 154-3-G Performance Bond or Guarantee

1. **Performance Bond Requirements:** All applicants with projects having a drainage area greater than 20 acres shall submit to the County a performance bond with surety, cash escrow, letter of credit, or such other legal arrangement acceptable to the County attorney, to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of the applicant by the approved stormwater management plan.

2. **Action by County:** If the County takes such action upon such failure by the applicant, the County may collect from the applicant the costs of such action in excess of the amount of the security held.

3. **Term of Performance Bond:** Within sixty days of the completion of the requirements of the approved storm water management plan, including necessary stabilization, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

4. **Term Extension:** At the discretion of the Plan Administrator, the performance bond or guarantee may be extended beyond the time period specified above to cover a reasonable period of time for testing the practices during storm events and for initial maintenance activities. For the purposes of this section, the additional time shall not exceed 2 years.

5. **Partial Release:** At the discretion of Program Administrator, the performance bond or guarantee may be partially released at the completion of various stages or phases of development.

§ 154-3-H As-Built

All applicants are required to submit as-built plans for any permanent

Plans

stormwater management facilities located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities, meet the criteria for as-built plans in the Stormwater Design Manual, and be sealed by a registered professional engineer. A final inspection by the Program Administrator is required before any performance bond or guarantee will be released.

§ 154-3-I Fees

Each owner seeking approval of a stormwater management concept plan or stormwater management design plan shall pay a fee upon submittal of such plan, and shall pay a fee for each inspection. Such fees for permits, applications, petitions, and other action under the provisions of this Ordinance shall be payable to "Treasurer, Clarke County", in such amount as shall from time to time be set by resolution of the Board of Supervisors.

§ 154-4. Post-Construction Performance Criteria for Stormwater Management

§ 154-4-A General Post-Construction Stormwater Management Criteria

1. **Stormwater BMP Maintenance:** All stormwater BMPs shall be maintained in accordance with the approved and deeded stormwater maintenance agreement and stormwater maintenance plan. The design of stormwater facilities shall incorporate maintenance accommodation in accordance with the latest version of the Stormwater Design Manual.

2. **Overland Flood Routes:** Overland flood routing paths shall be used to convey stormwater runoff from the 100-year, 24-hour storm event to an adequate receiving water resource or stormwater BMP such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.

3. **Velocity Dissipation:** Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to an adequate receiving stream or channel so that the natural physical and biological characteristics and functions of the receiving stream are maintained and protected.

4. **Discharges to Adjacent Property:** Concentrated discharges from land development, including from stormwater practices, shall

not be discharged onto adjacent developed property without adequate conveyance in a natural stream or storm sewer system. The Program Administrator may require drainage easements where stormwater discharges must cross an adjacent or off-site property before reaching an adequate conveyance.

5. **Individual Lots Not Separate Land Development:** Residential, commercial or industrial developments shall apply these stormwater management criteria to land development as a whole. Individual residential lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project.

6. **Location of Stormwater Facilities on Lots:** Stormwater facilities within residential subdivisions that serve multiple lots and/or a combination of lots and roadways shall be on a lot owned and maintained by an entity of common ownership, unless an alternative arrangement is approved by the Program Administrator. Stormwater practices located on individual lots shall be maintained by the lot owner, or, at the discretion of the Program Administrator, be placed within an easement and maintained by an entity of common ownership.

7. **Hydrologic Computation Assumptions:** Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations. All pre-development calculations shall consider woods and fields to be in good condition, regardless of actual conditions at the time of application.

8. **Compliance with Federal & State Regulations:** All stormwater facilities and conveyance systems shall be designed in compliance with all applicable state and federal laws and regulations, including the Federal Clean Water Act and all applicable erosion and sediment control and flood plain regulations. To the extent practical, stormwater facilities shall not be located in areas determined to be jurisdictional waters through Section 404 of the Federal Clean Water Act and/or applicable state regulations.

9. **Protect Public Health, Safety & General Welfare:** The design of stormwater BMPs shall consider public health, safety, and general welfare. These considerations include, but are not limited to: preventing flooding of structures and travelways; preventing standing water in facilities, manholes, inlets, and other structures

in a manner that promotes breeding of mosquitoes; preventing attractive nuisance conditions and dangerous conditions due to velocity or depth of water and/or access to orifices and drops; and preventing aesthetic nuisances due to excessive slopes, cuts and fills, and other conditions.

10. **Adherence to Stormwater Design Manual:** All stormwater BMPs shall be designed to the standards of the most current version of the Stormwater Design Manual, unless the Program Administrator grants the applicant a waiver or the applicant is exempt from such requirements.

11. **Treat Entire Land Development:** The stormwater design shall provide for treatment of runoff from the entire land development, to the extent practical.

12. **Landscape Plan:** The design of stormwater BMPs shall include a landscape plan detailing both the vegetation to be in the practice and how and who will manage and maintain the vegetation. The landscape plan shall be prepared in accordance with the Stormwater Design Manual.

13. **Pretreatment:** Each stormwater BMP shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current Stormwater Design Manual.

14. **Stormwater Authority Discretion:** If hydrologic, geologic, topographic, or land use conditions warrant greater control than that provided by the minimum control requirements, the Program Administrator may impose additional requirements deemed reasonable and necessary to control the volume, timing, rate and/or quality of runoff. The Program Administrator may restrict the use of certain stormwater BMPs, require pretreatment above the minimum standards in the Stormwater Design Manual, and/or require a stormwater pollution prevention plan in certain circumstances. These include, but are not limited to: stormwater generated from stormwater hotspots, stormwater discharges that are conveyed with non-stormwater discharges, and stormwater discharged in important groundwater management areas or areas where geologic conditions are conducive to groundwater contamination (e.g., karst).

15. **Replicating Pre-Development Hydrology:** Stormwater management designs shall preserve the natural hydrologic

functions, stream channel characteristics, and groundwater recharge of the pre-developed site, to the extent practical. This shall be accomplished by treating runoff at the source, disconnecting impervious surfaces, preserving or enhancing natural flow paths and vegetative cover, preserving or enhancing natural open spaces and riparian areas, and other measures that replicate pre-development hydrologic conditions. The Program Administrator shall exercise discretion in the application of this standard, especially in cases of infill development, redevelopment, or other unique circumstances.

16. **Natural Resources Inventory:** Stormwater management designs shall include an inventory of important natural resources features on the site, and these features shall be shown on the Stormwater Management Concept Plan that may be prepared in accordance with Section 154-3-A. Protection and/or conservation of the site's natural features may, at the discretion of the Program Administrator, be used and given credit as "Non-Structural Measures" in accordance with Section 154-4-K. The natural resources inventory shall include, but not be limited to the following: natural drainage features, important karst features, riparian buffers, wetlands, steep slopes, soils with high infiltration capacity, significant forest or prairie patches, and significant trees and natural communities.

17. **Treatment of Off-Site Stormwater:** Off-site stormwater conveyed through a land development shall be placed within an easement and conveyed in a manner that does not increase upstream or downstream flooding. Off-site stormwater shall be conveyed around on-site stormwater BMPs, unless the facilities are designed to manage the off-site stormwater. The Program Administrator may allow credits for treating off-site stormwater.

18. **Stream & Wetland Crossings:** All stream and wetland crossings subject to Section 404 and/or state stream and wetland regulations shall minimize impacts on streams and wetlands, to the extent practical and achievable, by crossing streams and wetlands at a right-angle, reducing the footprint of grading and fill, and utilizing bridges, open bottom arches, spans, or other structures that do not restrict or alter stream or wetland hydrology. If culverts are placed within stream and wetlands, at least one culvert shall be countersunk or otherwise placed to allow the formation of a natural channel or wetland bottom to allow movement of aquatic organisms.

§ 154-4-B Water Quality Criteria Requirements
[Amended 2011-03-15]

1. **Water Quality Design Criteria:** In order to protect the quality of state waters and to control non-point source pollution, the following minimum technical criteria and statewide standards and minimum standards established by Clarke County for storm water management shall be applied to the site of a land disturbing activity.

   a. **New Development <u>not</u> within an UDA:** The total phosphorus load of new development projects shall not exceed 0.28 pounds per acre per year, as calculated pursuant to 154-4-C.

   b. **New Development within a UDA:** The total phosphorus load of new development projects located within designated UDA areas shall not exceed 0.45 pounds per acre per year, as calculated pursuant to 154-4-C.

   c. **Development on Prior Developed Lands <u>not</u> within an UDA:** The total phosphorus load of a project occurring on prior developed lands shall be 20% less than the existing load from the site or 0.28 pounds per acre per year, whichever is less stringent.

   d. **Development on Prior Developed Lands within an UDA:** The total phosphorus load of a project occurring on prior developed lands shall be 20% less than the existing load from the site or 0.45 pounds per acre per year, whichever is less stringent.

   e. **Compliance:** Compliance with 154-4-B-1-a and 154-4-B-1-b shall be determined in accordance with 154-4-C.

   f. **Water Quality Requirement across HUC:** Where a site drains to more than one HUC, the pollutant load reduction requirements shall be applied independently within each HUC, unless reductions are achieved in accordance with a comprehensive watershed storm water management plan in accordance with 154-4-F.

2. **Off-Site Water Quality with a Comprehensive Watershed Stormwater Management Plan:** If a comprehensive watershed stormwater management plan has been adopted pursuant to 154-4-F for the watershed within which a project is located, then the Program Administrator may allow off-site controls in accordance with the plan to achieve the post-development pollutant load water quality technical criteria set out in section 154-4-B-1. Such off-site controls shall achieve the required pollutant reductions either completely off-site in accordance with the plan or in a

combination of on-site and off-site controls. In either case, such controls shall be within the same HUC or the adjacent downstream HUC or within HUCs approved by the board.

3. **Off-Site Water Quality without a Comprehensive Watershed Stormwater Management Plan:** Where no plan exists pursuant to section 154-4-B-2, off-site controls may be used to meet the post-development pollutant load water quality technical criteria set out in section 154-4-B-1 provided:

   a) The Program Administrator allows for off-site controls;

   b) The applicant demonstrates to the satisfaction of the Program Administrator that off-site reductions equal to or greater than those that would otherwise be required for the site are achieved;

   c) The development's runoff will not result in flooding or channel erosion impacts downstream of the site or any off-site treatment area and shall be controlled in accordance with 154-4-D;

   d) Off-site controls must be located within the same HUC or the adjacent downstream HUC to the land disturbing site; and

   e) The right to utilize the off-site control area and any necessary easements have been obtained and maintenance agreements for the stormwater management facilities have been established pursuant to 154-3-E and 154-3-F.

4. **Alternative Implementation**: The Program Administrator may choose to implement the provisions of this subsection through an exception granted pursuant to 154-4-L in order to implement off-site treatment.

§ 154-4-C Water Quality Compliance

1. **Water Quality Compliance:** Compliance with the water quality design criteria set out in 154-4-B shall be determined by utilizing the Pollutant - Runoff Reduction Method contained within the Virginia Stormwater Management Handbook or another methodology that is demonstrated to achieve equivalent or more stringent results and is approved by the Program Administrator.

2. **Pollutant Removal Efficiencies:** The BMPs listed in Table 1 shall be utilized to effectively reduce the pollutant load in accordance with the Virginia Runoff Reduction Method. Design

specifications for the BMPs listed in Table 1 can be found on the Virginia Stormwater Clearinghouse website at *http://www.vwrrc.vt.edu/swc*. Other approved BMPs available on this website may also be utilized.

Table 1
BMP Pollutant Removal Efficiencies

Practice	Removal of Total Phosphorus by Runoff Volume Reduction (RR, as %) (based upon 1 inch of rainfall --90% storm)	Removal of Total Phosphorus by Treatment – Pollutant Concentration Reduction (PR, as %)	Total Mass Load Removal of Total Phosphorus (TR, as %)
Vegetated Roof 1	45	0	45
Vegetated Roof 2	60	0	60
Rooftop Disconnection [2]	25 or 50[1]	0	25 or 50[1]
Rainwater Harvesting	up to 90 [3, 5]	0	up to 90 [3, 5]
Soil Amendments	Can be used to decrease runoff coefficient for turf cover at site. See designs for Rooftop Disconnection, Sheet Flow, and for Grass Channel practices.		
Permeable Pavement 1	45	25	59
Permeable Pavement 2	75	25	81
Grass Channel	10 or 20[1]	15	23
Bioretention 1 (also applies to Urban Bioretention)	40	25	55
Bioretention 2	80	50	90
Infiltration 1	50	25	63
Infiltration 2	90	25	93
Dry Swale 1	40	20	52
Dry Swale 2	60	40	76
Wet Swale 1	0	20	20
Wet Swale 2	0	40	40
Sheet Flow to Open Space 1	25 or 50[1]	0	25 or 50[1]
Sheet Flow to Open Space 2 [5]	50 or 75[1]	0	50 or 75[1]
Extended Detention Pond 1	0	15	15
Extended Detention Pond 2	15	15	31
Filtering Practice 1	0	60	60
Filtering Practice 2	0	65	65
Constructed Wetland 1	0	50	50
Constructed Wetland 2	0	75	75
Wet Pond 1	0	50 (45[4])	50 (45[4])
Wet Pond 2	0	75 (65[4])	75 (65[4])

[1] Lover rate is for Hydrologic Soil Group (HSG) class C and D soils; higher rate is for HSG class A and B soils.
[2] The removal can be increased to 50% for C and D soils by adding soil compost amendments, and may be higher yet if combined with secondary runoff reduction practices.
[3] Credit up to 90% is possible if all water from storms 1" or less is used through demand, and tank is sized such that no overflow occurs. Total credit is not to exceed 90%.
[4] Lower nutrient removals in parenthesis apply to wet ponds in costal plain terrain.
[5] See BMP design specification of how additional pollutant removal can be achieved.

a) **Other allowed BMPs:** BMPs differing from those listed in Table 1 shall be reviewed and approved in accordance with procedures that have been established by the BMP Clearinghouse Committee and set out in Board approved guidance.

b) **Limitations:** The Program Administrator may establish limitations on the use of specific BMPs following the submission of the proposed limitation and written justification to the department.

c) **Partial Site Development**: Where the land-disturbing activity only occurs on a portion of the site, the Program Administrator may review the stormwater management plan based upon the portion of the site that is proposed to be developed, provided that the Program Administrator has established guidance for such a review. Such portion shall be deemed to include any area left undeveloped pursuant to any local requirement or proffer accepted by a locality. Any such guidance shall be provided to the department.

§ 154-4-D Water Quantity

Channel protection and flood protection shall be addressed in accordance with the minimum standards set out in this section, which are established pursuant to the requirements of §10.1-603.4.

1. **Channel Protection:** Concentrated stormwater flow from the site and off-site contributing areas shall be released into a stormwater conveyance system and shall meet one of the following criteria as demonstrated by use of accepted hydrologic and hydraulic methodologies:

   a) Concentrated stormwater flow to manmade stormwater conveyance systems. The point of discharge releases stormwater into a manmade stormwater conveyance system that, following the land-disturbing activity, conveys the post-development peak flow rate from the 2-year 24-hour storm without causing erosion of the system.

   b) Concentrated stormwater flow to restored stormwater conveyance systems. The point of discharge releases stormwater into a stormwater conveyance system that (i) has been restored and is functioning as designed or (ii) will be restored. The applicant must demonstrate that the runoff following the land-disturbing activity, in combination with other existing stormwater runoff, will not exceed the design of the restored stormwater conveyance system nor result in instability of the system.

c) Concentrated stormwater flow to stable natural stormwater conveyance systems. The point of discharge releases stormwater into a natural stormwater conveyance system that is stable and, following the land-disturbing activity, (i) will not become unstable as a result of the discharge from the one-year 24-hour storm, and (ii) provides a peak flow rate from the one-year 24-hour storm calculated as follows or in accordance with another methodology that is demonstrated by the Program Administrator to achieve equivalent results and is approved by the board:

- QDeveloped* RVDeveloped ≤ QPre-Developed * RVPre-Developed, where
- QDeveloped = The allowable peak flow rate of runoff from the developed site.
- Such peak flow must be less than or equal to QPre-Developed
- QPre-Developed = The peak flow rate of runoff from the site in the pre-developed condition.
- RVPre-Developed = The volume of runoff from the site in the pre-developed condition.
- RVDeveloped = The volume of runoff from the developed site.

d) Except as set out in subsection e, concentrated stormwater flow to unstable natural stormwater conveyance systems. Where the point of discharge releases stormwater into a natural stormwater conveyance system that is unstable, stormwater runoff following a land-disturbing activity shall be released into a channel at or below a peak flow rate (QDeveloped) based on the one year 24-hour storm, calculated as follows or in accordance with another methodology that is demonstrated by the Program Administrator to achieve equivalent or more stringent results and is approved by the board:

- QDeveloped* RVDeveloped ≤ QGood Pasture * RVGood Pasture, where
- QDeveloped = The allowable peak flow rate from the developed site.Such peak flow must be less than or equal to QPre-Developed
- QGood Pasture = The peak flow rate from the site in a good pasture condition.

- RVGood Pasture= The volume of runoff from the site in a good pasture condition.
- RVDeveloped = The volume of runoff from the developed site.
- However, in case that a pre-developed conditions is forested, both the peak flow rate and the volume of runoff from the developed site shall be held to the forest condition.

e) This subsection shall apply to concentrated stormwater flow to unstable natural stormwater conveyance systems from: i) a land disturbing activity less than five acres on prior developed lands, or ii) a regulated land disturbing activity less than one acre for new development. Where the point of discharge releases stormwater into a natural stormwater conveyance system that is unstable, stormwater runoff following a land-disturbing activity shall provide a peak flow rate from the one-year 24-hour storm, calculated as follows or in accordance with another methodology that is demonstrated by the Program Administrator to achieve equivalent or more stringent results and is approved by the board:

- QDeveloped* RVDeveloped < QPre-Developed * RVPre-Developed, where
- QDeveloped = The allowable peak flow rate of runoff from the developed site. Such peak flow must be less than QPre-Developed
- QPre-Developed = The peak flow rate of runoff from the site in the pre-developed condition.
- RVPre-Developed = The volume of runoff from the site in the pre-developed condition.
- RVDeveloped = The volume of runoff from the developed site.

2. **Flood Protection:** Concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet one of the following criteria, as demonstrated by use of accepted hydrologic and hydraulic methodologies:

a. Concentrated stormwater flow to manmade stormwater conveyance systems. The point of discharge releases stormwater into a manmade stormwater conveyance system that, following the land-disturbing activity, confines the post-

development peak flow rate from the 10-year 24-hour storm within the manmade stormwater conveyance system.

b. Concentrated stormwater flow to restored stormwater conveyance systems. The point of discharge releases stormwater into a stormwater conveyance system that (i) has been restored and is functioning as designed or (ii) will be restored. The applicant must demonstrate that the peak flow rate from the 10- year 24-hour storm following the land-disturbing activity will be confined within the system.

c. Concentrated stormwater flow to natural stormwater conveyance systems. The point of discharge releases stormwater into a natural stormwater conveyance system that currently does not flood during the 10-year 24-hour storm and, following the land-disturbing activity, confines the post-development peak flow rate from the 10-year 24-hour storm within the system.

d. Concentrated stormwater flow to natural stormwater conveyance systems where localized flooding exists during the 10-year 24-hour storm. The point of discharge releases a post-development peak flow rate for the 10-year 24-hour storm that shall not exceed the pre-development peak flow rate from the 10-year 24-hour storm based on good pasture conditions, unless the a pre-developed conditions is forested, in which case the peak flow rate from the developed site shall be held to the forest condition.

e. Subsection 2-d notwithstanding, this subdivision shall apply to concentrated stormwater flow to natural stormwater conveyance systems where localized flooding exists during the 10-year 24-hour storm from: i) a land disturbing activity less than five acres on prior developed lands, or ii) a regulated land disturbing activity less than one acre for new development. The point of discharge releases a post-development peak flow rate for the 10-year 24- hour storm that is less than the predevelopment peak flow rate from the 10-year 24-hour storm.

f. A Program Administrator may adopt alternate flood protection design criteria that (i) achieve equivalent or more stringent results, (ii) are based upon geographic, land use, topographic, geologic or other downstream conveyance factors, and (iii) are approved by the board.

3. **One Percent Rule:** If either of the following criteria are met, subsections 1 and 2 do not apply, nor is the analysis of subsection 7 required:

   a) Based on area. Prior to any land disturbance, the site's contributing drainage area to a point of discharge from the site is less than or equal to 1.0% of the total watershed area draining to that point of discharge; or

   b) Based on peak flow rate. Based on the post-development land cover conditions prior to the implementation of any stormwater quantity control measures, the development of the site results in an increase in the peak flow rate from the one-year 24-hour storm that is less than 1.0% of the existing peak flow rate from the one-year 24-hour storm generated by the total watershed area draining to that point of discharge.

4. **Runoff Volume:** Increased volumes of sheet flow resulting from pervious or disconnected impervious areas, or from physical spreading of concentrated flow through level spreaders, must be identified and evaluated for potential impacts on down gradient properties or resources. Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or flooding of down gradient properties or resources shall be diverted to a stormwater management facility or a stormwater conveyance system that conveys the runoff without causing down gradient erosion, sedimentation, or flooding. If all runoff from the site is sheet flow and the conditions of this subsection are met, no further water quantity controls are required.

5. **Runoff Computations:** For purposes of computing predevelopment runoff from prior developed sites, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with NRCS standards, regardless of conditions existing at the time of computation. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated to and approved by the Program Administrator that actual site conditions warrant such considerations.

6. **Site Verification:** Pre-development runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook shall be considered

appropriate standards.

7. **Channel Impacts:** Except where the compliance options under subdivisions 1 d and e and 2 d and e of this section are utilized, flooding and channel erosion impacts to stormwater conveyance systems shall be analyzed for each point of discharge in accordance with channel analysis guidance provided in Technical Bulletin # 1, Stream Channel Erosion Control, or in accordance with more stringent channel analysis guidance established by the Program Administrator and provided to the department. Such analysis shall include estimates of runoff from the developed site and the entire upstream watershed which contributes to that point of discharge. Good engineering practices and calculations in accordance with department guidance shall be used to evaluate post development runoff characteristics and site hydrology, and flooding and channel erosion impacts. If the downstream owner or owners refuse to give permission to access the property for the collection of data, evidence of this refusal shall be given and arrangements made satisfactory to the Program Administrator to provide an alternative method for the collection of data to complete the analysis, such as through the use of photos, aerial surveys, "as built" plans, topographic maps, soils maps, and any other relevant information.

§ 154-4-E Design Storms and Hydrologic Methods

1. **Design Storms:** Unless otherwise specified, the prescribed design storms are the 1-year, 2-year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

2. **Design Conditions:** Unless otherwise specified , all hydrologic analyses shall be based on the existing watershed characteristics and the ultimate development condition of the subject project.

3. **Hydrologic Methods:** The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution, and models, including, but not limited to TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers, or other standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in this Part.

4. **Alternative Methods:** The Program Administrator may allow for the use of the Rational Method or Modified Rational Method for

evaluating peak discharges or the Modified Rational Method for evaluating volumetric flows to stormwater conveyances with drainage areas of 200 acres or less.

§ 154-4-F Comprehensive Watershed Stormwater Management Plans

1. **Comprehensive Watershed Stormwater Management Plans** shall ensure that offsite reductions equal to or greater than those that would be required on each contributing land disturbing site are achieved within the same HUC, or within another locally designated watershed. Pertaining to water quantity objectives, the plan may provide for implementation of a combination of channel improvement, stormwater detention, or other measures which is satisfactory to the local program to prevent downstream erosion and flooding.

2. **Plan Amendments:** If the land use assumptions upon which the plan was based change or if any other amendments are deemed necessary by the local program, the local program shall provide plan amendments to the board for review and approval.

3. **Plan Implementation:** During the plan's implementation, the Program Administrator shall account for nutrient reductions accredited to the BMPs specified in the plan.

4. **Participation of State and Federal Agencies:** State and federal agencies may participate in comprehensive watershed stormwater management plans where practicable and permitted by the Program Administrator.

§ 154-4-G Stormwater Harvesting

In accordance with §10.1-603.4 of the Code of Virginia, stormwater harvesting is encouraged for the purposes of landscape irrigation systems, fire protection systems, flushing water closets and urinals, and other water handling systems to the extent such systems are consistent with federal, state and local regulatory authorities.

§ 154-4-H Linear Development Projects

Unless exempt pursuant to §10.1-603.8 subsection B, linear development projects shall control post-development stormwater runoff in accordance with a site-specific stormwater management plan or a comprehensive watershed stormwater management plan developed in accordance with these regulations.

§ 154-4-I Stormwater Management Impoundment Structures or Facilities

1. **Facilities within Wetlands or Streams:** Construction of stormwater management impoundment structures or facilities within tidal or non-tidal wetlands and perennial streams is prohibited unless allowed by the Program Administrator and all required permits are obtained.

2. **Facilities in Floodplain:** Construction of stormwater management impoundment structures or facilities within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain is not recommended.

3. **Facilities not covered by Impounding Structure Regulations:** Stormwater management wet ponds and extended detention ponds that are not covered by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum be engineered for structural integrity for the 100-year storm event.

4. **Facilities in KARST:** Construction of stormwater management impoundment structures or facilities may occur in karst areas only after a study of the geology and hydrology of the area has been conducted to determine the presence or absence of karst features that may be impacted by stormwater runoff and BMP placement. ***The study methodology shall follow the approach outlined in CSN Technical Bulletin No. 1: Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed Version 2.***

5. **Discharges from Facilities in KARST:** Discharge of stormwater runoff to a karst feature shall meet the water quality criteria set out in 154-4-B and the water quantity criteria set out in 154-4-C. Permanent stormwater management impoundment structures or facilities shall only be constructed in karst features after completion of a geotechnical investigation that identifies any necessary modifications to the BMP to ensure its structural integrity and maintain its water quality and quantity efficiencies. The person responsible for the land disturbing activity is encouraged to screen for known existence of heritage resources in the karst features. Any Class V Underground Injection Control Well registration statements for stormwater discharges to improved sinkholes shall be included in the SWPPP.

§ 154-4-J Sensitive Waters and Wetlands: Enhanced Criteria

Land development that discharges to sensitive waters and wetlands shall meet enhanced criteria. These may include, but are not limited to:

1. **Nutrient-Sensitive Waters:** Enhanced control of nutrients and sediment for discharges to drinking water reservoirs and lakes.

2. **Cold-Water Fisheries:** Control of temperature increases for discharges to designated cold-water fisheries.

3. **Groundwater:** Enhanced recharge and pre-treatment requirements

to protect groundwater supplies.

4. **Wetlands**: The control of impacts to wetland hydrology, including limiting fluctuations to the natural or pre-development wetland hydrology.

5. **Impaired Waters:** Enhanced bacteriological or pollutant controls for discharges to impaired waters, as designated in the most recent 303(d) list produced by EPA or the appropriate State agency.

In these cases, the Program Administrator may require additional storage, treatment, filtering, infiltration, or other techniques. The use of non-structural practices shall be used to the maximum extent practical to meet enhanced criteria.

In making its determination to apply enhanced criteria, the Program Administrator shall consider cumulative impacts and also the land development's adherence to the land use plans and policies of Clarke County, including the promotion of infill and redevelopment in particular areas.

§ 154-4-K Non-Structural Measures

The use of nonstructural measures is encouraged to reduce sole reliance on structural stormwater management measures.

§ 154-4-L Program Administrator Exceptions

1. A Program Administrator may grant exceptions to the provisions of this ordinance through an administrative process. A request for an exception, including the reasons for making the request, shall be submitted, in writing, to the Program Administrator. An exception may be granted, provided that:

   a) the exception is the minimum necessary to afford relief,

   b) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved,

   c) granting the exception will not confer on the permittee any special privileges that are denied to other permittees who present similar circumstances, and

   d) exception requests are not based upon conditions or circumstances that are self-imposed or self-created.

2. Economic hardship alone is not sufficient reason to grant an

exception from the requirements of this chapter.

3. Under no circumstance shall the Program Administrator grant an exception to the requirement that the land-disturbing activity obtain a permit.

4. A record of all exceptions applied for and granted shall be maintained by the Program Administrator.

§ 154-4-M Waivers

Every applicant shall provide for stormwater management as required by this Ordinance, unless a written request for a waiver is filed and approved by the Program Administrator. Prior to applying for a waiver request, the applicant must demonstrate that all reasonable options to comply with Ordinance have been exhausted, including the use of non-structural measures (Section 154-4-K).

The request for a waiver must be in writing and must include waiver fee specified in Section 154-3-I. The Program Administrator shall respond in writing by granting or denying the waiver in full, or granting the waiver with any necessary conditions or mitigation measures to protect public health, safety, and the environment. The applicant shall note any full or partial waivers, and conditions imposed by the Program Administrator, on the stormwater management design plan.

§ 154-5. Construction Inspection for Permanent Stormwater BMPs

§ 154-5-A Notice of Construction Commencement

The applicant must notify the Program Administrator before the commencement of construction. In addition, the applicant must notify the Program Administrator in advance of construction of critical components of the stormwater practices on the approved stormwater management design plan. The Program Administrator may, at its discretion, issue verbal or written authorization to proceed with critical construction steps, such as installation of permanent stormwater practices based on stabilization of the drainage area and other factors.

§ 154-5-B Inspections

1. The Program Administrator or its designee shall inspect the land-disturbing activity during construction for compliance with the VSMP General Permit for Discharges of Stormwater from Construction Activities.

2. The person responsible for the development project or their designated agent shall submit to a Program Administrator as built plans for permanent stormwater management facilities, appropriately sealed and signed by a professional in accordance

with all minimum standards and requirements pertaining to the practice of that profession pursuant to Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. The Program Administrator shall have the construction record drawing and certification on file prior to the release of the portion of any performance bond or surety associated with the stormwater management facility.

3. The owner(s) of stormwater management facilities shall be required to conduct inspections in accordance with an inspection schedule in a recorded maintenance agreement, and shall submit written inspection and maintenance reports to the Program Administrator upon request. Such reports, if consistent with a board approved inspection program established in subsection 4, may be utilized by the Program Administrator if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 or who holds a certificate of competence from the board. The reports, if so utilized, must be kept on file with the Program Administrator

4. Inspection reports shall be generated and kept on file in accordance with 154-6-C for all stormwater management facilities inspected by the Program Administrator.

§ 154-5-C Construction Inspections by Program Administrator or its Representatives

The Program Administrator or its representative shall conduct periodic inspections of the stormwater practices shown on the approved stormwater management design plan, and especially during critical installation and stabilization steps. All inspections shall be documented in writing. The inspection shall document any variations or discrepancies from the approved plan, and the resolution of such issues. Additional information regarding inspections can be found in the Stormwater Design Manual. A final inspection by the Stormwater Authority is required before any performance bond or guarantee, or portion thereof, shall be released.

§ 154-5-D Stormwater Certificate of Completion

Subsequent to final installation and stabilization of all stormwater BMPs shown on the stormwater management design plan, submission of all necessary as-built plans, and final inspection and approval by the Program Administrator, the Program Administrator shall issue a Stormwater Certificate of Completion for the project. In issuing such a certificate, the Program Administrator shall determine that all work has been satisfactorily completed in conformance with this Ordinance.

§ 154-6. Ongoing Maintenance for Stormwater BMPs

§ 154-6-A Stormwater Management Facility Maintenance

1. Responsibility for the operation and maintenance of stormwater management facilities in accordance with this chapter, unless assumed by a governmental agency, shall remain with the property owner or other legally established entity and shall pass to any successor. The government entity implementing the Program Administrator shall be a party to each maintenance agreement.

2. The Program Administrator shall be notified of any transfer or conveyance of ownership or responsibility for maintenance of a stormwater management facility.

3. The Program Administrator shall require right-of-entry agreements or easements from the property owner for purposes of inspection and maintenance.

§ 154-6-B Maintenance Responsibility

The responsible party named in the recorded stormwater maintenance agreement (Section 154-3-F) shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater BMPs and all necessary access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices). Such repairs or restoration and maintenance shall be in accordance with the approved stormwater management design plan, the stormwater maintenance agreement, and the stormwater maintenance plan.

§ 154-6-C Maintenance Inspection by Program Administrator or its Representative

The Program Administrator or its representative shall conduct periodic inspections for all stormwater practices for which a Stormwater Certificate of Completion has been issued in accordance with Section 154-5-D. All inspections shall be documented in writing. The inspection shall document any maintenance and repair needs and any discrepancies from the stormwater maintenance agreement and stormwater maintenance plans.

§ 154-6-D Report and Recordkeeping.

The responsible party shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the Program Administrator during inspection of the practice and at other reasonable times upon request.

§ 154-6-E Failure to Provide Adequate Maintenance

In the event that the stormwater BMP has not been maintained and/or becomes a danger to public safety or public health,

– The Program Administrator shall notify the responsible party by

registered or certified mail.

- The notice shall specify the measures needed to comply with the maintenance agreement and the maintenance plan and shall specify that the responsible party has thirty (30) days or other time frame mutually agreed to between the Program Administrator and the responsible party, within which such measures shall be completed.

- If such measures are not completed, then the Program Administrator shall pursue enforcement procedures pursuant to Section 7 of this Ordinance.

- If a responsible person fails or refuses to meet the requirements of an inspection report, maintenance agreement, or maintenance plan,

- The Program Administrator, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the practice in proper working condition.

- The Program Administrator may assess the responsible party of the practice for the cost of repair work which shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by Clarke County.

§ 154-7. Violations, Enforcement and Penalties

§ 154-7-A Violations

Any action or inaction which violates the provisions of this Ordinance, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Section. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

§ 154-7-B Notice of Violation

If the Program Administrator determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the

provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

1. The name and address of the owner or the applicant or the responsible person;
2. The address or other description of the site upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management design plan, the stormwater maintenance agreement, or this ordinance and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
6. A statement that the determination of violation may be appealed to Board of Zoning Appeals by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours notice shall be sufficient).

§ 154-7-C Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed.

1. **Stop Work Order:** The Program Administrator may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

2. **Withhold Certificate of Occupancy:** The Program Administrator or Building Official may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

3. **Suspension, Revocation or Modification of Permit:** The Program Administrator may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Program Administrator may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

§ 154-7-D Appeals — The decisions or orders of the Program Administrator shall be final. Further relief shall be to a court of competent jurisdiction.

§ 154-7-E Remedies not Exclusive — The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

Amendments Chapter 154

2010-08-17 — Adopted Chapter 154 Stormwater Management 08-17-2010

2011-03-15 — Chapter 154:§154-4-B Water Quality Criteria Requirements, so as: To clarify that the total phosphorus load of a project occurring on prior developed lands not within Urban Development Areas shall be 20% less than the existing load from the site or 0.28 pounds per acre per year, whichever is less stringent and to modify the paragraph headings to more clearly differentiate the regulations for development in and not in urban development areas and To state for development on prior developed lands within Urban Development Areas (land subject to County ordinance in the Berryville Annexation Area): The total phosphorus load of a project occurring on prior developed lands shall be 20% less than the existing load from the site or 0.45 pounds per acre per year, whichever is less stringent. CC-11-02; 03-15-2011.

Chapter 157 Streets And Sidewalks

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 112 Littering, § 112-11. Sweeping litter into streets.
Chapter 171 Vehicles, Abandoned
Chapter 175 Vehicles And Traffic

Article I Obstructions by Vehicles

[Adopted 1-19-1988 as § 8-4 of the 1987 Code]

§ 157-1. Washing or greasing vehicle on highway or sidewalk.

No person shall wash, polish or grease a vehicle upon a highway or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased upon a highway or sidewalk.

§ 157-2. Violations and penalties.[41]

A. It shall be unlawful for any person to violate any of the provisions of this article.

B. Unless otherwise stated, every person convicted of a violation of any of the provisions of this article shall be guilty of a traffic infraction punishable by a fine of not more than $200.

[41] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 161 Subdivision Of Land

The Clarke County Subdivision of Land Ordinance is on file in the office of the County Administrator.]

General References

Chapter 48 Agricultural and Forestal District
Chapter 148 Soil Erosion And Sedimentation Control
Chapter 165 Taxation
Chapter 165 Taxation § 165-32. Assessment of new buildings substantially completed.
Chapter 165 Taxation, Article VII Special Assessment for Land Preservation [Adopted 1-19-1988 as § 11-23 of the 1987 Code]
Chapter 188 Zoning

Chapter 165 Taxation

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 57 Special Events
Chapter 61 Animals, § 61-19. License required; exemptions; tags.
Chapter 175 Vehicles And Traffic

Code Of Virginia References

§ 58.1-1800 et seq. - Enforcement, collection, refund, remedies and review of state taxes
§ 58.1-3900 et seq. - Enforcement, collection, refunds, remedies and review of local taxes

Article I Business License Tax [42]

[Adopted 1-19-1988 as Secs. 6-1through 6-13 of the 1987 Code]

§ 165-1. Definitions; ordinances on file.

A. For the purposes of this Code, the following terms shall have the meanings indicated:

LICENSE ORDINANCE -- Those ordinances, collectively, which levy, assess, impose or define any license or privilege tax upon persons engaged in any business, trade, occupation, calling, profession, vocation or activity within the county or require a county license to do so, and ordinances amendatory thereof.

B. A copy of each such ordinance and amendatory ordinance which constitutes a part of the License Ordinance as above defined shall be retained on file in the office of the Commissioner of the Revenue for so long as it remains in effect and shall there be available to the public for inspection and use during all regular business hours.

§ 165-2. License required.

Amended 5-20-1997: Increase Business License Tax from $25 to $30 and provide a penalty for failure to obtain within 30 days of the beginning of the calendar year or within 30 days of beginning a business or profession.

A. It shall be unlawful for any person within the county to engage in any business, trade, occupation, calling, profession, vocation or activity for which a county license is required by ordinance or upon which a county license or privilege tax is levied, assessed, imposed

[42] Editor's Note: See ~ 58.1-3700 et seq. of the Code of Virginia, License Taxes.

or defined in the License Ordinance without having a currently valid county license to do so and without having paid to the county the license or privilege tax so levied, assessed or imposed. There will be a license or privilege tax imposed in the amount of $30 for each business, trade occupation, calling, profession, vocation or activity.

B. All license taxes imposed by this article shall be deemed to be due and payable January 1 of each year. On each license remaining unpaid after January 31 of each year, the Commissioner shall add a penalty of $10 plus 10% thereon per year thereafter, if the applicant was in business on January 1 of the year. If the license is assessed against a business or a profession beginning after January 1, the Commissioner shall add the penalty of $10 plus 10% thereon per year thereafter, at the expiration of 30 days from the beginning of the business or profession. All such licenses shall remain for collection in the hands of the Commissioner throughout the year. The Commissioner shall file appropriate warrants in the General District Court for County of Clarke, Virginia, or take such other actions provided for by law for collection of unpaid taxes.

§ 165-3. Application; tender of tax.

A. Application for any license required by the License Ordinance shall be made to the Commissioner of the Revenue on a form provided by the county and which shall disclose, among other things:

(1) The name, business address within the county, residence address and age of the applicant.

(2) The type of license being applied for and the locations within the county where the licensed activities will be conducted.

(3) Such other information as may reasonably be necessary to determine whether the license being applied for should be granted, the amount of the license tax and the conditions, if any, under which the licensed activity shall be conducted.

B. Each application shall be verified under oath of the person seeking to be licensed and, if such person is a corporation or firm, by an officer thereof.

C. At the time of applying for a license, the applicant shall tender the full amount of the license tax imposed by the License Ordinance.

§ 165-4. False statements. [43]

It shall be unlawful for any person applying for a county license to knowingly make any false statement in his application or for any licensee to knowingly make any false statement in any report or return required by state law, this chapter or the License Ordinance.

§ 165-5. Expiration of annual licenses.

Except when otherwise expressly provided in this Code or in the License Ordinance, all annual licenses shall expire on the last day of December of each year.

§ 165-6. Location of licensed business.

Every license granting authority to any person to engage in or exercise any business, employment or profession, unless expressly authorized otherwise in the License Ordinance, shall designate the place of such business, employment or profession at some specified house or other definite place within the county. Engaging in or exercising any such license, business, employment or profession elsewhere than at such house or definite place, unless expressly authorized otherwise by the License Ordinance, shall be held to be without license. A license which does not specify such house or definite place where business, employment or profession is limited thereto by law shall be void.

§ 165-7. Multiple businesses and branches.

When any person is engaged in more than one business which is made by the License Ordinance subject to taxation, such person shall pay the tax as provided by the License Ordinance on each branch of the business.

§ 165-8. License to confer personal privilege.

Every license shall be held to confer a personal privilege to transact the business, employment or profession which may be the subject of the license and shall not be exercised except by the person licensed, unless specially authorized by the License Ordinance to do so.

§ 165-9. Applicability to firm members.

A separate license shall be obtained by each member of a firm or company of persons practicing any profession or calling which is regulated by the laws of this state, for the practicing of which profession or calling a license is required by the License Ordinance.

§ 165-10. Assignment.

A. A license other than to authorize the conduct of a profession may be assigned to any person to whom it might have been originally granted and, in the event of the death of the licensee, the license may be assigned by his personal representative in like manner and with the like effect as might have been done by the licensee himself.

B. If the license was obtained or had its validity by reason of a

[43]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

certificate of any court or of any oath or bond, the assignment shall not be valid without a like certificate in favor of the assignee and a like oath or bond by the assignee as was required for the original grant.

C. A license when assigned shall be a personal privilege to the assignee and shall not be exercised by any person other than the assignee, unless otherwise authorized by this article or the License Ordinance.

D. If the license tax already paid by the assignor is less than the license tax which would be assessable against the assignee but for the assignment, an additional license tax shall be paid by the assignee equal to the difference between the tax paid on the assigned license and the license tax which would be otherwise assessable against the assignee.

§ 165-11. Effect of change in partners or name of firm.

No change in the name of a firm nor the taking in of a new partner nor the withdrawal of one or more of the firm shall be considered as commencing business, but if any one or more of the partners remain in the firm, the business shall be regarded as continuing; and if they dissolve and one or more of the partners continue business, any tax on the purchases, sales or profits of the business which might otherwise be chargeable to the firm may be apportioned among them according to the justice of the case.

§ 165-12. Change of place of business.

When a person has obtained a license to carry on any business, employment or profession at any definite place in the county and desires to remove to any other place in the county and wishes his license altered accordingly, the Commissioner of the Revenue shall make such alteration.

§ 165-13. Suspension or revocation of licenses.

Any license issued pursuant to this article or the License Ordinance may be suspended or revoked by the Commissioner of the Revenue or the Board of Supervisors for any of the following reasons:

A. Suspension or revocation by the state of a similar state license.

B. Any reason which would have denied the issuance of the license.

C. Any violation of this article or the License Ordinance or any violation of a condition stated in the license.

D. Conviction of a felony or of an offense involving moral turpitude.

§ 165-14. Violations and penalties.[44]

Penalties for violation of the provisions of this article shall be as provided in Chapter 1, General Provisions, Article I.

[44]Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Article II Public Utilities License Tax[45]
[Adopted 1-19-1988 as Secs. 6-31 through 6-33 of the 1987 Code]

§ 165-15. Imposition. This article hereby exercises the rights of the Board of Supervisors to impose a local license tax as provided by:

- § 58.1-2690. No state or local tax on intangible personal property or money; local levies and license taxes;
- § 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority; and
- § 58.1-3731. Certain public service corporations; rate limitation of the Code of Virginia.

§ 165-16. Amount. The county shall impose a license tax for the privilege of doing business within the county of 1/2 of 1% of the gross receipts of business accruing to the following corporations from certain business in the county, to wit: Any person engaged in the sale of telegraph, telephone, natural gas and/or electric power service.

§ 165-17. Payment. The public utilities license tax imposed by this article shall be due and payable on the first day of March of the year following the year for which such tax is assessed, imposed or levied.

[45]Editor's Note: See ~ 58.1-2600 et seq. of the Code of Virginia, Taxation of Public Service Corporations.

Article III Vehicle License Tax[46]
[Adopted 1-19-1988 as Secs. 8-31through 8-37 of the 1987 Code]

§ 165-18. Violations and penalties.
Amended 93-01-19; 93-04-20; 97-05-20

The owner or operator of any motor vehicle, trailer or semitrailer who fails to obtain and display any required local license or who displays upon a motor vehicle, trailer or semitrailer any license of the county after its expiration date shall, upon conviction, be punished by a fine not to exceed that of a Class 4 misdemeanor, provided that a violation of this section may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.

Amended 1-19-1993; 4-20-1993; 5-20-1997: Provide for penalties for failure to obtain and display the required local license.

§ 165-19. Persons and vehicles subject to tax; presentation of Virginia vehicle registration cards.

A. All motor vehicles, trailers, semitrailers and other vehicles normally garaged, stored or parked in the county shall be subject to the provisions of this article. When such normal location of a vehicle cannot be determined and the domicile of its owner is in this county, the vehicle shall also be subject to the provisions of this article.

B. Subsection A shall not apply to any vehicle exempted by the Code of Virginia, § 46.2-755. Limitations on imposition of motor vehicle license taxes and fees, or other law.[47]

C. All persons subject to the provisions of this article who have been issued state vehicle licenses shall present their state registration cards to the Commissioner of the Revenue for issuance of a county vehicle license.

§ 165-20. Annual tax imposed; when and to whom tax payable. [Amended 4-20-1993]

There is hereby levied, assessed and charged an annual vehicle license tax on motor vehicles, trailers and semitrailers owned by residents of the county, payable to the Treasurer annually during the period January 1 through February 15, as fixed from time to time by resolution of the Board.

§ 165-21. Proration of tax.
[Amended 4-20-1993]

With respect to any motor vehicle, trailer or semitrailer first garaged, stored or parked within the county after July 1, the county vehicle license tax shall be 1/2 of the annual tax.

§ 165-22. Specifications

A. One permanent vehicle decal or other sticker with a number, the

[46]Editor's Note: See ~ 46.2-752 of the Code of Virginia, authority for assessment of taxes and license fees. See also Art. XIV, Motor Vehicle License Tax Exemption.
[47] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners. [Amended 07-07-17]

words "Clarke County" inscribed thereon shall be issued for each vehicle licensed and shall be attached to such vehicle in this manner: The permanent decal or other sticker shall be securely attached to such vehicle in such a manner that it will be clearly visible from the rear thereof, except on any vehicle with a windshield, in which case the decal or other sticker shall be placed on the windshield to the right of and adjacent to the state inspection sticker, no higher than three inches from the bottom of the windshield of such vehicle.

B. The Treasurer shall procure the decals or other stickers and forms for the administration of this article, payment thereof to be appropriated from the general county fund.

§ 165-23. Payment of personal property tax required.

No vehicle shall be licensed by the county unless and until the applicant for such license shall have produced satisfactory evidence that all property taxes have been paid which have been properly assessed or are assessable against the applicant by the county.

§ 165-24. Fee for transfer or reissuance.

A fee shall be charged for the transfer or reissue of any county vehicle license.

§ 165-25. License period of validity. [Added 07-07-17]

The license tax year under the terms of this Article shall commence on the first day of January and shall expire on the thirty-first [31] of December of the calendar year. The permanent license shall be valid as long as:

(1) the vehicle is normally garaged, stored, or parked in the county and owned by the licensee, and
(2) all license taxes assessed against the vehicle owner pursuant to this article have been paid. Display of an invalid license on a motor vehicle shall be deemed a violation of this Article and subject to the penalties set forth in section 165- 18 above.

Amendments Chapter 165-Article III

2007-07-17

165-22 Amend and 165-25 The Clarke County Board of Supervisors proposes this ordinance be adopted amending Chapter 165 Article III Vehicle License Tax changing § 165-22. Specifications for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners to state permanent decal and adding § 165-25. License period of validity setting forth the requirements for validity to become effective January 1, 2008.

Article IV Tangible Personal Property[48]
[Adopted 1-19-1988 as Secs. 11-1through 11-4 of the 1987 Code]

§ 165-26. Penalty and interest on delinquent taxes.
[Amended 3-19-1991; 6-27-1991; 4-20-1993; 9-20-1994; 07-19-2007; 06-17-2014]

A. Tax payments for real estate, tangible personal property, machinery and tools and merchants' capital shall be due and payable to the Treasurer of the county during the year for which the same are assessed in two approximately equal installments: 1/2 on or before June 5 and the remainder on or before December 5 of each tax year, provided that the personal property tax levied on motor vehicles, trailers and boats which shall have acquired a situs within the county after the tax day shall be due 30 days from the date of the tax bill. Such tax shall be prorated on a monthly basis, a period of more than 1/2 month counted as a full month and a period of less than 1/2 month shall not be counted, and shall be collected in the same manner as herein prescribed.

B. A penalty of 10% of the taxes past due shall be assessed on the day after the payment of taxes is due. Interest on said delinquent taxes and penalty at the rate of 10% per annum shall commence on the first day of the month following the month in which such taxes are due, and said interest shall be added to any late tax payment and paid. For the second and subsequent years of delinquency, such interest shall be at the rate established pursuant to Section 6621 of the Internal Revenue Code of 1954, as amended, or 10% annually, whichever is greater.

C. In the event an attorney (including, but not limited to, the County Attorney) or collection agency is employed by the Treasurer for the collection of delinquent taxes, penalties and interest, an additional fee equal to 20% of the taxes and other charges due and owing shall be imposed and added to cover administrative costs and reasonable attorney's or collection agency's fees actually contracted for.[49]

§ 165-27. Exemption of household goods and personal effects.
[07-07-1]

Household goods and personal effects, as defined by the Code of Virginia, § 58.1-3504. Classification of certain household goods and personal effects for taxation; governing body may exempt, are hereby exempt in whole from taxation.

§ 165-28. Exemption of farm animals.

Farm animals, including horses, mules and other kindred animals, cattle, sheep, goats, hogs and poultry, are exempt in whole from

48Editor's Note: See ~ 58.1-3500 et seq. of the Code of Virginia, Tangible Personal Property, Machinery and Tools, and Merchants' Capital.

49 Editor's Note: Pursuant to 58.1-3958

[07-07-19]

personal property taxation.

§ 165-29. Returns of tangible personal property.
[07-07-19]

A. This section is enacted pursuant to authority granted in § 58.1-3916. Counties, cities and towns may provide dates for filing returns, set penalties, interest, etc.; § 58.1-3516. Proration of personal property tax; and § 58.1-3518.1. Alternative method of filing returns for motor vehicles, trailers and boats of the Code of Virginia. [50]

B. The annual returns of taxable tangible personal and business/farm property, and machinery and tools, for the county shall be filed with the Commissioner of the Revenue in the following manner:

(1) Tangible business/farm property and machinery and tools; on or before the 15th of February of each year;

(2) Motor vehicles, trailers or boats which have acquired situs within the county and have been previously reported to the Commissioner of the Revenue, and have had no change in situs or status, and there has been no change in the address of the owner, will be exempt from the requirement of the annual report by the owner;

(3) In the case of motor vehicles, trailers or boats which shall have acquired a situs within the county, the owner shall file a report or return with the Commissioner of the Revenue within 30 days of the date of acquisition or establishment of situs.

C. A penalty for failure to file such return on or before the 15th of February of each year for returns for business/farm property or machinery and tools or, on motor vehicles, trailers and boats which shall have acquired a situs within the county before 30 days have elapsed, shall be charged at the rate of 10% of the tax assessable or due on such property or the sum of $10, whichever shall be the greater.

§ 165-30. Payment of administrative costs.
[Added 8-17-1993; 07-07-19]

In addition to all penalties and interest, delinquent taxpayers shall pay a fee to cover the administrative costs associated with the collection of delinquent taxes. Such fee shall be $20 for taxes collected subsequent to the filing of a warrant or other appropriate legal document but prior to judgment and $25 for taxes collected subsequent to judgment.

§ 165-31. Relief from

A. When any motor vehicle, trailer or boat loses its situs within the

[50] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

prorated tax and refunds.
[07-07-19]

county, the owner thereof shall be relieved from personal property taxation and receive a refund for personal property tax already paid, prorated on a monthly basis for that portion of the tax period remaining, except as otherwise provided herein. Any motor vehicle, trailer or boat legally assessed a personal property tax for any tax year or portion thereof by another jurisdiction in the commonwealth, which tax has been paid, shall be exempt from personal property taxation by the county for such tax year or portion thereof.

B. No refund shall be made if the motor vehicle, trailer or boat acquires a situs within the commonwealth in a non-prorating locality.

C. When any person sells or otherwise transfers title to a motor vehicle, trailer or boat with a situs in the county after tax day or the day on which it acquires a situs in the county, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded or credited, at the option of the taxpayer, against the tax due on any motor vehicle, trailer or boat owned by the taxpayer during the same tax year. Such refund shall be made within 30 days of the date such tax is relieved.

D. No refund of less than $5 shall be issued to a taxpayer unless specifically requested by the taxpayer.

E. Any person who moves from a non-prorating locality to the county in a single tax year shall be entitled to a property tax credit in the county if the person was liable for personal property taxes on a motor vehicle, trailer or boat and has paid those taxes to a non-prorating locality and the owner replaces for any reason the original vehicle upon which taxes are due to the non-prorating locality for the same tax year. The county shall provide a credit against the total tax due on the replacement motor vehicle, trailer or boat in an amount equal to the tax paid to the non-prorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the non-prorating locality for the original motor vehicle, trailer or boat.

F. All taxpayers entitled to a refund or credit shall make application therefor to the Commissioner of the Revenue, provided that application is made within three years from the last day of the tax year during which the motor vehicle, trailer or boat lost situs, was

sold or had its title transferred.

§ 165-31.1. Other Classifications of Tangible Personal Property
[Adopted 97-09-16; 07-07-19]

Adopted 97-09-16 Add section for separate classification of motor vehicles owned by active members of volunteer fire and/or rescue companies.

The property set forth below is declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter.

A. One motor vehicle which is owned by each volunteer rescue squad member or volunteer fire department member, or leased by each volunteer rescue squad member or volunteer fire department member if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, is separately classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls or regularly performs other duties for the rescue squad or fire department. The volunteer shall furnish the commissioner of revenue with a certification by the chief or head of the volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer fire department member shall be identified. The minimum eligibility and participation requirements and the form of the certificate required by this ordinance shall be approved by the Board of Supervisors and shall be the same for all volunteer rescue squads or volunteer fire departments within the county. The certification shall be submitted by January 31 of each year to the commissioner of revenue: however, the commissioner of revenue shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. A replacement vehicle may be certified and classified pursuant to this section when the vehicle certified as of the immediately prior January date is transferred during the tax year.

B. One motor vehicle which is owned by each auxiliary volunteer rescue squad or auxiliary volunteer fire department member, or leased by each auxiliary volunteer rescue squad member or auxiliary volunteer fire department member if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle is separately classified under this

section, provided the auxiliary volunteer rescue squad member or auxiliary volunteer fire department member regularly performs duties for the rescue squad or fire department and uses the vehicle for that purpose. The volunteer shall furnish the commissioner of revenue with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or volunteer fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad auxiliary member or volunteer fire department auxiliary member and regularly used for such purpose shall be identified. The minimum eligibility and participation requirements and the form of the certificate required by this ordinance shall be approved by the Board of Supervisors and shall be the same for all volunteer rescue squads or volunteer fire departments within the county. The certification shall be submitted by January 31 of each year to the commissioner of revenue: however, the commissioner of revenue shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline. A replacement vehicle may be certified and classified pursuant to this section when the vehicle certified as of the immediately prior January date is transferred during the tax year.

C. If a volunteer rescue squad member or volunteer fire department member and auxiliary volunteer rescue squad member or auxiliary volunteer fire department member are members of the same household, that household shall be allowed only one special classification under this ordinance.

§165-32 Personal Property Tax Relief Act of 1998
[Adopted 05-12-20; 07-07-19; 2008-04-15]

The Personal Property Tax Relief Act of 1998, Va. Code §§ 58.1-3523 et seq. ("PPTRA"), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriation Act, hereinafter cited as the "2005 Appropriations Act").

These legislative enactments require the County of Clarke to take affirmative steps to implement these changes, and to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised.

These legislative enactments provide for the appropriation to the County of Clarke, commencing in 2006, of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use

vehicles that are subject to the personal property tax ("PPT") on such vehicles, and provide the opportunity for the County of Clarke to fashion a program of tax relief that serves the interests of its citizenry.

§ 1. Purpose: Definitions; Relation to other Ordinances.

(a) The purpose of this Ordinance is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 58.1-3523, as amended.

(c) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Code of Clarke County, this Ordinance shall control.

§ 2. Method of Computing and Reflecting Tax Relief.

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

(b) The Board of Supervisors shall annually, by resolution, set the rate of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the County of Clarke by the Commonwealth in the year for which the tax relief rate is being set. [Amended 2008-04-15 CC-08-02]

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

§ 3. Allocation of Relief among Taxpayers.

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

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

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

§ 4. Transitional Provisions.

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

(b). Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in § 165-25 of the Code of Clarke County from the original due date of the tax.

Amendments Chapter 165-Article IV

1997-09-16	165-30.1. Other Classifications of Tangible Personal Property Adopted 97-09-16 Add section for separate classification of motor vehicles owned by active members of volunteer fire and/or rescue companies.
2005-12-20	165-31 Personal Property Tax Relief Act of 1998 Article IV Tangible Personal Property To Provide For The Implementation Of The 2004-2005 Changes To The Personal Property Tax Relief Act Of 1998 CC-05-05
2008-04-15	165-32 Personal Property Tax Relief Act of 1998 Amended 165-32.2-b

to read The Board of Supervisors shall annually, by resolution, set the rate of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the County of Clarke by the Commonwealth in the year for which the tax relief rate is being set.

2014-06-17 Chapter 165 Article IV Tangible Personal Property §165-26 Penalty and interest on delinquent taxes add Item C as follows *In the event an attorney (including, but not limited to, the County Attorney) or collection agency is employed by the Treasurer for the collection of delinquent taxes, penalties and interest, an additional fee equal to 20% of the taxes and other charges due and owing shall be imposed and added to cover administrative costs and reasonable attorney's or collection agency's fees actually contracted for.* CC-2014-01

Article V Assessment of New Buildings[51]
[Adopted 1-19-1988 as § 11-21 of the 1987 Code]

§ 165-32. Assessment of new buildings substantially completed. [07-07-19]

All new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the Commissioner of the Revenue of such county shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the 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:

A. 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

B. 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.

§ 165-34. Extension of time for payment. [07-07-19]

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

[51]Editor's Note: See ~ 58.1-3292 of the Code of Virginia, for statutory authority.

Article VI Exemption for Elderly and Disabled Persons [52]
[Adopted 1-19-1988 as § 11-22 of the 1987 Code]

§ 165-35. Definitions.
[07-07-19]

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:

NET COMBINED FINANCIAL WORTH -- All assets of the owners of the dwelling and of the spouse of any owner who resides therein, including equitable interests, excluding the value of the dwelling and the land in an amount not to exceed one acre upon which it is situated.

QUALIFYING TAXPAYER -- A permanently and totally disabled person or any person who reaches the age of 65 years or older on or before December 31 of the year immediately preceding the taxable year.

TAXABLE YEAR -- The calendar year, from January 1 through December 31, for which exemption is claimed.

§ 165-36. Eligibility.
[07-07-19]

[Amended 2-21-1989; 10-17-1995; 04-18-2006]
A qualifying taxpayer who owns or partially owns and occupies a dwelling house as his sole dwelling shall be eligible and may apply for an exemption or partial exemption of real estate taxes on such dwelling and the land on which it is situated in an amount not to exceed one acre, provided that:

A. The net combined financial worth as of December 31 of the immediately preceding calendar year does not exceed $250,000; and

B. The total combined income from all sources during the immediately preceding calendar year of the owners of the dwelling living therein and of the owner's relatives living in the dwelling does not exceed $55,000, subject to the following schedule, with the exception that the first $8,000 of a relative not a spouse living with the owner(s) may be exempted from the qualifying amount.

Schedule

Income	Relief
Less Than 20,000	100%
20,001 to 25,000	80%
25,001 to 30,000	60%

[52]Editor's Note: See ~ 58.1-3210 et seq. of the Code of Virginia, Exemptions for Elderly and Handicapped.

30,001 to 35,000	50%
35,001 to 55,000	10%

§ 165-37. Application for exemption; affidavit.
[07-07-19]

Application for exemption shall be made not later than May 1 of each taxable year for which exemption is sought to the Commissioner of the Revenue on forms to be provided by that office.

Such application shall be accompanied annually by an affidavit setting forth the names of related persons occupying such real estate and stating the net combined financial worth and the total combined income from all sources as specified in § 165-35.

The Commissioner of the Revenue may require an applicant to answer questions under oath as to his requirements under this article and/or to produce for inspection certified federal income tax returns for the preceding three years to establish the total combined income or net combined financial worth as hereinbefore defined.

§ 165-38. Changes in ownership, income or financial worth.
[07-07-19]

Any change in respect to total combined income, net combined financial worth, ownership of the dwelling exempted or other factors which occur during the taxable year for which the affidavit is filed and which have the effect of exceeding or violating the limitations and conditions of this article shall nullify any exemption for the then-current taxable year and the taxable year immediately following.

§ 165-39. Amount of exemptions.
[07-07-19]

Real estate described in § 165-35. Eligibility shall be exempt from taxation for any taxable year as provided from time to time by resolution of the Board of Supervisors.

§ 165-40. Certification to Treasurer.
[07-07-19]

The Commissioner of the Revenue shall certify to the Treasurer of the county annually those persons who qualify under this article for an exemption and the amount thereof.

The Treasurer shall deduct the amount of the exemption from the applicant's real estate tax bill for that year.

§ 165-41. Violations and penalties.
[07-07-19]

Any false statement made in connection with the filing of this application shall constitute a Class 3 misdemeanor.

Amendments Chapter 165-Article VI

2002-10-15

§ 165-34. Eligibility. Amend from $65,000 to $75,000 and $22,000 to $28,000

2006-04-18	§ 165-34. Eligibility. Amend A. from $75,000 to $250,000 and B. from $28,000 to $55,000, subject to the following schedule and $6,500 to $8,000 and add schedule

Article VII Special Assessment for Land Preservation [53]
[Adopted 1-19-1988 as § 11-23 of the 1987 Code]

§ 165-42. Findings; tax imposed.
[07-07-19]

The county finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having adopted a land use plan, hereby taxes such real estate in accordance with the provisions of 58.1 Taxation, Chapter 32 Real Property, Article 4 Special Assessment for Land Preservation of the Code of Virginia and of this article.

§ 165-43. Filing of application; fee.
[07-07-19]

A. The owner of any real estate meeting the criteria set forth in § 58.1-3230 Special classifications of real estate established and defined and § 58.1-3233(2) Determinations to be made by local officers before assessment of real estate under ordinance of the Code of Virginia may, on or before November 1 of each year, apply to the Commissioner of the Revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in § 58.1-3236. Valuation of real estate under ordinance of the Code of Virginia. Such application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue and shall include such additional schedules, photographs and drawings as may be required by the Commissioner of the Revenue.

B. The owner of any real estate meeting the criteria set forth in § 58.1-3230. Special classifications of real estate established and defined in § 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance (2) of the Code of Virginia may, between November 2 and December 31 of each year, apply to the Commissioner of the Revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in § 58.1-3236. Valuation of real estate under ordinance of the Code of Virginia provided a late filing fee of $100 per parcel is paid in addition to any application fees otherwise imposed. Such application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue and shall include such additional schedules, photographs and drawings as may be required by the Commissioner of the Revenue.

C. Applications received by the Commissioner of the Revenue after

[53]Editor's Note: See ~ 58.1-3230 et seq. of the Code of Virginia, Special Assessment for Land Preservation.

November 1 of each year without the required late filing fee and all applications received by the Commissioner of the Revenue after December 31 of each year shall not be accepted.

D. A separate application shall be filed for each use for which qualification is sought.

E. A fee payable to the Treasurer of the county shall be charged and collected for each application filed hereunder.

F. The owner of qualifying property shall file an annual proof of qualification form with the Commissioner of the Revenue.

§ 165-44. Qualification of property.
[07-07-19]

A. Promptly upon receipt of any application, the Commissioner of the Revenue shall determine whether the subject property meets the criteria for taxation hereunder. If the Commissioner of the Revenue shall determine that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.

B. In determining whether the subject property meets such criteria, the Commissioner of the Revenue may request an opinion from the Director of the State Department of Conservation and Historic Resources or the State Commissioner of Agriculture and Consumer Services. Upon the refusal of such State Director or Commissioner to issue an opinion or in the event of an unfavorable opinion which does not comport with standards set forth by him, the Commissioner of the Revenue may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this section.

§ 165-45. Use value and fair market value.
[07-07-19]

The use value and fair market value of any qualifying property shall be placed on the landbook before delivery to the Treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

§ 165-46. Rollback tax.
[07-07-19]

A. There is hereby imposed a rollback tax in such amount as may be determined under Code of Virginia, § 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes, upon any property as to which the use changes to a non-qualifying use.

B. The owner of any real estate liable for rollback taxes shall report to the Treasurer, on forms to be prescribed, any change in the use of such property to a non-qualifying use and shall pay the rollback tax

then due. On failure so to report and pay within 60 days following such change in use, such owner shall be liable for an additional penalty equal to 10% of the amount of the rollback tax, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of 1/2% of the amount of the rollback tax for each month or fraction thereof during which the failure continues.

§ 165-47. Penalty for misstatement of fact. [07-07-19]

Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all such taxes in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the county, he shall be further assessed with an additional penalty of 100% of such unpaid taxes.

§ 165-48. Application of state tax law. [07-07-19]

The provisions of Title 58.1 Taxation of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis, including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments, and for such purposes the rollback taxes shall be considered to be deferred real estate taxes.

Amendments Chapter 165-Article VII

2000-10-17

§ 165-41. Filing of application; fee. Add new B, C providing for filing of land use taxation applications for a 30-day period after 11/01 deadline upon payment of a late filing fee and renumber D,E,F

2010-03-16

§ 165-43. Filing of application; fee. so to extend the late filing date for land use taxation from between November 2 and December 1 to between November 2 and December 31 as allowed by State Code 58.1-3234.

Article VIII General Retail Sales Tax[54]
[Adopted 1-19-1988 as § 11-41 of the 1987 Code]

§ 165-49. Statutory authority; tax rate.
[07-07-19]

Pursuant to authority contained in § 58.1-605 To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto of the Code of Virginia, a county general retail sales tax at the rate of 1%, to provide revenue for the general fund of the county, is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by Code of Virginia, § 58.1-603. Imposition of sales tax and § 58.1-604 Imposition of use tax. It shall be subject to all the provisions of Title 58.1 Taxation,Chapter 6 Retail Sales and Use Tax, of the Code of Virginia, and the rules and regulations published with respect thereto.

§ 165-50. Administration and collection.
[07-07-19]

Pursuant to the provisions of § 58.1-605 of the Code of Virginia, the county general retail sales tax levied by § 165-49. Statutory authority; tax rate. of this article will be administered and collected by the State Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by § 58.1-628.2 Adjustment to the rate of tax imposed under this chapter.

[54]Editor's Note: See ~ 58.1-600 et seq. of the Code of Virginia, Virginia Retail Sales and Use Tax.

Article IX Wills and Grants of Administration Tax[55]
[Adopted 1-19-1988 as § 11-42 of the 1987 Code]

§ 165-51.Tax on wills and grants of administration; fee in lieu of probate tax 56
[07-07-19]

a. There is hereby imposed a county tax on the probate of every will or grant of administration not exempt by law, including real, personal and mixed property, equal to 1/3 of the tax imposed for state purposes by § 58.1-1712. Levy; rate of tax of the Code of Virginia, provided that the tax imposed by this section shall not apply to estates of decedents of $15,000 or less in value.

b. There is hereby charged a $25 county fee on the recordation of a list of heirs pursuant to Virginia Code § 64.1-134 or an affidavit pursuant to Virginia Code § 64.1-135 unless a will has been probated for the decedent or there has been a grant of administration on the decedent's estate.

Amendments Chapter 165 Article IX

2010-08-17

Chapter 165 Article IX – Wills and Grants of Administration Tax: The Clarke County Board of Supervisors will consider amending §165-51 to reflect a 2010 change in the Code of Virginia §§58.1-1717.1, 58.1-1718, and 58.1-3805 allowing counties to charge a $25 fee for the filing of a list of heirs or affidavit when a will has not been probated and there has been no grant of administration and to reflect the current minimum estate value CC-10-05.

[55]Editor's Note: See ~~ 58.1-1718 and 58.1-3805 of the Code of Virginia, Tax on Wills and Administrations.

[56]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Article X Recordation Tax[57]
[Adopted 9-1988 as § 11-43 of the 1987 Code]

§ 165-52. Statutory authority; tax rate.
[07-07-19]

Pursuant to the authority of § 58.1-3800. et seq. Levy of the Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county in the amount of 1/3 of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in the county, excepting such instruments as are exempted by § 58.1-3800 et seq. of the Code of Virginia. This tax will be collected by the Clerk of the Circuit Court for the county and paid monthly to the Treasurer of the county, pursuant to law.

[57]Editor's Note: See ~~ 58.1-814 and 58.1-3800 et seq. of the Code of Virginia, Recordation Tax.

Article XI Use Tax[58]
[Adopted 1-19-1988 as § 11-44 of the 1987 Code]

§ 165-53. Statutory authority; tax rate.
[07-07-19]

Pursuant to § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties, of the Code of Virginia, there is hereby imposed a county use tax at the rate of 1% to provide revenue for the general fund of the county. Such county use tax shall be added to the rate of the state use tax imposed by Title 58.1 Taxation, Chapter 6 Retail Sales and Use Tax, of the Code of Virginia and shall be subject to all the provisions of that chapter and the rules and regulations published with respect thereto.

[58]Editor's Note: See ~ 58.1-600 of the Code of Virginia, Retail Sales and Use Tax.

Article XII Consumer Utility Tax[59]
[Adopted 1-19-1988 as § 11-45 of the 1987 Code]

§ 165-54.Definitions. [Amended 90-07-11; 93-04-20; 00-10-17; 07-07-19]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

COMMERCIAL OR INDUSTRIAL USER -- The owner or tenant of property used for commercial, industrial and all other purposes who pays for utility service for such property.

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

KILOWATT HOURS [KWH] DELIVERED – One thousand watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called "co-generators"), as defined in Virginia Code § 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.

PURCHASER -- Every person who purchases a utility service.

RESIDENTIAL USER -- The owner or tenant of private residential property who pays for utility service in or for such property.

SELLER -- Every person who sells or furnishes a utility service.

UTILITY SERVICES -- Local exchange telephone service and electrical and natural gas service furnished within the county.

§ 165-55. Imposition and computation of taxes collected monthly. [00-10-17; 07-07-19]

1. Electric utility consumer tax.

   A. Effective with the first bill for electric energy rendered for meter readings on or after January 1, 2001, the rate of tax on the electric energy delivered to an ultimate consumer shall be as follows:

      - Residential customer: $0.01500 per kilowatt hour [kwh] plus a minimum tax of $1.40 per month with a maximum tax of $3.00 per month.

      - Commercial and Industrial customers: $0.014167 per

[59]Editor's Note: See ~ 58.1-3812 et seq. of the Code of Virginia, Consumer Utility Taxes.

kilowatt hour [kwh] on the first 5,300 kilowatt hours [kwh] delivered then $0.00283 on the balance plus a minimum tax of $2.29 per month.

B. In the case of any apartment house or other multiple-family dwelling using electric service through a master meter, the tax shall be the sum of $3 multiplied by the number of dwelling units served.

G. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

2. Natural gas utility consumer tax.

A. Effective with the first bill for natural gas rendered for meter readings on or after January 1, 2001, the rate of tax on the volume of natural gas delivered to an ultimate consumer shall be as follows:

- Residential customer: a minimum tax of $1.50 per month plus $0.169 per CCF up to a maximum tax to $3.00 per month.

- Commercial and Industrial customers: a minimum tax of $2.00 per month plus $0.161 per CCF on the first 80 CCF delivered, and $0.032 on all CCF delivered in excess of 80 CCF.

B. In the case of any apartment house or other multiple-family dwelling using gas service through a master meter, the tax shall be the sum of $3 multiplied by the number of dwelling units served.

C. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

3. Telephone service utility consumer tax.

a. There is hereby imposed and levied upon each purchaser of a telephone utility service a tax in the amount of 20% of the charge (exclusive of any federal tax thereon) made by the seller against the purchaser with respect to each telephone utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser to the seller for the use of the county at the time the purchase price or

such charge shall become due and payable under the agreement between the purchaser and the seller, provided that in case any monthly bill submitted by any seller for residential service shall exceed $15 for a residential user, there shall be no tax computed on so much of such bill as shall exceed $15.

b. In case any monthly bill submitted by any seller for commercial or industrial service shall exceed $75, the tax computed on so much of such bill as shall exceed $75 shall be 4%.

c. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

§ 165-56. Computation and maximum amounts of tax collected other than on monthly basis. [Amended 90-07-17; 93-04-20; 00-10-17; 07-07-19]

A. Electric utility consumer tax

In all cases where the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this article may be computed as follows for a bimonthly bill (approximately 60 days):

1. The KWH will be divided by 2;
2. A monthly tax will be calculated using the rates set forth in § 165-54 1.A.;
3. The tax determined by No. 2 above shall be multiplied by 2;
4. The tax in No. 3 above may not exceed twice the monthly maximum tax.

B. Natural gas utility consumer tax

In all cases where the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this article may be computed as follows for a bimonthly bill (approximately 60 days):

1. The CCF will be divided by 2;
2. A monthly tax will be calculated using the rates set forth in § 165-54 2.A.;
3. The tax determined by No. 2 above shall be multiplied by 2;
4. The tax in No. 3 above may not exceed twice the monthly maximum tax.

C. Telephone Service

In all cases where the seller collects the price for utility services

other than on a monthly basis, the tax imposed and levied by this article may be computed on the aggregate amount of purchases during the period billed for, provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed and that such tax shall not exceed the sum of $3 for each residential user of telephone service or $15 plus 4% of the amount billed in excess of $75 for commercial and industrial users, multiplied by the number of months or portions of months covered by the bill.

§ 165-57. Duty of seller to collect and remit; reports to Commissioner of the Revenue.
[07-07-19]

It shall be the duty of every seller, in acting as the tax collecting medium or agency for the county, to collect from the purchaser for the use of the county the tax hereby imposed and levied at the time of collecting the purchase price charged.

The taxes collected during each calendar month shall be reported by each seller to the Commissioner of the Revenue, and each seller shall remit the amount of tax shown by such report to have been collected to the county Treasurer on or before the last day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

The required reports shall be in the form prescribed by the Commissioner of the Revenue.

§ 165-58. Records; inspection.
[07-07-19]

Each seller shall keep complete records showing all purchases in the county, which reports shall show the price charged against each purchaser with respect to each purchase, the date of billing and the date of payment of such bill and the amount of tax imposed under this article.

Such records shall be kept open for inspection by the duly authorized agents of the county at reasonable times, and the duly authorized agents of the county shall have the right, power and authority to make transcripts thereof.

§ 165-59. Exemption 8for governmental agencies.
[07-07-19]

The United States of America, the state and the political subdivisions, boards, commissions and authorities of the state are hereby exempted from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.

§ 165-60. Exemption for local calls using coin-operated telephones.

The tax imposed and levied by this section on purchases with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local messages, which are

[07-07-19] paid for by inserting coins in coin-operated telephones.

Amendments Chapter 165-Article XII

2000-10-17 Chapter 165 Article XII - Amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on natural gas service is calculated from a dollar amount to a cubic foot to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on volume measured in CCF including customer charges and amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on electrical service is calculated from a dollar amount to a kilowatt hour basis to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on kilowatt hours delivered including customer charges.

Article XIII Exemption for Rehabilitated Historic Real Estate
[Adopted 7-17-1990]

§ 165-61. Partial exemption granted. [Amended 8-16-1994; 07-07-19]

A partial exemption from taxation shall be provided for real estate on which there exists a structure not less than 50 years of age that has been rehabilitated so as to increase its assessed value by at least 40%.

Such real estate shall be a registered Virginia landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic district and be located in an historic overlay district established in accord with § 15.2-2306, Preservation of historical sites and architectural areas, of the Code of Virginia.

§ 165-62. Amount of partial exemption. [07-07-19]

The partial exemption shall not exceed an amount equal to the increase in assessed value resulting from the rehabilitation or renovation of the structure as determined by the county Assessor.

The amount of the partial exemption shall not exceed $250,000 for rehabilitations for residential uses or $500,000 for rehabilitations for commercial or industrial uses.

The exemption shall commence on January 1 of the year following completion of the rehabilitation and shall run with the real estate for a period of 10 years.

§ 165-63. Limitations on nature of renovation. [07-07-19]

Rehabilitations for residential uses cannot replace the original structure and cannot increase the square footage of the original structure by more than 15%.

Rehabilitations for commercial or industrial uses cannot replace the original structure but may increase the square footage of the original structure without limit.

§ 165-64. Eligibility. [Amended 8-16-1994; 07-07-19]

No property shall be eligible for such exemption unless the appropriate certificates of appropriateness and building permits have been acquired and the county Assessor has verified that the rehabilitation indicated on the application has been completed.

Such rehabilitation shall be completed within two years of issuance of the building permit for the work.

The Commissioner of the Revenue may extend the deadline for completion of the rehabilitation for up to two additional years if he/she determines reasonable progress has been made towards completion of the project.

§ 165-65. Fee [60]
[07-07-19]

[Amended 8-16-1994[61]]
A fee as provided by the Board of Supervisors from time to time shall be assessed for processing an application requesting the exemption.

[60]Editor's Note: Fees are on file in the office of the County Administrator.
[61]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Article XIV Motor Vehicle License Tax Exemption[62]
[Adopted 9-18-1990]

§ 165-66. Exemption granted to active volunteer rescue squad or Fire Dept. members. [07-07-19]

The county Treasurer shall issue a license without charging a tax for one motor vehicle that is regularly used by each active volunteer rescue squad member or active volunteer fire department member to respond to calls or to perform other duties for the rescue squad or fire department, provided that all other requirements of the article are met and that such active volunteer shall furnish to the Treasurer a certification by the chief or head of the volunteer organization that said active volunteer is an active member of the volunteer rescue squad or volunteer Fire Department who regularly responds to calls or regularly performs other duties for the rescue squad or Fire Department, and the motor vehicle is identified as regularly used for such purposes.

§ 165-67. Eligibility. [07-07-19]

Such volunteer organization must be one which receives annual financial support from the County of Clarke. For purposes of this article, an "active volunteer member" shall be defined as one meeting specific eligibility standards for such designation as approved by the Clarke County Board of Supervisors.

§ 165-68. Application deadline. [Amended 10-19-1993; 07-07-19]

Application by an active volunteer for such tax-exempt license shall be made between January 1 and February 15 or within 30 days of registration with the Commonwealth of Virginia.

The Treasurer shall not issue such tax-exempt licenses to applicants who fail to apply within this prescribed period.

[62]Editor's Note: See §46.2-752 of the Code of Virginia, authority for exemption from tax.

Article XV Courthouse Maintenance Fee[63]
[Adopted 7-21-1992]

§ 165-69. Amount of fee; purpose.
[07-07-19]

The Clerk of the Circuit Court, Clerk of the General District Court and Clerk of the Juvenile and Domestic Relations Court shall assess a fee in the amount of $2 in each civil, criminal or traffic case in a district or circuit court to be remitted to the Treasurer of Clarke County.

Said fee is to be held by said Treasurer subject to disbursements by the governing body for the construction, renovation or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

§ 165-70. Additional nature of fee.
[07-07-19]

The assessment provided for herein shall be in addition to any other fees prescribed by law.

[63]Editor's Note: See § 14.1-133.2 of the Code of Virginia, Assessment for courthouse construction, renovation or maintenance.

Article XVI Enhanced 911 Telephone Service Tax[64]

§ 165-71.Definitions. [07-07-19]

The following terms, whenever used in this article, shall have the following meanings:

E-911 SYSTEM -- A telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification and automatic location identification performed by computers and other ancillary control center communications equipment.

LOCAL EXCHANGE TELEPHONE SYSTEM -- As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.

PUBLIC SAFETY ANSWERING POINT -- A communications facility operated on a twenty-four-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

PURCHASER -- Every person who purchases a local exchange telephone service within the county.

SELLER -- Every person who sells or furnishes local exchange telephone service within the county.

UTILITY SERVICE -- Local exchange telephone service furnished within the corporate limits of the county.

§ 165-72. Amount of tax; purpose. [07-07-19]

Pursuant to the authority set forth in § 58.1-3813.1. Local tax for enhanced 911 service; definitions of the Code of Virginia there is hereby imposed and levied by the county upon each purchaser of local exchange telephone service a tax in the amount of $3 per telephone line per month. This tax shall be paid by the purchaser to the seller of local exchange telephone service for the use by the county to pay the initial capital, installation and maintenance costs and recurring maintenance costs of its E-911 system.

§ 165-73. Exemptions.

The following persons shall be exempt from the payment of the tax

[64]Editor's Note: See § 58.1-3813 of the Code of Virginia, local tax for enhanced telephone service.

[07-07-19]

provided for herein:

A. The United States of America, the commonwealth and all political subdivisions, boards, agencies, commissions and authorities of the state.

B. Purchasers or lessees of local exchange telephone service who utilize coin-operated telephones.

§ 165-74. Collection and remittance by seller.
[07-07-19]

It shall be the duty of every seller in acting as the tax collection agency for the county to collect from the purchaser for the use of the county the tax hereby imposed and levied at the time of collecting the purchase price charged, and the taxes imposed, levied and collected during each calendar month shall be reported and paid by each seller to the Treasurer on or before the 15th day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay the tax. The required report shall be in a form prescribed by the County Administrator.

§ 165-75. Records of seller.
[07-07-19]

Each seller shall keep complete records showing all purchases in the county, which shall show the price charged against each purchaser with respect to each purchase, the date thereof, the date of payment thereof and the amount of tax imposed hereunder. Such records shall be kept open for inspection by the county, and the county shall have the right to make transcripts thereof during such time as it may desire.

Amendments Chapter 165-Article XVI

1995-05-20 § 165-70. Amount of tax; purpose. Increase tax from $1 to $2 per line.

2004-04-04 § 165-70. Amount of tax; purpose. Increase tax from $2 to $3 per line

Article XVII Transient Occupancy Tax[65]
[Adopted 4-16-1996]

§ 165-76. Tax levied; amount of tax.
[07-07-19]

Pursuant to authority contained in § 58.1-3819 Transient occupancy tax of the Code of Virginia a transient occupancy tax is hereby levied on:

- Hotels,
- Motels,
- Boardinghouses,
- Travel campgrounds and
- Other facilities offering guest rooms rented out for continuous

[65]Editor's Note: See § 58.1-3819 of the Code of Virginia, transient occupancy tax.

occupancy for fewer than 30 consecutive days.

Such tax shall be 2% of the amount of charge for the occupancy of any room or space occupied.

§ 165-77.Exceptions.
[07-07-19]

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boardinghouses, travel campgrounds and other facilities offering guest rooms.

§ 165-78. Collection and remittance.
[07-07-19]

Each such hotel, motel, boardinghouse, travel campground and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days:

- Shall collect the tax levied herein and
- Shall by the 20th day of each month account for and remit to the Treasurer all such taxes collected the previous month;
- Provided, however, that in any month in which the total of all taxes previously collected but not remitted is less than $25, there shall be no report or remitting of collections required.

§ 165-79. Commission.
[07-07-19]

Each such hotel, motel, boardinghouse, travel campground or other facility collecting and remitting the tax by the due date shall:

- Be entitled to a commission of 3% of the tax collected and remitted by the due date.
- No commission shall be allowed if the amount due is delinquent.

§ 165-80. Collections held in trust.
[07-07-19]

All transient occupancy tax collections shall be deemed to be held in trust for the county.

Article XVIII Assessment of Court Costs for Courthouse Security

§ 165-81. Fee imposed; collection; use.
[Added 02-06-18, Amended 07-07-17; 07-07-17]

Pursuant to § 53.1-120. Sheriff to provide for courthouse and courtroom security; designation of deputies for such purpose; assessment (D) of the Code of Virginia there is hereby assessed a fee of $10 as part of the costs in each criminal or traffic case which is tried in either one of the district courts of the County of Clarke or in the Circuit Court of the County of Clarke and which results in conviction of any statute or ordinance.

This fee shall be collected by the Clerk of the Court in which the case is heard, remitted to the Treasurer of Clarke County, and held by the Treasurer subject to appropriation by the Board of Supervisors to the Sheriff of Clarke County for the funding of courthouse security

personnel.

Amendments Chapter 165-Article XVIII

2002-06-18	Add Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use.
2007-07-17	Chapter 165 Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use - in accordance with action taken by the General Assembly amending Section 53.1-120 of the Code of Virginia to allow for the increase of court security fee for persons convicted in Clarke County District or Circuit Court from $5 to 10 effective upon passage.

Article XIX Assessment of Jail Processing Fee

§ 165-82. Fee imposed; collection; use.
[07-07-19]

Pursuant to § 15.2-1613.1. Processing fee may be imposed on certain individuals, of the Code of Virginia there is hereby imposed a processing fee of $25 on any individual admitted by either one of the district courts of the County of Clarke or the Circuit Court of the County of Clarke to any county, city, or regional jail following conviction of any offense.

The fee shall be ordered by the court as a part of the individual's costs of court, and it shall be collected by the Clerk, deposited into the account of the county Treasurer, and shall be used by the Sheriff of Clarke County to defray the costs of processing arrested persons into any of said jails.

Amendments Chapter 165-Article XIX

2002-06-18

Add Article XIX Assessment of Jail Processing Fee § 165-79. Fee imposed; collection; use.

Chapter 171 Vehicles, Abandoned

[HISTORY: Adopted by the Board of Supervisors of Clarke County at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

General References

Chapter 157 Streets and Sidewalks Article I Obstructions by Vehicles Obstructions

§ 171-1. Adoption of standards by reference.

The provisions of § 46.2-1200 et seq. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking , of the Code of Virginia, pertaining to the disposition of abandoned vehicles, are hereby adopted by reference.

§ 171-2. Removal and storage of vehicles.

The Board of Supervisors shall take into custody any abandoned motor vehicle and provide for its removal, preservation and storage in accordance with the provisions of § 46.2-1200 et seq. of the Code of Virginia.

Chapter 175 Vehicles And Traffic

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as Secs. 8-1, 8-2, 8-3, 8-8, 8-9, 8-11, 8-13, 8-14, 8-15, 8-56, 8-60 and 8-62 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 120 Noise, Article I Noise
Chapter 171 Vehicles, Abandoned

Code Of Virginia References

§ 46.2-600. - Owner to secure registration and certificate of title or certificate of ownership.
§ 46.2-888. - Stopping on highways; general rule.
§ 46.2-1212. - Authority to provide for temporary removal and disposition of vehicles involved in accidents.
§ 46.2-1221 Authority of county to regulate parking on county-owned or leased property or on county highways; parking meters; presumption as to violation of ordinances.
§ 46.2-1224. - County ordinances prohibiting certain parking in streets and highways.
§ 46.2-1231. - Ticketing, removal, or immobilization of trespassing vehicles by owner or operator of parking or other lot or building; charges
§ 46.2-1234. - Liability of persons furnishing free parking accommodations as to motor vehicles and property left therein.
§ 46.2-1300 et seq. - Powers of local authorities generally; erection of signs and markers; maximum penalties.

Article I Administration and Enforcement

§ 175-1. Violations and penalties.

A. It shall be unlawful for any person to violate any of the provisions of this chapter.

B. Unless otherwise stated, every person convicted of a violation of any of the provisions of this chapter shall be guilty of a traffic infraction punishable by a fine of not more than $200.

[Amended 3-16-1993]

§ 175-2. Adoption of state law by reference.

[Amended 8-21-1990; 6-18-1991]

Pursuant to the authority of § 46.2-1313 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in Title 46.2 Motor Vehicles and in Title 18.2 Crimes and Offenses

Generally, Chapter 7 Crimes Involving Health and Safety, Article 2 Driving Motor Vehicle, etc., While Intoxicated of the Code of Virginia, except those provisions and requirements the violation of which constitutes a felony and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted mutandis and incorporated herein by reference and made applicable within the county. 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 county. Such provisions and requirements are made a part of this chapter as fully as those set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with the provisions of Titles 46.2 Motor Vehicles or of Title 18.2 Crimes and Offenses Generally, Chapter 7 Crimes Involving Health and Safety, Article 2 Driving Motor Vehicle, etc., While Intoxicated, which are 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 46.2 Motor Vehicles or under Title 18.2 Crimes and Offenses Generally, Chapter 7 Crimes Involving Health and Safety, Article 2 Driving Motor Vehicle, etc., While Intoxicated, of the Code of Virginia.

§ 175-3. Power of Sheriff to establish parking regulations; violations deemed unlawful.

A. The Sheriff may, with reference to county-owned property and with reference to county-maintained roads and streets, classify vehicles with reference to parking and may designate the time, place and manner such vehicles may be allowed to park on county-owned property and on county-maintained roads and streets and may make and enforce such additional rules and regulations as parking conditions may require. When any parking regulation is established pursuant to this section, the Sheriff shall cause to be erected appropriate signs or markers so that an ordinarily observant person who may be affected by such regulation will be aware of such regulation.

B. When any regulation is made pursuant to this section and when appropriate signs or markers have been erected as required by this section, it shall be unlawful for any person to violate any such regulation.

§ 175-4. Regional Compact for Cross-Jursidictional Enforcement of Local Motor Vehicle Licensing

Pursuant to § 46.2-752. (K) Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty of the

Requirements. [Added 95-04-16]

Code of Virginia, Clarke County shall be a member of the Regional Compact for Cross-Jurisdictional Enforcement of Local Motor Vehicle Licensing Requirements with the County of Frederick, the City of Winchester and the Towns of Berryville, Boyce, Middletown and Stephens City.

Article II Traffic Regulations

§ 175-5. Boarding or alighting from moving vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

§ 175-6. Unlawful riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

§ 175-7. Tailgates on vehicles.

It shall be unlawful for the operator of any truck, trailer or other vehicle equipped with a tailgate to lower or open the tailgate thereon or to suffer or permit such tailgate to be lowered or opened while the vehicle is in operation on any public road in the county, except during the time the load on the vehicle necessitates a lowered or opened tailgate as a support for the load. It shall be the duty of the operator of any such vehicle to see that the tailgate on such vehicle is kept closed or raised, except during the times hereinbefore specified.

§ 175-8. Backing.

The operator of a vehicle in the county shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic.

§ 175-9. Blocking intersection.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

§ 175-10. Temporary removal and disposition of vehicles involved in accidents.

Whenever a motor vehicle, trailer or semi-trailer involved in an accident is found upon a highway or street in the county and is so located as to impede the orderly flow of traffic, the police may at no cost to the owner or operator remove such motor vehicle, trailer or semi-trailer from the highway or street to some point in the vicinity where such motor vehicle, trailer or semi-trailer will not impede the flow of traffic.

§ 175-11.

A. A person convicted of violating any of the following provisions shall,

Reimbursement of Expenses Incurred In Responding to DUI and Other Traffic Incidents (pursuant to Va. Code Ann. §15.2-1716 [Added 07-07-17; 2010-11-16]

at the time of sentencing or in a separate civil action*, be liable* to *the* county or to any responding volunteer fire or rescue squad, or both, for *restitution of* reasonable expenses incurred by the county for responding law enforcement, firefighting, rescue and emergency services, including by the *county* Sheriff's *Department*, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing appropriate emergency response to any accident or incident related to such violation *or when issuing any related arrest warrant or summons*:

1. The provisions of *Virginia Code* §§*18.2-36.1; 18.2-51.4; 18.2-266;* 18.2-266.1; 29.1-738; 29.1-738.02; *or 46.2-341.24;* or a similar *county* ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

2. The provisions of Article 7 (*Virginia Code* §46.2-8.52 et seq.) of Chapter 8 of Title 46.2 of the *Virginia Code, as amended,* relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident; *and*

3. The provisions of Article *1* (*Virginia Code* §46.2-300 et seq.) of Chapter 3 of Title 46.2 of the *Virginia Code*, *as amended,* relating to driving without a license or driving with a suspended or revoked license; and

4. The provisions of *Virginia Code* §46.2-894 relating to improperly leaving the scene of an accident.

B. Personal liability under *sub*section *A* for reasonable expenses of an appropriate emergency response shall not exceed $1,000 in the aggregate for a particular accident or incident *occurring in the county*.

In determining the "reasonable expenses," the county may bill a flat fee of *$350* or a minute-by-minute accounting of the actual costs incurred.

As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, rescue and emergency medical services.

The court may order as restitution the reasonable expenses incurred by the county for responding law enforcement, fire-fighting, rescue and emergency medical services.

The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the county or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

Amendments Chapter 175-Article II

07-07-17	Chapter 175 Vehicle and Traffic Article II Add §175-11 Reimbursement of Expenses Incurred In Responding to DUI and Other Traffic Incidents to become effective upon passage. Renumber 175-11 thru 13 to 175-12 thru 14.
2010-11-16	Chapter 175 Vehicles and Traffic 175-11 Reimbursement of Expenses Incurred in Responding to DUI and other Traffic Incidents Correct content and typographical errors, to more closely track the language of the enabling legislation, and to update the flat fee amount from $250 to $350.

Article III Stopping, Standing and Parking

§ 175-12. Parking vehicles without state license on highway.	Except as otherwise provided by law, it shall be unlawful for any person to park any vehicle having no current state license on any highway in the county.
§ 175-13. Parking on private property.	No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a highway, thoroughfare or alley indicating that no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a highway or alley into such lot or area for the purpose of standing or parking such vehicle or for any person to stop, stand or park any vehicle in such lot or lot area.
§ 175-14. Presumption in prosecution of parking violation.[66]	In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons, parking ticket citation or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as

[66] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

required by Title 46.2 Motor Vehicles, Chapter 6 Titling and Registration of Motor Vehicles of the Code of Virginia, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where and for the time during which such violation occurred.

Chapter 180 Water And Wastewater

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 34 Sanitary Authority
Chapter 124 Nuisances
Chapter 143 Septic Systems
Chapter 161 Subdivision Of Land

Code of Virginia References

§ 15.2-5100. et seq. - Virginia Water and Waste Authorities Act.

Article I Sewage Disposal

[Adopted 1-19-1988 as Secs. 12-31 through 12-34 of the 1987 Code]

§ 180-1. Prohibited arrangement for disposal of human excrement.

No person shall construct, maintain or permit on any premises owned by him or in his charge any arrangement for the disposal of human excrement which may endanger a source of food or drinking water or which allows flies to have access to the human excrement or drainage from which escapes onto the surface of the ground on his or adjoining property or which, in the opinion of the Health Officer, gives rise to a nuisance.

§ 180-2. Sanitary disposal devices required.

Every house used as a human habitation, every warehouse, every public building and every other place where human beings congregate or are employed in the county shall be provided by the owner thereof with a sanitary toilet, privy or other sanitary device for the disposal of human excrement. If any outside privy is used, it must be built and maintained in accordance with the specifications and requirements of the State Board of Health.

§ 180-3. Approved sewage disposal methods required.

All homes and other places in which flush toilets are installed shall be provided by the owners with methods of sewage disposal approved by the Health Officer or his representative.

§ 180-4. Deposition of human excrement.

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

The term “Human Excrement” does not include “biosolids”, as defined by the Virginia Department of Health, which are a treated human waste product.

Amendments Chapter 180-Article I

00-01-25 § 180-4. Deposition of human excrement: add The term "Human Excrement" does not include "biosolids", as defined by the Virginia Department of Health, which are a treated human waste product.

§ 180-5. Subsurface conventional septic tank and soil treatment area systems required; alternative systems: Change from Board of Supervisors to Board of Well & Septic Appeals

Article II Sinkholes

[Adopted 1-19-1988 as § 12-66 through 12-72 of the 1987 Code]

§ 180-6. Definitions. When used in this article, the following terms have the meanings given to them:

OWNER OF LAND or LANDOWNER -- Any person who holds title to or is in possession of any land lying within the county, whether as owner, lessee or otherwise.

PERSON -- Any natural person, any state, municipality or other political subdivision or other public agency or instrumentality, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing and any other entity.

POLLUTANTS -- Anything which, when introduced into water, alters the chemical, physical, biological or radiological properties of water.

SINKHOLE -- Any depression in the surface of the ground, with or without collapse of adjacent rock, which provides a means through which surface water can enter the ground and thereby come into contact with subsurface water. Sinkholes are divided into Class 1 sinkholes and Class 2 sinkholes.

A. Class 1 sinkhole. Any sinkhole which presents a significant subsurface water pollution hazard if, due to the drainage pattern of the land surrounding the sinkhole or the nature of the substances or objects in the sinkhole, the sinkhole may permit the entry of pollutants into subsurface water.

B. Class 2 sinkhole. Any sinkhole which is not a Class 1 sinkhole for reasons pertaining to the sinkhole characteristics for transporting pollutants into the subsurface.

SUBSTANCES AND OBJECTS -- All substances and objects, whether

or not manmade and whether in liquid, solid or gaseous form.

SUBSURFACE WATER -- Any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

§ 180-7. Intent.

The county relies on a clean supply of subsurface water to foster and protect human health and welfare. Clean water resources are essential for the economic and social development of the county. The karst geomorphology of the county creates high contamination potential for subsurface water associated with pollutants in or around sinkholes. Therefore, it is declared to be the policy of the county to protect human health and the public welfare by establishing land use controls to abate and mitigate the subsurface water pollution potential by prohibiting the movement of pollutants to the subsurface water through sinkholes.

§ 180-8. Administration.

The office of the county Planning Administrator and the county Health Department shall have the duty and responsibility to implement and enforce the provisions of this article.

§ 180-9. Placing substances and objects in sinkholes.

No person shall place or cause to be placed any substances or objects other than those approved by the county in any sinkhole.

§ 180-10. Class 1 sinkholes.

A. The county shall take the steps necessary to identify Class 1 sinkholes located in the county and prescribe corrective and protective measures deemed reasonable and necessary to minimize and, if possible, eliminate the entry of pollutants into subsurface water through such sinkhole. Such corrective and protective measures include, but are not limited to:

(1) Buffer zones covered with grass or other appropriate vegetation.

(2) Installation of diversion methods or structures.

(3) Installation of concrete or plastic liners.

(4) Termination of the activity which creates the pollution hazard.

(5) Removal of substances and objects from the sinkhole.

B. Before prescribing corrective and protective measures with respect to a particular Class 1 sinkhole, the county shall meet with landowners involved and discuss with them the reasons the

sinkhole presents a significant subsurface water pollution hazard and the need for corrective and protective measures to minimize and, if possible, eliminate the entry of pollutants into subsurface water through the sinkhole.

C. In prescribing corrective and protective measures, the county shall consider all relevant factors, including but not limited to the expense of implementing such measures and the effect which implementing will have upon the use by the landowner(s) of their land; provided, however, that economic hardship alone shall not prevent the prescription of corrective and protective measures. The corrective and protective measures prescribed, together with the date by which such measures must be completed, shall be set forth in writing and sent to the landowner(s) involved by return receipt mail.

D. The owner of land upon which a Class 1 sinkhole is located shall take the corrective and protective measures prescribed by the county.

E. The owner of land over, through or under which pollutants travel to a Class 1 sinkhole which is located on another landowner's land shall take the corrective and protective measures prescribed by the county.

§ 180-11. Civil enforcement.

A. Any person may submit to the county a verbal or written complaint alleging a violation of this article or the existence of a Class 1 sinkhole with respect to which corrective and protective measures have not been prescribed.

B. Upon receipt of a complaint, the county shall proceed pursuant to § 180-10A, B and C.

C. Based upon a determination that there is a violation of this article, the county shall notify the violator by mail of the violation. The notice shall include:

(1) A statement of the violation.

(2) With respect to a violation of § 180-9, a statement that the county may remove from the sinkhole involved the offending substances and objects and that the violator will be obligated to the county for the reasonable cost of such removal.

(3) With respect to a violation of § 180-10D, a statement that the county may take the already prescribed corrective and

protective measures and the violator will be obligated to the county for the reasonable cost of such action.

D. If after taking the above steps and after a period of 30 days following the mailing of the notice of the violation the county, in good faith, determines that the violator is unwilling to take the corrective actions prescribed, the county shall again notify the violator by mail of the violation.

E. With respect to a violation of § 180-9, 10 days after the mailing of the second notice, the county may remove from the sinkhole involved the offending substances and objects and bill the violator for the reasonable cost of such action.

F. With respect to a violation of § 180-10D or E, 10 days after the mailing of the second notice of violation, the county may take the already prescribed corrective and protective measures it deems necessary to minimize and, if possible, eliminate the entry of pollutants into subsurface water through the sinkhole and bill the violator for the reasonable cost of such action.

§ 180-12. Criminal enforcement.

In lieu of proceeding under § 180-11, a person who is alleged to have violated § 180-9 may be prosecuted for the commission of a misdemeanor.

Article III Cross-Connection and Backflow Prevention
[Adopted 4-18-1994]

§ 180-13. Definitions.

The following terms, whenever used or referred to in this article, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this article:

AUTHORITY -- The Clarke County Sanitary Authority.

BACKFLOW -- The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any source other than its intended source.

CROSS-CONNECTION -- Any physical connection between a potable water supply and any waste pipe, soil pipe, sewer drain or any unapproved source or system. Cross-connection includes any potable water supply outlet, which is submerged or can be submerged in wastewater and any other source of contamination.

HEALTH HAZARD -- Any conditions, devices or practices in the water supply system and its operation, which create or, in the judgment of the Authority, may create a danger to the health and well-being of the water consumer.

PLUMBING FIXTURE -- Installed receptacles, devices or appliances supplied with water or that receive or discharge liquids or liquid-borne wastes.

POLLUTION -- The presence of any foreign substance (organic, inorganic, radiological or biological) in the water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

WATER, NONPOTABLE -- Water that is not safe for human consumption or that is of questionable potability.

WATER, POTABLE -- Water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Virginia Waterworks Regulations of the State Department of Health and the requirements of the county Department of Utilities.

WATER SYSTEM -- All structures, appliances and equipment owned and operated by the county and/or the Authority and used to collect, store, transport, purify and treat water for drinking or domestic use and the distribution of water to the public.

§ 180-14. Pollution prevention measures required.

Every building, premises or structure in the county shall be constructed, equipped and maintained in such a manner as to prevent the possibility of pollution of the county water supply by cross-connection or backflow of liquids.

§ 180-15. Cross-connections prohibited.

A. The county potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system.

B. Cross-connections between the county potable water system and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited except when and where, as approved by the Authority, suitable protective devices such as the reduced pressure zone backflow preventer or equal are

installed, tested and maintained to ensure proper operation on a continuing basis.

§ 180-16. Backflow and backsiphonage prohibited.

The county potable water system shall be protected against backflow and backsiphonage by installing and maintaining at all fixtures, equipment and outlets where backflow or backsiphonage may occur a suitable backflow preventer as approved by the Authority.

§ 180-17. Inspections by Authority; right of entry.

A. The Authority or its designated agent shall inspect all properties served by the water system where cross-connection with the water system is deemed possible. The frequency of these inspections shall be established by the Authority.

B. The Authority or its designated agent shall have the right to enter, at any reasonable time, properties served by the water system for the purpose of inspecting for cross-connection or backflow problems caused by improper installation, repair or maintenance, faulty equipment or other causes. Upon request, the owner or occupants of the property served by the water system shall furnish to the inspector pertinent information regarding the piping system on such property. Refusal to provide such information or refusal of access when required shall constitute a violation of this article.

§ 180-18. Compliance with applicable rules and regulations. F67F

Any cross-connection or backflow prevention device or system shall be designed, installed and maintained in such a manner as to be in compliance with the Cross-Connection Control Manual, United States Environmental Protection Agency, Office of Water Programs, Water Supply Division, 1973; plumbing standards as set forth in the Virginia Uniform Statewide Building Code § 36-97 et seq. Code of Virginia; § 6.00 of the Virginia Waterworks Regulations entitled "Cross-Connection and Backflow Prevention Control in Waterworks"; and the Clarke County Cross-Connection and Backflow Prevention Control Regulations, copies of which are on file in the county office.

§ 180-19. Notice of violation; protection of waterworks.

A. The Authority shall notify the owner or authorized agent of the owner of the building or premises in which there is found a violation of this article of such violation. The Authority shall set a reasonable time for the owner to have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the Authority may, if in its judgment an imminent health hazard exists, cause the water service to the building or premises to be terminated or deny service to such premises.

[67] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. If it is found that the backflow prevention device has been removed or bypassed or if a cross-connection exists or if the pressure in the waterworks is lowered below 10 psi gauge, the Authority shall take positive action to ensure that the waterworks is adequately protected at all times.

§ 180-20. Violations and penalties.[68]

The owner or authorized agent of the owner responsible for the maintenance of the plumbing systems in the building who knowingly permits a violation to remain uncorrected after the expiration of time set by the Authority shall be punished as provided in Chapter 1, General Provisions, Article I, for each violation. Each day of failure to comply with the requirements of this article, after the specified time set by the Authority, shall constitute a separate violation.

Article IV Wastewater Disposal System Maintenance
[Adopted 6-20-1995]

§ 180-21. Pumping out of primary treatment tanks.

All primary treatment tanks, including septic tanks, cesspools, and dry wells, shall be pumped out for maintenance purposes (serviced) once every seven years. Such pumping shall be performed by a Health Department approved service provider (pumper/hauler) under contract with the county who shall be authorized to dispose of the pumped wastes at a treatment facility within the county that is approved for such disposal.

§ 180-22. Scheduling of service; notification; receipts.

Maintenance pumping and hauling shall be in accord with a schedule prepared by the county by which all systems shall be serviced on a repeating cycle of once every seven years. System owners shall be notified in advance of when their system is scheduled for servicing. System owners and the county shall be provided with receipts by the service provider for all maintenance services performed.

§ 180-23. Fees.[69]

A. Owners of real estate served by on-site wastewater disposal systems or owners of real estate who hold a permit for the construction of an on-site wastewater disposal system shall be charged an annual fee for such system owned or permitted.

B. The fee shall be set by the Board of Supervisors, after taking the matter to public hearing, and shall be due and payable to the Treasurer of the county on or before September 30 of each tax year. The fee shall be established to not exceed the cost of

[68]Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
[69]Editor's Note: Fees are on file in the office of the County Administrator.

constructing, operating and maintaining a treatment facility for the disposal of pumped wastes, the cost of pumping and hauling wastes from private on-site wastewater disposal systems and the cost of administering the waste disposal system maintenance program.

C. Additional fees may be collected by the pumper/hauler at the time of servicing a wastewater disposal system if a serviceable system is larger than conventional size or if exploratory excavation is needed to locate an unmarked system.

§ 180-24. Exemptions.

A. Wastewater disposal systems installed prior to 1965 and other systems that are not recorded with the Health Department are exempt from the requirements in § 180-21 if damage to the system would occur as a result of system maintenance.

B. Owners of unserviceable systems shall not be exempt from the fee provided for in § 180-23, except that such owners will be credited by an amount equal to the increment of the fee attributable to the cost of pumping and hauling until such time that the system is made serviceable through an upgrade or replacement. System owners must apply for the credit with appropriate documentation of eligibility.

§ 180-25. Additional servicing beyond requirement.

Owners who elect to have their systems pumped more often than once every seven years will be subject to a separate fee paid directly to a service provider approved by the county.

§ 180-26. Failure to comply; performance of work by county; costs.

A. If the County Administrator or the official designated by him determines the owner of an on-site wastewater disposal system has failed to comply with the requirements of Article IV, he shall notify the owner of such address listed in the real estate tax records. Such notice shall also notify the owner that he is required to correct the violation as applicable.

B. If the violation is not corrected within 30 days of receipt of such notice, the County Administrator or his designee may correct the violation using county forces or a private contractor. The cost of such correction, together with an administrative handling charge of $150, shall be billed to the owner, and if not paid within 30 days, the cost of correction and handling charge shall be added to and collected in the same manner as the real estate tax on such property. In addition, the County Administrator or his designee shall certify to the Clerk of the Circuit Court of the county that the cost and charge is unpaid and the Clerk shall record such unpaid cost and charge in the judgment lien docket book.

Article V Waterloo Commercial Area Exclusive Service Area
[Added 00-09-19]

§ 180-27. Waterloo Commercial Area

The contiguous properties, containing, in the aggregate, 49.1 acres, more or less, located at or near the intersection of U. S. Route 340 and U. S. Route 50 at Waterloo, and which are zoned Highway Commercial (HC) as of August 22, 2000, are hereby designated the "Waterloo Commercial Area" for purposes of this chapter.

§ 180-28. Waterloo Commercial Area Sewage Collection System

Sewage collection lines and facilities to be constructed between the Town of Boyce and the Waterloo Commercial Area, and in the Waterloo Commercial Area, for the transport of sewage to the Boyce Wastewater Treatment Plant, are hereby designated the "Waterloo Commercial Area Sewage Collection System" for purposes of this chapter.

§ 180-29. Exclusive Service Area

The Waterloo Commercial Area is hereby designated the exclusive service area for the Waterloo Commercial Area Sewage Collection System, and no property outside of the Waterloo Commercial Area shall be served by the Waterloo Commercial Area Sewage Collection System.

Amendments Chapter 180-Article V

00-09-19 Add § 180-27. Waterloo Commercial Area; § 180-28. Waterloo Commercial Area Sewage Collection System; § 180-29. Exclusive Service Area

Article VI Boyce Exclusive Service Area
[Added 00-10-17]

§ 180-30. Exclusive Service Area
[Amended 02-05-21]

The properties located within the Town limits of the Town of Boyce, together with the properties comprising the Waterloo Commercial Area and the Millwood Sewer Exclusive Service Area, are hereby designated as the exclusive service area for the sewage collection lines and facilities located within the limits of the Town of Boyce for the transport of sewage to the Boyce Wastewater Treatment Plan, and no property outside of the limits of the Town of Boyce, the Waterloo Commercial Area, and the Millwood Sewer Exclusive Service Area shall be served by the sewage collection lines and facilities located within the limits of the Town of Boyce.

Amendments Chapter 180 – Article VI

2000-10-17 Add § 180-30. Exclusive Service Area Town of Boyce

2002-05-21 Amend § 180-30.

Article VII Millwood Exclusive Service Area
[Added 02-05-21]

§ 180-31. Millwood Exclusive Service Area

The contiguous properties located in or near the village of Millwood and which were identified on January 1, 2002, by the following Clarke County Tax Parcel identification are hereby designated the "Millwood Sewer Exclusive Service Area" for purposes of this chapter: (1) Block 29-A, parcels 16 and 17A and (2) Block 30A-A, parcels 1-34, 41-62, 64-76, 78-86, 88-92, 24A, 41A, 44A, 43A, 46A, 70A, and 92A.

§ 180-32. Millwood Sewer Exclusive Service Area Sewage Collection System

Sewage collection lines and facilities to be constructed between the Town of Boyce and the Millwood Sewer Exclusive Service Area, and the Millwood Sewer Exclusive Service Area, for the transport of sewage to the Boyce Wastewater Treatment Plant, are hereby designated the "Millwood Sewer Exclusive Service Area Sewage Collection System" for the purposes of this chapter.

§ 180-33. Exclusive Service Area

The Millwood Sewer Exclusive Service Area is hereby designated the exclusive service area for the Millwood Sewer Exclusive Service Area Sewage Collection System, and no property outside of the Millwood Sewer Exclusive Service Area shall be served by the Millwood Sewer Exclusive Service Area Sewage Collection System.

Amendments Chapter 180-Article VII

2002--05-21 Add Article VII § 180-31. Millwood Exclusive Service Area, § 180-32. Millwood Sewer Exclusive Service Area Sewage Collection System, § 180-33. Exclusive Service Area

Article VIII - Clarke County Sanitary Sewer Use
[Added 2004-07-20]

180-34. Clarke County Sanitary Authority Sewer Use

Article I – General Provisions

180-34.1. Purpose

The purpose of this Ordinance is to provide for the beneficial public use of the Clarke County 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.

180-34.2. Scope

(a) The definitions of terms used in this Ordinance are found in Article II. The provisions of this Ordinance shall apply to the discharge of all wastewater to Treatment Works. This Ordinance provides for use of the county'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 Ordinance.

(b) This Ordinance shall apply to the Waterloo, Boyce, and Millwood Exclusive Sewer Service Areas as identified in Clarke County Code Chapter 180 Articles V,VI,& VII, or any other subsequently identified exclusive sewer service area, and referred to hereafter as the exclusive sewer service areas.

180-34.3. Administration

Except as otherwise provided herein, the Clarke County Sanitary Authority Sanitation Engineer of the Treatment Works shall administer, implement, and enforce the provisions of this Ordinance.

180-34.4. Fees and Charges

(a) All fees and charges payable under the provisions of this Ordinance shall be paid to the Clarke County Sanitary Authority. Such fees and charges shall be as set forth herein or as established in the latest edition of the Clarke County Sanitary Authority Schedule of Fees.

(b) All user fees, penalties and charges collected under this Ordinance and the Clarke County Sanitary Authority user charge fee schedule shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the Clarke County Sanitary Authority, or the retirement of debt incurred for same.

(c) All fees and charges payable under the provisions of this Ordinance 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 Clarke County Sanitary Authority Schedule of Fees.

180-34.5. Inspections

(a) The CCSA Sanitation Engineer, operator or authorized *local*, 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 Ordinance.

(b) The CCSA Sanitation Engineer, bearing proper credentials and identification, shall be permitted to enter all private property through which the Town of Boyce or The County of Clarke holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Clarke County Sanitary Authority Treatment Works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in Sections 5(a) and (b) above, CCSA Sanitation Engineer, shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

180-34.6. 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 Clarke County 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 One Thousand Dollars ($1,000.00).

180-34.7. 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.

180-34.8. Amendments of the Ordinance

Public notice shall be given in accordance with applicable provisions of the county charter, other county ordinances, State and Federal law, prior to adoption of any amendments of this Ordinance.

Article II – Definitions

180-34.9. Specific Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance 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

Department of Environmental Quality.

"ASTM" shall mean the American Society for Testing and Materials.

"Authorized Representative of Industrial User" shall mean:

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

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

3) A duly authorized representative of the individual designated in #1 or #2, 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/licensed operator prior to **or** together with any reports to be signed by the authorized representative.

"BOD" (denoting 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.

"**CCSA Sanitation Engineer**" shall mean the administrator of the Clarke County 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) & 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 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 (non-domestic) pollutants into the POTW from any non-domestic source regulated under Section 307(b) (c) or (d) of the Act.

"Industrial User or Significant Discharger" means a source of indirect discharge, or a non-domestic 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 operation, or its sludge processes, which clearly causes, in whole or 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 CCSA Sanitation Engineer of the Clarke County Wastewater System(s) or designee authorized by the CCSA.

"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).

"VPDES" shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

"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 institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

"Pass-Through" 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, municipality, 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, filter backwash, 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, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

"POTW, Publicly Owned Treatment Works" 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 Clarke

County Treatment Works.

"Pretreatment Requirements" 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.

"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 1/2 inch in any dimension.

"Residential User (Class 1)" 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:

EITHER:

(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 5 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 8 of this Ordinance 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:

(i) 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;

(ii) all interstate waters, including interstate "wetlands";

(iii) 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.

(iv) all impoundments of waters otherwise defined as surface waters under this definition;

(v) tributaries of waters identified in paragraphs (1) - (iv) of this definition;

(vi) the territorial sea; and

(vii) wetlands" adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (i) - (vi) 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, 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 Ordinance.

"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.

180-34.10. General Definitions

Unless the context of usage indicates otherwise, the meaning of terms in this Ordinance and not defined in Section 1 above, 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.

Article III – Use Of Clarke County Treatment Works & Treatment Facility

180-34.11. Wastewater Discharges

It is unlawful under State and Federal Law to discharge sewage without a VPDES permit to any natural outlet within the exclusive sewer service areas or in any area under the jurisdiction of the CCSA. Wastewater discharges to the Clarke County Treatment Works are not authorized unless permitted by the CCSA Sanitation Engineer in accordance with

provisions of this Ordinance.

180-34.12. Wastewater Disposal

Except as provided in this Ordinance, 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.

180-34.13. Connection to Treatment Works Required

The owner of any new construction or renovation (exceeding $10,000) of an existing house, building, or property which is used for commercial, industrial and/or residential purposes, which is located within the exclusive sewer service areas 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 Ordinance, within 90 days after notice that sewer service is available. This section shall not apply to any existing house, building, or property, which is used for commercial, industrial and/or residential purposes that is not being renovated, and that is served by a functioning on-site sewage disposal system.

Article IV – Building Sewers And Connections

180-34.14. Connection Permit

(a) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the CCSA Sanitation Engineer or authorized local official.

(b) There shall be two (2) classes of permits for connections to the Clarke County Treatment Works & Treatment Facilities.

CLASS I - residential
CLASS II – commercial/industrial

In all cases, the owner shall make application for a permit to connect to the county's treatment works on a form furnished by the CCSA. The permit application shall be supplemented by wastewater information required to administer this Ordinance. A permit and inspection fee of (See CCSA Schedule of Fees) for a Class I, or (See CCSA Schedule of Fees) for a Class II connection permit shall be paid to the CCSA at the time the application is filed.

180-34.15. Connection Costs

The costs and expenses incidental to the building sewer installation and connection to the Clarke County Treatment Works shall be borne by the owner. The owner shall indemnify the county from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

180-34.16. 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, courtyard, or driveway. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The county assumes no obligation or responsibility for damage caused by or resulting from any single building sewer, which serves two buildings.

180-34.17. 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 CCSA Sanitation Engineer to meet the requirements of this Ordinance.

180-34.18. 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 Clarke County. 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.

180-34.19. 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 county'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 county's sewer.

180-34.20. 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 CCSA Sanitation Engineer. The connection of such drains shall conform to codes specified in Section 8 (a) or as specified by the manager as a condition of approval of such connection.

(b) Except as provided in Section 7 (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm

sewers.

180-34.21. Conformance to Applicable Codes The connection of a building sewer into the Treatment Works shall conform to the requirements of the building and plumbing code or other applicable requirements of the County of Clarke, 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 gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the CCSA Sanitation Engineer before installation.

180-34.22. Connection Inspection The applicant for a building sewer or other drainage connection permit shall notify the CCSA Sanitation Engineer when such sewer or drainage connection is ready for inspection prior to its connection to the county Treatment Works. Such connection inspections and testing as deemed necessary by the CCSA Sanitation Engineer shall be made by the CCSA Sanitation Engineer, or authorized local official.

180-34.23. 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 County of Clarke.

180-34.24. Protection of Capacity for Existing Users The CCSA Sanitation Engineer shall not issue a permit for any class of connection to the county Treatment Works 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 CCSA Sanitation Engineer may permit such a connection if there are legally binding commitments to provide the needed capacity.

Article V – Conditions To Use The Clarke County Treatment Works

180-34.25. 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 Article IV, Section 7. 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 ordinance.

180-34.26. General No user shall introduce any pollutants into the county Treatment Works

Prohibition which will pass through or interfere with the operation or performance of the Treatment Facilities.

180-34.27. Restricted Discharges

(a) No person shall discharge or cause to be discharged to any of the county 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 including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;

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

(i) having a pH lower than 5.0 or greater than 11.0

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;

4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;

5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Clarke County 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 County of Clarke has obtained prior approval from the approval authority;

6) Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin;

7) Contain floatable oils, fat, or grease;

8) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;

9) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;

10) Contain any garbage that has not been properly shredded;

11) Contain any odor or color producing substances exceeding concentration limits which may be established by the CCSA Sanitation Engineer for purposes of meeting the Clarke County VPDES permit.

12) Petroleum oil, non-biodegradeable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

13) Any trucked or hauled pollutants except at designated discharge points.

14) No person shall discharge pollutants that exceed what the plant is designed to accept including but not limited to BOD's in excess of 250 mg/l.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the Article, the CCSA Sanitation Engineer establishes concentration limits to be met by a user, the CCSA Sanitation Engineer 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, be consistently applied to all users, and be based on sewage influent levels established in the Treatment Facility permit.

180-34.28. 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 3 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) All persons subject to an applicable Categorical Pretreatment Standard shall comply with the provisions of this section and establish an enforceable compliance schedule for each.

(c) No person shall discharge trucked or piped hazardous wastes to the Clarke County Treatment Works.

180-34.29. Special

Nothing in this article shall be construed as preventing any agreement

Agreements or arrangement between the CCSA 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.

180-34.30. Water & Energy Conservation The conservation of water and energy shall be encouraged by the CCSA Sanitation Engineer. In establishing discharge restrictions upon users, the CCSA Sanitation Engineer shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the CCSA Sanitation Engineer, each user will provide the CCSA Sanitation Engineer with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the user. Upon showing to the satisfaction of the CCSA Sanitation Engineer, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

180-34.31. 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 County of Clarke or State.

180-34.32. Accidental Discharges

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. 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 CCSA for review, and shall be approved by the CCSA before construction of the facility. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the CCSA. 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 ordinance. 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 (5) days following an accidental discharge; the user shall submit to the CCSA Sanitation Engineer 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.

Article VI – Industrial Dischargers

180-34.33. Information Requirements

(a) All industrial dischargers shall file with the CCSA wastewater information deemed necessary by the CCSA Sanitation Engineer for determination of compliance with this Ordinance, the Clarke County VPDES permit conditions, and State and Federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the CCSA Sanitation Engineer 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 Section 1 (c) of this article.

(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 CCSA Sanitation Engineer.

(c) Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the CCSA 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 Ordinance, The Virginia Pollutant Discharge Elimination System (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 CCSA as confidential, shall not be transmitted to any governmental agency or to the general public by the CCSA until and unless a ten-day notification is given to the User.

180-34.34. User Permits

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

(b) Significant Industrial Users required to obtain a Permit shall complete, and file with the CCSA, an application in the form prescribed by the CCSA, and accompanied by a fee of (See Fee Schedule). Existing significant industrial users shall apply for a Permit within (30) days after the effective date of this Ordinance, 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 the 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 Article V, Section 3 of this Ordinance 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 their size, location and elevation;

7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not

the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the User to meet applicable Influent Treatment 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:

(i) 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.).

(ii) No increment referred to in paragraph (i) shall exceed 9 months.

(iii) 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 CCSA Sanitation Engineer 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 1 year elapse between such progress reports to the CCSA Sanitation Engineer.

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

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

12) Number of types 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 CCSA to be necessary to evaluate the user permit application.

The CCSA will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the CCSA may issue a User Permit subject to terms and conditions provided herein.

(c) Within 9 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 standard if they are more restrictive than the local limits developed by the POTW within the timeframe 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 Section 2 (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 CCSA Sanitation Engineer, within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard, the information required by paragraph (8) and (9) of Section 2b) of this Article.

(d) Permit Conditions:

User Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees established by the CCSA. Permits may contain the following:

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

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

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

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

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

6) Compliance schedules;

7) Requirements for submission of technical reports or discharge reports - See Section 3 of this Article **(Permits must contain this item);**

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

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

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

11) Other conditions as deemed appropriate by the CCSA to ensure compliance with this ordinance.

12) Statement of applicable remedies.

(e) User Permits shall be issued for a specified time period, not to exceed five (5) (optional) 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 (county) during the term of the permit as limitations or requirements as identified in Section 2 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 CCSA. 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.

180-34.35. 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 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 is 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 Article VI Section 3 (b) (2) below. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional.

(b) (1) Any User subject to a Pretreatment Standard, after the compliance date of 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 CCSA Sanitation Engineer during the months of June and December, unless required more frequently in the Pretreatment Standard or by the CCSA Sanitation Engineer, 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 CCSA Sanitation Engineer and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the CCSA Sanitation Engineer may agree to alter the months during which the above reports are to be submitted.

(**Comment**: 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 and/or DEQ.)

180-34.36. Provision for Monitoring

(a) When required by the CCSA Sanitation Engineer, 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 CCSA Sanitation Engineer. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

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

(d) Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall conform to 40 CFR, Part 136 and be performed by an EPA certified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Treatment Facility laboratory, make arrangement with any EPA certified laboratory, to perform such analyses.

(e) Fees for any given measurement, test, or analysis of wastewater required by this Ordinance and performed by the Treatment Facility shall be the same for all classes of dischargers, 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.

180-34.37. Costs of Damage

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the Clarke County Treatment Works or Treatment Facility, the CCSA Sanitation Engineer 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 discharger or permittee causing such deposit, obstruction, or damage.

Article VII – Pretreatment

180-34.38. Wastewaters with Special Characteristics

(a) While the CCSA Sanitation Engineer 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 CCSA Sanitation Engineer 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 civil penalties specified in Article IX of this Ordinance, 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 CCSA Sanitation Engineer shall assure that conditions of the County of Clarke's permit are met. The CCSA Sanitation Engineer shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the CCSA Sanitation Engineer allows the pretreatment the installation of the necessary facilities shall be subject to review. The CCSA Sanitation Engineer 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.

180-34.39. Compliance with Pretreatment Requirements

Persons required to pretreat wastewater in accordance with Section 1 above 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 CCSA Sanitation Engineer as described in Article VI, Section 2 (b) (9). The plan (including schedules) shall be consistent with applicable conditions of the county's Permit or other local, State or Federal laws.

180-34.40. Monitoring Requirements

Discharges of wastewater to the Clarke County Treatment Works from the facilities of any user shall be monitored in accordance with the provisions of the User's permit.

180-34.41. 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 Section I (a) of this article if they are more stringent.

180-34.42. 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.

Article VIII – Wastewater Service, Charges And Industrial Cost Recovery

180-34.43. 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.

180-34.44. Industrial Cost Recovery

Users of the Clarke County Treatment Works and Treatment Facilities will also be assessed industrial cost recovery charges as required by law.

180-34.45. Determination of System Use

(a) The use of the Clarke County Treatment Works and Treatment Facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Article VI, Section 4 to the extent such measurement and analysis is considered by the CCSA Sanitation Engineer 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 Section (c) below.

(c) The CCSA Sanitation Engineer, when determining actual use of the

Clarke County 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 CCSA Sanitation Engineer.

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.)

Amendments Chapter 180 Article VIII

2004-07-20 Article VIII § 180-34.1 thru § 180-34.52

Article IX – Enforcement

180-34.46. Harmful Contributions

The CCSA may suspend the wastewater treatment service and/or a User Permit when such suspension is necessary, in the opinion of the CCSA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes Clarke County 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 CCSA 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 CCSA 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 CCSA within 15 days of the date of occurrence.

180-34.47. Revocation of Permit

Any user who violates the following conditions of this Ordinance, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of Article VI of this Ordinance for:

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

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

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

(d) Violation of conditions of the permit.

180-34.48. Notification of Violation

Whenever the CCSA finds that any User has violated or is violating this Ordinance, User Permit, or any prohibition or limitation of requirements contained herein, the CCSA 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 CCSA by the user.

180-34.49. Show Cause Hearing

(a) The CCSA 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 (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The CCSA Sanitation Engineer may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Sanitation Authority to:

1) Issue in the name of the CCSA Sanitation Engineer 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;

3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations

to the CCSA Sanitation Engineer for action thereon.

(c) At any hearing held pursuant to this ordinance, 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 CCSA Sanitation Engineer 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 have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

180-34.50. Legal Action If any person does anything contrary to the provisions of this Ordinance, applicable Federal or State Pretreatment Requirements, or any order of the County of Clarke or if any commercial user refuses access to the CCSA Sanitation Engineer or his designee for purposes of inspection, Clarke County may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

180-34.51. Penalties The CCSA Sanitation Engineer shall have the authority to assess on any user who is found to have violated an Order of the CCSA or who failed to comply with any provision of this Ordinance and the orders, rules, regulations and permits issued hereunder a penalty of $1,000.00 per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

180-34.52. 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 Ordinance, or User Permit, or who falsifies any monitoring device or method required under this ordinance, shall upon conviction, be guilty of a Class I misdemeanor and be subject to the penalties as prescribed by the Code of Virginia.

Article X – Water Conservation / Drought Response

180-34.53. Purpose The purpose of this Article is to provide for the voluntary and mandatory restriction on the nonessential use of ground water during declared water shortages or water emergencies.

180-34.54. Scope This Article shall apply to all Clarke County residents and businesses

which are served by well water. This Article shall not apply to those residents and businesses which are supplied by a public water supply system by the Town of Berryville or the Clarke County Sanitary Authority.

180-34.55. Drought Response Plan

The Board of Supervisors (Board) shall adopt by resolution the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

180-34.56. Drought Indicators

The indicators used to indicate drought severity shall be precipitation, streamflow, and groundwater levels. When at least two indicators exceed the threshold for drought stage determination, as set forth in Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan, the Board may declare a specific drought stage.

180-34.57. Drought Stages

The drought stages shall be:

- Drought Watch,
- Drought Warning, and
- Drought Emergency,

as determined by the Board pursuant to the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

180-34.58. Declaration

Upon the Board finding that a drought stage exists, the Board may issue a declaration of a drought stage.

The County Administrator, upon the declaration of a drought stage by the Commonwealth of Virginia, may issue a declaration of a drought stage to be in effect until the next regular Board meeting.

180-34.59. Drought Stage Response

Upon declaration by the Board or the County Administrator of a Drought Watch or Drought Warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

Upon declaration of a Drought Emergency, mandatory restrictions shall apply as set forth in the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

180-34.60. Waiver of Restrictions

Upon prior written request by an individual, business, or other water user, the Board of Supervisors, or its designee, may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial

manner not common to other businesses or persons generally.

No waiver shall be granted by the Board or its designee unless the Board or its designee determines that the public health, safety, and welfare will not be adversely affected by the waiver. All waivers granted by the Board of its designee shall be reported at the Board's next regular or special meeting.

180-34.61. Penalties. Any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00). Each act or each day's continuation of the violation shall be considered a separate offense.

Amendments Chapter 180-Article X

2008-05-20 Article X § 180-34.53 thru § 180-34.61 Water Conservation / Drought Response CC-08-01

2010-06-15 Chapter 180, Water and Wastewater, so as to delete Section 180-5 Subsurface conventional septic tank and soil treatment area systems, required; alternative systems; CC-10-04

2011-09-27 Chapter 180, Water and Wastewater, Article X. Water Conservation / Drought Response change title and add reference to the Regional Drought Response and Contingency Plan rather than the local Drought Plan CC-11-04

Chapter 184 Wells

[HISTORY: Adopted by the Board of Supervisors of Clarke County 3-20-1990, implemented 5-1-1991; amended through 10-18-1994. Subsequent amendments noted where applicable.]

General References

Chapter 71 Building Construction
Chapter 143 Septic Systems
Chapter 180 Water And Wastewater

Code Of Virginia References

§ 32.1-176.5. - Construction permit; local government authority to require analysis of water.
§ 62.1-254 et seq. - Ground Water Management Act of 1992

§ 184-1. Definitions.
[Amended 03-08-03; 04-04-20; 05-03-15; 08-12-16]

When used in this chapter, the following terms shall have the meanings given to them:

ADEQUATE WATER -- The water supply system shall be capable of supplying water in an adequate quantity for its intended usage and meet the standards in Appendix III.[70]

ALTERNATIVE WATER SUPPLY SYSTEM -- A water supply system which is not a well as defined by this chapter. This includes but is not limited to cisterns, springs and surface waters.

APPROVED WATER SUPPLY -- A system in which an application to construct or repair has been submitted to the Clarke County Health Department and a permit for construction issued; construction/repairs made according to Virginia Waterworks Regulations and the Virginia Private Well Regulations and/or this chapter; inspections performed; supply found to meet all applicable regulations; construction found to meet all applicable standards; final approval (record of inspection) issued by Clarke County Health Department to owner of supply.

BORED WELL -- A well that is excavated by means of a soil auger (hand or power), as distinguished from one that is dug or drilled.

CONFINED GROUNDWATER -- A body of groundwater overlain by material sufficiently impervious to sever free hydraulic connection with overlying groundwater.

[70] Editor's Note: Appendix III is included at the end of this chapter.

CONTAMINATION -- The addition of sewage, industrial waste, chemicals or other material harmful to water, whether intentional or not. Sources of sewage may be privies, sanitary sewers, septic tanks, subsurface irrigation or soil treatment areas, seepage pits, sink drains, barnyard wastes, chemical storage tanks, fertilizer stockpiles and like sources by whatever name.

COUNTY -- The County of Clarke, Virginia.

DRILLED WELL -- A well that is excavated wholly or in part by means of a drill (percussion or rotary) operated by cutting or abrasion or by use of a water jet.

DRIVEN WELL -- A well that is constructed by driving a casing, at the end of which there is a drive point and screen, without the use of any drilling, boring or jetting device.

DUG WELL -- A well that is excavated by means of picks, shovels or other hand tools or by means of a power shovel or other dredging or trenching machinery, as distinguished from one put down by a drill or auger.

FLOODWAY -- The ten-year floodway.

FOUNDATION – any structural support that includes masonry footings or pier construction, such as for use to support decks and buildings.

FREE GROUNDWATER -- Groundwater in the zone of saturation extending down to the first impervious barrier.

GROUND-SOURCE HEAT PUMP WELL – [Added 03-08-03]

Closed-looped: a ground-source heating/cooling pump system that utilizes a sealed pipe buried in the ground that circulates an antifreeze solution with no discharge.

Open-looped: a ground-source heating/cooling pump system that transfers heat to and from ground water pumped from a conventional well after which the water is discharged into a water body, drainage ditch, or directly onto the ground.

GROUND WATER -- Subsurface water occupying the zone of saturation. (NOTE: Clarke County exhibits karst geomorphology, and surface water and groundwater rapidly interact.)

HEALTH DEPARTMENT -- The same as Health Director for the Clarke County Health Department.

HEALTH DIRECTOR -- The Director of the Lord Fairfax Health District or his/her duly authorized agent. The county Health Officer (Environmental Health Specialist) is a duly authorized agent. In all subsequent sections this person will be referred to as the "Agent".

NEGATIVE COLIFORM TEST -- A negative test as described in the latest edition of Standard Methods for Examination of Water and Wastewater.

PERSON -- Any individual, firm, corporation, partnership or other entity, singular or plural.

PITLESS ADAPTER -- A mechanical, gasketed device which is attached through a hole drilled or cut in the well casing, connecting the pressure tank influent pipe to the pump drop pipe, which is approved for such use by the Water Systems Council, Pitless Adaptor Standard No. 1 (PAS-1), or the National Sanitation Foundation.

POTABLE WATER -- Water that is safe for human consumption and culinary purposes, free from pathogenic bacteria, protozoa, cysts and other disease producing organisms and free from physiologically harmful chemical and mineral substances.

PRIVATE WATER SUPPLY SYSTEM -- A water supply system from which water is not available to the public, its location and outlets being on private property and serving not more than one single family dwelling and one dwelling less of than 600 square feet, or an agricultural unit. For the purpose of this chapter, an agricultural unit shall be comprised of the main dwelling, tenant houses for the farm employees and other related farm buildings. Commercial and industrial units referred to herein are those employing fewer than 25 persons where water is not available to the public.

PUBLIC INDIVIDUAL WELL -- A well serving one commercial or industrial unit.

PUBLIC WATER SUPPLY SYSTEM -- A water supply system serving three or more dwellings, commercial, agricultural or industrial units, or any system serving more than 25 persons or the public.

SAFE WATER -- Potable water meeting the quality standards included

and described as primary maximum contaminant levels in the Virginia Waterworks Regulations, Virginia Department of Health, as specified in Appendix II (as evidenced by analytic test results certified by a laboratory approved to conduct such tests by the Virginia Department of Health).[71]

SPRING – Refer to Chapter 143 Septic Systems § 143-7. Definitions.

TERMINUS CAP -- A well terminus cap which is approved for such use by the Water System Council, Pitless Adaptor Standard No. 1 (PAS-1), or the National Sanitation Foundation.

UNCONSOLIDATED FORMATIONS -- A formation composed of mud, silt, clay, soft shale sand or gravel or creviced rock.

WATER SERVICE CONNECTION -- The water service connection of a public water supply and shall be considered the effluent connection of the water meter or the effluent pipe of the pressure tank where there is no water meter. The water service connection of a private water supply shall be considered the effluent pipe of the pressure tank.

WATER SUPPLY SYSTEM -- The source, works and auxiliaries for collection, treatment and distribution of potable water from the source of supply to the water service connection.

WELL -- An artificial excavation that derives water from the interstices of the rocks or soil that it penetrates. Wells referred to are "shallow" or "deep" depending upon whether they derive water from free or confined groundwater respectively. However, wells of depths greater than 50 feet in unconsolidated formations shall be classified as deep wells. Any exploration, testing or production well for whatever purpose constructed is considered a water well and is subject to this chapter, since improper construction can lead to groundwater contamination.

WELL GROUTING -- The filling of the annular space between the well casing and the natural earth or rock with a mixture of neat portland cement or bentonite clay and water applied under pressure from the lower terminus of the grouting to the top of the well.

WELL LOT -- A parcel of land extending at least 100 feet in a radius about the well location, attached in fee simple and protected by covenants running with the land for the life of the structure the well

[71] Editor's Note: Appendix II is included at the end of this chapter.

serves.

§ 184-2. Applicability; responsibility for compliance; more stringent requirements to prevail.

A. The requirements of this chapter shall apply to all new water supply systems, both private and public, and they shall also apply to repairs to, replacements of or additions to existing systems.

B. Building contractors, plumbers, well diggers, well drillers, property owners and all persons constructing and/or repairing new or existing water supply systems shall be responsible for compliance with applicable sections of this chapter.

C. Where requirements of this chapter are more stringent than those of the State Health Department, the requirements of this chapter shall prevail.

§ 184-3. Permit required for all repairs; exemption and criteria for approval.

A. As of the effective date of this chapter, no person shall be allowed to repair a new or existing water supply without a written permit from the Clarke County Health Department. The location, source and construction of water supply systems shall conform to the requirements of this chapter and specifications therein pertinent to the type of supply.

B. Water supply systems for which application for construction permits to the Clarke County Health Department had been made prior to the effective date of this chapter (May 1, 1991) shall be exempt under this provision.

C. Systems permitted and under construction on or prior to the effective date of this chapter shall be approved based on criteria in effect on the date of construction permit issuance. Repairs to or replacements of these water supply systems, however, are not exempt from this chapter, and the owner must apply for and receive a written permit from the Clarke County Health Department prior to any replacements made to the water supply system. The replacement of a well pump or the replacement of a well seal or cap with an equivalent well seal or cap shall not be considered a well modification.

§ 184-4. Inspections and recommendations. [Amended 05-03-15]

A. The Agent may inspect an entire water supply system or any part thereof maintained at any premises in the county for the purpose of determining if such system is being constructed, operated or maintained in a sanitary manner so as to produce potable water. Inspections shall be made at reasonable times and, whenever practical, in the company of the owner or occupant of such premises.

B. The Agent will be expected to provide recommendations and advice regarding the construction, operation and maintenance of water supply systems.

§ 184-5. Misuse or neglect of water supply.

A. No owner, tenant or lessee of any premises supplied with a potable water supply shall misuse or neglect such supply so as to allow the water therefrom to become contaminated and possibly unsafe for human consumption or other domestic purposes.

B. Once a water supply is found to be contaminated with potentially harmful microorganisms, chemicals or minerals, steps should be taken to restore potability to the water or to abandon the existing water supply and construct another water supply with the approval of the Clarke County Health Department.

§ 184-6. Issuance of building permits for any structure requiring water supply.

No person shall obtain a building permit in the county for any structure the use of which requires a water supply, until one of the following conditions has been met:

A. Any person applying for a building permit for a structure to be served by a new private groundwater well shall first construct the well. The applicant must obtain a permit from the Health Department for the construction of such well as required by this chapter. Public water supply systems shall be tested for the contaminant levels established in Appendix II.[72] No test is required for private water supplies at the time of applying for a building permit. A copy of all test results shall be provided to the Health Department and the building permit applicant.

B. For any structure to be served by an existing public water supply system, the building permit applicant must first obtain a statement from the system owner that such public water supply system is in compliance with state and county regulations and that capacity will be available for the applicant at the anticipated time of connection.

§ 184-7. Permit procedure and conditions.
[Amended 05-03-15]

A. Application for permit. Application for a permit shall be made on forms furnished by the Health Department and shall contain a description of the location and dimensions of the land on which the water supply system is to be constructed. The Department may require such plans and/or specifications as are necessary to determine the adequacy and safety of the system, and such information shall be made a part of the records of the Department. Applications for a permit to construct a public water supply system

[72]Editor's Note: Appendix II is included at the end of this chapter.

which will have 15 or more connections can be made through the county Health Department, or the applications can be made concurrently to the Division of Water Programs, Lexington Regional Office, Virginia Department of Health.

B. Approval or denial of permit. When the Agent is satisfied that a proposed water supply system can be constructed in accordance with provisions of this chapter, he shall issue a written permit to proceed with construction. When the Agent determines that a proposed water supply system cannot meet the requirements of this chapter and there are no other adequate alternatives, he shall deny, in writing, a permit and specify therein the reason for denial.

C. Construction of system. No construction of and/or repairs of or replacements to a water supply system may take place without a valid signed permit from the Clarke County Health Department, upon which measurements and construction standards have been specified.

D. Changes in conditions. Material changes in site conditions, such as site grading, sewage disposal system location changes, etc., under which a permit was issued shall void such permit. No person shall proceed with construction until such time as written approval for the changes has been obtained from the Health Department, provided that such changes can be approved in accordance with the provisions of this chapter.

E. Voidance of permit. Permits shall be null and void after 18 months from the date of issuance, unless extended for additional periods not to exceed 18 months, in writing, by the Health Director.

§ 184-8. Fees. [73]

The Board of Supervisors shall set by resolution such fees as it deems necessary and reasonable to defray the cost of permits and/or licenses, inspections and testing as are required to be issued under this chapter.

§ 184-9. Location of water supplies.

[Amended 99-08-17; 08-12-16]

All water supply systems shall conform to the following site requirements:

A. No water supply for human consumption shall be located within any building except a separate structure housing pumping equipment.

[73]Editor's Note: Fees are on file in the office of the County Administrator.

B. New water supplies shall be protected from surface wash or flooding by suitable sloping or ditching of ground surfaces or by suitable dikes or curbs. Positive surface drainage should be provided away from the well to prevent surface runoff from entering the wellborne hole prior to grouting the well casing. Water supply systems shall not be located in ground swale areas or floodways which are subject to surface runoff and/or flooding.

C. All water supplies shall be located at minimum distances from known sources of contamination as set forth in Appendix I Table I Minimum Safe Distances. [74]

D. All water supplies shall be located on the premises consistent with the general layout, topography and surroundings, including abutting lots.

E. Any new well which is the water source for a private water supply system shall be located within the boundary of the lot it serves.

F. Any well which is the water source for a public water supply system shall be located on a well lot with lot maintenance provided by the entity or person operating the water system. No fertilizer, insecticide, herbicide or other chemical may be applied to any well lot.

G. No well shall be located in drainage ways or sinkholes. (See Appendix I Table I Minimum Safe Distances.)

H. Replacement and repairs of existing wells, may encroach on minimum separation distances for site features listed in Table I, so long as they are no closer to those features than the existing well, and so long as the encroachment is not likely to cause a significant threat to public health or the environment as determined by the Lord Fairfax Health District Environmental Health Manager. [Amended 99-08-17]

I. Existing Wells may not be encroached upon by know contamination sources as set forth in Table I in such a manner which exceeds current location conditions.

J. Well Separation. Any new well installed shall be a located a minimum of 100 feet from any other well. This requirement shall not apply to any lot or parcel recorded prior to December 16,

[74]Editor's Note: Table I is included at the end of this chapter.

2008, if such lot or parcel is not sufficient to accommodate this separation distance, as determined by the Clarke County Health Department. However, the maximum amount of separation possible shall be provided.

§ 184-10. General requirements.
[Amended 03-08-19; 05-03-15; 08-12-16]

A. Report on completed well/water system required. A complete report shall be made on each well, including dry and those not meeting yield requirements, and such a report shall be supplied to the owner and the Clarke County Health Department by the well driller. In complete reports will not be accepted. Such report shall include at minimum the following:

(1) The type, diameter and length of the casing.

(2) The total depth of the well.

(3) The standing (static) water level; measured with an electric tape; that is, the water depth below the ground surface when not pumping.

(4) The yield of the well in gallons per minute and the level of the water surface when pumped at the designated rate (production level).

(5) The number of hours the pump is operated at a stipulated rate during the pumping test.

(6) A record of any other pumping performance.

(7) A log of materials encountered during drilling.

(8) The physical appearance of the water at the end of the final pumping test.

(9) The depth in feet where the pump is set in the well.

(10) Depth of the water zones

(11) Depth of bedrock

(12) Depth of grout and grout material

(13) Amount of water per water zone

B. When required, pump test results shall be supplied to the owner

and the Clarke County Health Department by the drawdown tester.

C. Wells under construction or repair shall be protected at all times so as to prevent any drainage or foreign matter from entering the casing. When drilling operations are suspended, as overnight, the casing shall be securely covered or capped. Upon completion of drilling, a secure cap or plug shall be placed on or in the top of the casing. Water used for drilling operations or for tempering or cooling of well tools shall be clean and free of contamination.

D. Disinfection and flushing. Upon completion of construction and/or repairs of any water supply system or following repairs to the pumping equipment, it shall be disinfected and flushed.

E. Non-acceptable equipment. No pitcher, split-base or chain bucket pump shall be installed on any water supply system.

F. Cross-connections. Where frost-proof hydrants are used, installed adequate draining shall be provided to prevent possible backflow. Backflow preventers are required. There shall be no cross-connection between a private water supply system and a public water supply system. [75]

G. Abandoned wells. No person shall use an abandoned or unused well for the purpose of disposal of sewage, sewage effluent or other contaminating material. The owner of any permanently abandoned well shall immediately fill and/or seal the well with cement or bentonite clay or other equally suitable material under supervision of the Agent. Permanent abandonment occurs when a well is not used for a period of two years and/or when the construction of the well no longer meets criteria in this chapter. "Immediately" as used above means within 48 hours of drilling completion if the well to be abandoned yields insufficient water or within 30 days if a previously constructed and operational well is abandoned. Any person who abandons or intends to abandon a well shall obtain a permit from the Clarke County Health Department.

H. Chemical or physical alteration of wells after drilling.

(1) Hydraulic fracturing of wells is prohibited.

[75]Editor's Note: See Ch. 180, Water and Wastewater, Art. III, Cross-Connection and Backflow Prevention.

(2) The use of explosives in wells is prohibited.

(3) The use of chemical and biologic additives to remove contaminants and/or to improve well yields may be permitted by the Agent under the provisions of this chapter and shall be considered on a case-by-case basis.

I. Drilled wells constructed in the bottom of a dug or bored well shall not be approved.

J. Ground-source heat pumps
   a. Open-looped ground-source heat pump wells are prohibited.
   b. Closed-loop ground source heat pump system (GSHP) shall:
      i) be installed by a contractor who has current International Ground Source Heat Pump Association (IGSHPA) certification, having completed an IGSHPA training course in the fundamentals of design, installation, and operation of ground source systems, and having passed the IGSHPA certification examination and pipe fusion tests.
      ii) The installation specifications for the GSHP system shall conform to the IGSHPA installation standards.
      iii) Only biodegradable mixtures such as food grade propylene glycol may be used as the circulating fluid for GSHP systems.

§ 184-11. Specifications for construction of deep wells.
[Amended 05-03-15]

A. Construction requirements.

(1) All casing shall be made up and placed so as to be watertight throughout the depth used. When water is derived from rock formations, the casing shall extend sufficiently far into the rock as to be firmly seated on solid rock, plus a minimum of 10 feet.

(2) The well casing shall terminate at least 12 inches above the natural grade surface (preferably 18 inches), and no well casing shall terminate in a pit, provided that this shall not apply to private wells where proper topographical conditions exist so as to permit a four-inch gravity flow drain and where the pit walls and floor and ceiling are constructed so as to be waterproof and preclude entrance of groundwater or surface water.

(3) Separate structures which are constructed to house the water

supply system and/or pumping equipment shall have an impervious floor, raintight walls and roof and adequate ventilation. The floors shall be four inches in thickness and shall be sloped away from the well casing with a slope of not less than one inch in eight feet. Where necessary, such structures shall be provided with an adequate drain. The well terminus shall be sealed with a sanitary seal, gasketed and protected from insects or, if utilizing a pitless adapter, shall use an approved pitless adapter and terminus cap.

B. Specifications and classes of drilled wells. All drilled wells shall be cased and grouted in accordance with the following classifications. Grouting shall conform to hereinbelow prescribed grouting procedures. No work shall be considered completed in accordance with the provisions of this chapter unless and until grouting is complete, and such shall be done within 10 days after setting of the casing.

(1) Class I wells shall be cased and grouted to solid rock with a minimum casing and grout of 100 feet.

(2) Class IIIA wells shall be cased to solid rock with a minimum casing of 100 feet and a minimum grout of 20 feet and shall only be used where the formation encountered precludes the use of 50 feet of grout.

(3) Class IIIB wells shall be cased and grouted to solid rock with a minimum casing and grouting of 50 feet.

C. Material specifications.

(1) The minimum standard of quality for steel casing pipe shall conform to the requirements set forth in Appendix I Table II Casing Pipe Weights and Dimensions, included at the end of this chapter. Only steel casing shall be permitted. For percussion drilled wells, the casing pipe shall be assembled watertight by means of joints welded in accordance with approved practice or by correctly mated drive couplings. Those pipes (ten- and twelve-inch) marked with an asterisk in Appendix I Table II may be used for casing rotary drilled wells, where the casing does not have to be driven, and may be assembled watertight by means of joints welded in accordance with good practice or by correctly mated standard couplings.

(2) No secondhand or reclaimed pipe shall be used as protective casing in the permanent construction of a well.

(3) Well casing pipe shall be installed so that there will be no adverse effect on water quality.

D. Free-flowing artesian wells. Every artesian well that flows under natural artesian pressure shall be equipped with a valve which will shut off the flow completely or be plugged for permanent abandonment.

(1) The water well contractor completing such well shall be responsible for installation of a valve to control natural artesian flow or for other means of preventing waste of groundwater.

(2) Subsequent to construction, the well owner shall be responsible for maintenance of the valve or other means of preventing waste of groundwater.

E. Applicability of well classes. Wells for the following uses shall, at minimum, be constructed to the following classifications unless unique site and geologic conditions approved by the Health Director prevent such construction.

(1) Private water supply system: Class IIIB or Class IIIA.

(2) Public water supply system and private water supply systems: Class IIIB or Class IIIA.

(3) Public multiuser water supply system: Class I.

§ 184-12. Appurtenances.

A. Each well installation shall be provided with the following appurtenances or their equivalent:

(1) A sample tap.

(2) A well vent.

(3) A pressure-relief valve.

(4) A gate valve.

(5) A check valve where required.

(6) An electrical disconnect switch on the pump power supply; a plug receptacle connection will not be considered a disconnect switch.

B. Public wells shall be equipped with a water meter and the remote meter indicator shall be located on the exterior of the building in an easily accessible location.

§ 184-13. Grouting procedure.

A. The annular space or any opening surrounding a well casing shall be completely filled with neat portland cement grout or with approved bentonite clay/cement grout from an elevation above the established grade of the surface at the well into a continuous impervious formation or to a safe depth below the probable present or future operating water level. The minimum width of the annular space for grouting shall provide a clearance of at least 11/2 inches. Grouting space shall be at least three inches larger than the outside diameter of the casing.

B. The annular space between the inner or protective casing and the outer casing or hole shall be filled with cement or approved bentonite grout. Any outer casing installed shall be removed during the grouting procedure unless approved by the Health Director prior to the grouting procedure.

(1) Cement grout shall be proportioned of cement and the minimum quantity of water (five to 61/2 gallons per cubic feet of cement) required to give a mixture of such consistency that it can be forced through the grout pipe.

(2) Bentonite clay grout may be used when installed by a method approved by the Virginia Department of Health. Bentonite clay must be specified by the manufacturer for the purpose of grouting water wells.

C. Grouting shall be done by a method which forces the grout from the bottom of the space to be grouted towards the surface. The method of mixing and the consistency of the grout shall ensure that the grout fills the annular space. A suitable retainer, packer or plug shall be provided at the lower terminus of the grouting so that grout will not leak through into the water-bearing formation. The grouting shall be done continuously and in such a manner as will ensure the entire filling of the annular space in one operation. No drilling operation or other work in the well shall be permitted within 72 hours after the cement grouting of casings. If high early strength portland cement is used, this period may be reduced to

24 hours.

§ 184-14. Disinfection and testing prior to use.

General specifications for disinfecting wells, water service pipelines, pneumatic storage tanks and other water conveying or storage devices shall be as follows:

A. Disinfection of the entire water system, per Clarke County Health Department standards, shall be performed upon completion of plumbing fixture installation and after final plumbing inspection by the Clarke County Building Department when water system and plumbing system installation are not concurrent.

B. After operating the pump and after removal of disinfection residual, a sample shall be collected for examination by a state-certified laboratory for coliform bacteria and nitrates and, prior to placing the system into service, shall be found negative for coliform bacteria and have nitrate levels below the Environmental Protection Agency (EPA) standard.

C. Property owners or the person taking the sample shall be required to submit an affidavit that he/she has followed proper sampling procedures as defined by the Clarke County Health Department and has submitted a sample from the well for which approval of operation from the Clarke County Health Department is requested.

D. If testing for safe water after drilling the well identified the presence of primary (harmful) contaminants, a test for that contaminant shall be conducted to confirm the adequacy of treatment and the treatment method found to reduce the occurrence of the contaminant below maximum acceptable levels prior to placing the system into service. Private wells shall be considered contaminated if coliform is present or nitrate levels exceed EPA standards. Public wells shall be considered contaminated if any of the substances tested for exceed EPA standards.

§ 184-15. Appeals and variances.
[Amended 00-04-18]

Refer to Chapter 143 Septic Systems § 143-11. Appeals & variances. of the Code of Clarke County.

§ 184-16. Notice to correct.

If upon any inspection the Health Director or his authorized agent finds a violation of any of the provisions of this chapter and/or the provisions of the permit issued under it, he shall direct the person to whom the permit was issued and/or the installer of the system and/or the current

owner, by written notice, to make the necessary corrections within such reasonable period as is specified therein. No person shall fail to comply with such notice within such period.

§ 184-17. Equitable remedies.

In addition to the penalty provided by local code or state statute, the Health Director may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove a violation of any of the provisions of this chapter.

§ 184-18. Violations and penalties.

Fines and other penalties may be levied for violations of any of the provisions of this chapter. [76]

[76]Editor's Note: See Ch. 1, General Provisions, Art. I.

Appendix I Tables

Table I Minimum Safe Distances
[Amended 08-12-16]

Location of Wells

Sources of Contamination	Minimum Distance (feet)
Chemical storage tanks	100
Feedlots, hog lots, poultry houses	100
(Petroleum) storage tanks	100
Roads surface (public)	25
Septic tanks	100
Absorption field	100
Cesspools, pit privies, etc.	150
Intermittent streams, active mill races (even if sporadic use)	50
Other sewers	35
Perennial streams, surface water bodies such as ponds, lakes	100
Property lines	10
Foundation of buildings of solid masonry	50
Foundation of buildings of wood framing or exterior	50
Sinkholes and cave entrances	100
Chemically Termite treated foundations	100
Cemetery	100

NOTES:
In such installations where Class I wells are constructed, the distance between the potential sources of pollution may be reduced, provided that geological conditions indicate that such would be satisfactory and in accordance with the Division of Engineering, State Health Department, standards for location of public supplies in relation to potential sources of contamination.

Table II Casing Pipe Weights and Dimensions

Size (Inches)	Weight Threads & Couplings (lbs./ft.)	Pipe Thickness (Inches)	Pipe Diameter (Inches)	
			External	Internal
4	10.89	.237	4.500	4.026
6*	13.00	.188	6.625	6.25
6	19.18	.280	6.625	6.065
8*	17.80	.188	8.625	8.249
8	29.35	.322	8.625	7.981
10*	32.75	.279	10.750	10.192
10	41.85	.365	10.750	10.020
12*	45.45	.330	12.750	12.090
12	51.15	.375	12.750	12.00

NOTES:

- See § 184-11C(1).

Table III- Feet of Storage Required in Well to Meet Total Well Water Supply Standard

Nominal Well Sizes (inches)

	2	***3***	***4***	***5***	***6***	***7***	***8***
1.0	--	--	--	375	255	190	150
1.5	--	--	--	315	220	160	125
2.0	--	--	400	255	180	130	100
2.5	--	--	310	200	140	100	80
3.0	--	380	220	140	95	70	55
3.5	--	220	125	80	55	40	35
4.0	125	53	35	15	15	10	10

NOTES:

Caution: Table III is intended to aid in determining minimum well stor requirements. Additional storage may be necessary to adequately pro the pump during normal operation.

Appendix II Maximum Contaminant Levels

The current drinking water standards, exclusive of the eight volatile chemicals, are maximum contaminant levels contained in the Commonwealth of Virginia/State Board of Health, Waterworks Regulations. The eight volatile organic chemicals (VOC's) are based on current maximum contaminant levels as defined by the United States Environmental Protection Agency.

Appendix III Test Methodologies and Protocols

Wells shall be constructed and tested according to the following:

A. Well development. The permittee shall develop a well according to the following requirements: Well development shall consist of cyclic or intermittent pumping or surging, or both, either mechanically or by using water or air under pressure. Development shall continue until all formation cuttings, mud, drilling fluids and additives are removed from the well.

B. Every well shall be developed by the well driller in order to obtain the full yield of the well and a water quality that meets all of the following requirements:

(1) The well driller or licensed plumbing contractor shall conduct yield and, when appropriate, drawdown tests as specified in Rules for the Construction of Groundwater Wells, Virginia Water Control Board, and shall report results on Form GW2 to the Health Director or the Health Director's designated agent.

(2) Pumping equipment.

(a) The pump capacity shall be consistent with the intended use and yield characteristics of the well.

(b) A lightning protective device shall be provided for submersible pumps.

(c) Installation of the pump shall be in accordance with manufacturer's recommendations and in accordance with Water Systems Handbook, Water Systems Council.

(d) The well shall be vented at the well head to allow for pressure changes within the well due to pumping. Well vents shall be positioned to prevent the entrance of surface water, dust, insects or other foreign material.

(e) Upon completion of installation, the person installing the pump (i.e., well driller, pump installer or plumber) should

disinfect the well, pump and water supply system. The water supply system shall be disinfected immediately upon completion of construction.

(3) Observation wells. The Health Director may specify special construction standards for wells installed for the sole purpose of monitoring water quality or water levels.

(4) Domestic water supply system standard.

(a) A well or double well system shall produce at least one gallon per minute.

(b) The water supply system shall produce not less than 500 gallons of water in a two-hour period, at least once each day.

(c) If the sustained yield of the well is not capable of meeting the total water supply standard, sufficient storage shall be provided.

(d) Well storage.

[1] If well storage is selected, the amount of storage is calculated by subtracting the well yield, as determined in Subsection B(4)(b) above, over a two-hour period from 500 gallons.

[2] The quantity of water in storage in the well is equal to the number of feet between the un-pumped static water level and the level of drawdown as determined in the pump test at Subsection B(5)(b)[3], multiplied times 1.5 gallons per foot for a six-inch well or 0.65 gallons per foot for a four-inch well.

[3] Example of determining required storage. If a six-inch well produces a constant one gallon per minute, it will produce 120 gallons in a two-hour period. The well storage, therefore, shall provide 380 gallons (500 gallons - 120 gallons = 380 gallons). To provide this quantity, the well shall contain 253 feet of water in storage (380 gallons - 1.5 gallons per foot = 253).

[4] Table III has been provided to assist in determining the number of feet of water contained in well storage that is required to meet the well water supply standard.

(5) Minimum yield for domestic wells.

(a) Each well shall be tested and approved for yield in accordance with Subsection B(5)(b) below. Replacement wells, servicing an existing improved property, are exempt from this requirement.

(b) Yield test. All wells drilled with a yield determined to be less than five gallons per minute by Subsection B(1) above shall be tested as provided below:

[1] The pump and related equipment shall be placed in the well and the static water level measurement recorded.

[2] Pumping shall begin at a rate of withdrawal greater than five gallons per minute until the water level drops to a point close to the bottom of the well.

[3] When the water level reaches this point, the pump rate shall be adjusted so that the water level remains constant (in effect, pumping out any water which is flowing into the well).

[4] Measure and record the volume of water discharged (flow meter reading) and water level (with an electric tape) at fifteen-minute intervals throughout the test.

[5] Discharge water at least 50 feet from the well and on-site disposal systems.

[6] A single interruption of pumping of up to 15 minutes due to equipment failure or other unusual circumstances will be permitted, but the amount of downtime shall be made up by additional pumping at the end of the test.

(c) The criteria for approval shall be a minimum yield of one gallon per minute for six hours of continuous pumping after the well has been pumped out as provided in Subsection B(5)(b)[2] above.

(d) The pump test can be terminated early and the well yield will be considered adequate if:

[1] A well cannot be pumped out after three hours' pumping as provided in Subsection B(5)(b)[2].

[2] A well yields an average of 2.5 gallons per minute or greater for three hours' continuous pumping, after the well has been pumped out as provided in Subsection B(5)(b)[2].

(e) The Health Director may permit two wells to be connected to meet the minimum yield requirement. The well to be connected shall be tested in accordance with the procedure described in Subsection B(5)(b) above, and each shall demonstrate a yield of 0.5 gallons per minute or greater throughout the entire uninterrupted drawdown phase.

(g) All samples to be analyzed for constituents described in Appendix II shall be taken by representatives of the Lord Fairfax Health District.

Amendments Chapter 184

1999-08-17	§ 184-9-H, Location of Water Supplies, so as to allow repair or replacement wells closer to site features than normally allowed.
2000-04-18	§ 184-4-16 appeals and Variance Process so as to delete this section and add a reference to Septic Ordinance revised § 143-11.
2003-08-19	§ 184-1 Definitions – add definition for ground-source heat pump well – closed loop and open loop; § 184-10 General Requirements add J prohibiting open-loop ground-source heat pump wells.
2004-04-20	§ 184-1 Definitions – remove definition of Spring and reference to definition in § 143.7
2005-03-15	§ 184-1, -4, -7, -10, -11, -12 General changes to clarify and update. § 184-12 Specifications for construction of shallow wells deleted and subsequent sections renumbered.
2008-12-16	§ 184-1, -9, -10, Appendix 1 Table 1, 1 add foundation and modify private water supply system; -9 add j. well separation; -10 h 1 modify to read is prohibited. J. change title and add closed loop; Table 1 add comment to perennial and intermittent streams and add “Chemically” termite….

Chapter 188 Zoning

The Clarke County Zoning Ordinance is on file in the office of the County Administrator.

General References

Chapter 48 Agricultural and Forestal District
Chapter 71 Building Construction
Chapter 148 Soil Erosion And Sedimentation Control
Chapter 161 Subdivision Of Land

Chapter 189 Lighting In Agricultural, Forestal, and Rural Residential Areas

[HISTORY: Adopted by the Board of Supervisors of Clarke County January 16, 2007.]

A. Purpose

The purpose of this section is to regulate placement, orientation, distribution patterns, and fixture type of outdoor lighting in the Agricultural-Open Space-Conservation, Forestal-Open Space-Conservation, and Rural Residential Zoning Districts of the County. The intent of this section is to allow lighting that provides safety, utility and security, prevents glare on public rights of ways, prevents light trespass onto adjoining properties, protects the privacy of adjacent property owners, and reduces atmospheric light pollution.

B. Lighting Regulations

1. All exterior light fixtures shall be of a type that are downcast and shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The direct light from the light element and reflective surface of exterior light fixtures not on public rights of way or recorded private access easements shall not be visible off the subject property.

2. No exterior light fixture shall be installed at a height greater than 30 feet above the ground under the light fixture.

3. Any freestanding pole lighting, not on public rights of ways or recorded private access easements, shall be setback from property lines in accordance with setback requirements for principal structures in the subject property's zoning district except for street lighting in public rights of ways or recorded private access easements.

4. The following types of exterior lighting are excluded from these regulations:

   a. in the Rural Residential Zoning District, 100 watt or less standard incandescent light elements or equivalent brightness (defined as 1700 lumens),

   b. in the Agricultural-Open Space-Conservation and Forestal-Open Space-Conservation Zoning Districts, 60 watt or less standard incandescent light elements or equivalent brightness (defined as 1000 lumens),

   c. decorative holiday lighting,

   d. emergency lighting,

e. lighting for special events that are approved by the Board of Supervisors,

f. lighting of the flag of the United States, such lighting shall have directional control shields so that the directed light is substantially confined to the flag,

g. lighting of sports fields owned by the Clarke County Board of Supervisors or the Clarke County School Board, such lighting shall have directional control shields so that the directed light is substantially confined to the playfields.

5. All existing exterior lighting shall comply with the provisions 1 and 2 of this ordinance within three years of its adoption.

Amendments to Code Since 1997 Recodification

Chapter 10
§ 10.2 Payment of local taxes, fees, or other charges by credit card
Section Added.....1

Chapter 106
§ 106-7 Fingerprinting Applicants for Concealed Handgun Permits Add C. If an applicant possesses a current, valid concealed handgun permit and applies for a renewal of said permit, fingerprints shall not be taken nor required as part of said renewal process. CC-06-04. 2007-01-16.....3
§ 106-7 Fingerprinting Applicants for Concealed Handgun Permits Repeal section effective July 1, 2012 an ordinance amending Chapter 106 of the Code of Clarke County, Virginia, entitled 3
§ 106-7 Section added for fingerprinting applicants for concealed handgun permits 3

Chapter 12
Add section 12-3 Co-holding of Easements. 2

Chapter 120
§ 120-6. Exempt sounds. c) Construction, demolition and/or maintenance activities. add , except that the aforesaid time limitations shall not apply to the construction or maintenance of public roads. CC-11-05 6
120 Noise, so as to delete the current text in its entirety and adopt new text so as to update and clarify these provisions. CC-09-01 6

Chapter 143
§ 143-01 through out section remove subsurface and add 29
§ 143-06, -07, -08, -10 so as to clarify and update sections. 03-15-2005.....28
§ 143-07 Remove definition of Professional Soil Scientist CC-06-07, 03-20-2007.....28
§ 143-08.1 Closure of Onsite Inspection Pits. Added 05-19-1998.....27
§ 143-08.1 Definitions Revise definition of Spring 04-04-2004.....28
§ 143-08.1 Intent; State Regulations; Exceptions, so as to add Section D restricting the issuance of conditional septic permits. 11-19-2002 28
§ 143-09 Add H, Subsurface Investigations. CC-05-02, 07-19-2005.....28
§ 143-09 Appeals and variances C. Variances 1.(v) so as to delete additional criteria for open space easement properties eligible for a variance. 09-21-2004.....28
§ 143-09 System Siting - so as to add Section G limiting the maximum distance a drainfield may be located from a house to 400 feet. 06-15-2004 28
§ 143-09 System Siting, so as to add §143-9 to allow replacement, repairs, and expansions of existing systems to encroach upon the minimum setbacks from site features…; § 143-11 Administrative Appeal Process, so as to modify the membership of the Board. 08-17-1999 . 27
§ 143-10 add G Reutilization of Existing System, so as to require new sewage disposal systems for new construction. CC-09-04, 08-18-2009 29
§ 143-10 Design and Installation so as to add criteria whereby a pump and haul septic system is permitted; § 143-11 & § 143-12 appeal and Variance Process so as to reorganize and merge these two sections; § 143-12-A-(4) Variance process, so as to allow variances only when an existing habitable structure is present on the parcel. 04-18-2000.....28

§ 143-10. Design and installation B. Privies, (1) Portable privies. (a) Portable privies are allowed only for use in association with government owned facilities or . . . CC-11-01, 03-15-2011... 29
§ 143-10-C Add Use of any alternative sewage treatment systems shall require a monitoring and maintenance contract meeting the county requirements, as outlined in a resolution adopted by the Board of Supervisors entitled "Monitoring and Maintenance Requirements for Alternative Sewage Treatment Systems". CC-06-02, 05-16-2006 28
§ 143-10-D, Design and Installation, and § 143-11, Appeals and Variances, so as to clarify that pump and haul may be used only as temporary method of sewage disposal. 02-19-2002.... 28
§ 143-11 (C) Variances, so as to modify the criteria for granting variances. 01-16-2001 28
§ 143-11 Appeals & variances so as to restructure the appeals board and variance procedure. 02-17-2004 28
§ 143-11-A-(2) to provide an alternate to the public member of the Board. 28
§ 143-11-C-(2) Variance procedure so as to require an affidavit for soil work within 400 feet of a house.CC-05-03a, 08-16-2005 28
§ 143-12 Variance Process add A-5 to allow variances for parcels placed under an easement granted by VOF and/or VBHR. 11-16-1999 27
§ 143-12 Variance Process so as to establish a procedure to consider a variance when the entire tract of land has been placed under an easement granted to the VOF and/or VBHR. 03-21-2000 27
§ 143-15 thru § 143-19 add Article III Recordation of Onsite Sewage Disposal Permit Limitations, CC-07-02, 05-15-2007 29
§ 143-15 thru § 143-19 amend Article III Recordation of Onsite Sewage Disposal Permit Limitations add 143-20 & 21, CC-07-06, 11-20-2007 29
§ 143-21, Article IV, Limitation on Residents in Single-Family Dwelling Served by On-Site Sewage Disposal Systems. CC-08-05, 01-20-2009 29
§ 143-2-D, § 143-2-E, § 143-9-B-(8) so as to establish standards for the siting and installation of alternative onsite sewage systems. CC-10-04, 06-15-2010 29
§ 143-09, amend to allow exception for emergency repairs; § 143-10. Design and installation. To require 100% reserve area for merged lots 29
§ 143-16 thru 20 § 143-16 thru –20 Section 143-16 Recordation of Onsite Sewage Disposal Permit Limitations, so as to require recordation of sewer permits prior to issuance of any building permit; Sections 143-16, 17 and 18, so as to delete the reference to the definition and form regarding complete or incomplete sewage disposal records and add a section in Section 143 so as to reference the form defining complete or incomplete sewage disposal permits, and; Section 143-17, so as to require the grantee to record the Notice of On-site Sewage Disposal Limitations, if the owner fails to record such Notice prior to property transfer 29

Chapter 148

§ 148 Soil Erosion and Sedimentation Control, so as to update this section and bring it into conformance with the Code of Virginia 18
§ 148-4 Definitions add "or drilling of a water well to Agreement In Lieu of a Plan; Add to J. excluding water wells to Land Disturbing Activity 04-02-17 18
§ 148-4. Definitions. Erosion And Sediment Control Sketch Plan [05-06-21] Add Erosion and Sediment Control Sketch Plan, G. remove ponds, § 148-6 add F. and renumber modify G and H 18

Chapter 154
§154-4-B Water Quality Criteria Requirements, so as To clarify that the total phosphorus load of a project occurring on prior developed lands not within Urban Development Areas shall be 20% less than the existing load from the site or 0.28 pounds per acre per year, whichever is less stringent and to modify the paragraph headings to more clearly differentiate the regulations for development in and not in urban development areas and To state for development on prior developed lands within Urban Development Areas (land subject to County ordinance in the Berryville Annexation Area). The total phosphorus load of a project occurring on prior developed lands shall be 20% less than the existing load from the site or 0.45 pounds per acre per year, whichever is less stringent. CC-11-02, 03-15-2011 46
Adopted Chapter 154 Stormwater Management. TA-10-06, 08-17-2010 46

Chapter 165
165-34. Eligibility. Article VI Amend A. from $75,000 to $250,000 and B. from $28,000 to $55,000, subject to the following schedule and $6,500 to $8,000 and add schedule 20
Article 1 - § 165-2 License required
Amended 5-20-1997 1
Article III Vehicle License Tax changing § 165-22. Specifications for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners to state permanent decal and adding § 165-25. License period of validity setting forth the requirements for validity to become effective January 1, 2008. Renumber all sections from 165-25 to 165-26 thru 165-81 to 165-82, CC-07-03, 07-07-17 8
Article IV - 165-30.1. Other Classifications of Tangible Personal Property Adopted 97-09-16 Add section for separate classification of motor vehicles owned by active members of volunteer fire and/or rescue companies. 15
Article IV - 165-31 Personal Property Tax Relief Act of 1998 Article IV Tangible Personal Property To Provide For The Implementation Of The 2004-2005 Changes To The Personal Property Tax Relief Act Of 1998 CC-05-05 Adopted 15
Article IV - 165-32 Personal Property Tax Relief Act of 1998 Amended 165-32.2-b to read The Board of Supervisors shall annually, by resolution, set the rate of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the County of Clarke by the Commonwealth in the year for which the tax relief rate is being set. CC-08-02 15
Article IV Tangible Personal Property §165-26 Penalty and interest on delinquent taxes add Item C as follows - *In the event an attorney (including, but not limited to, the County Attorney) or collection agency is employed by the Treasurer for the collection of delinquent taxes, penalties and interest, an additional fee equal to 20% of the taxes and other charges due and owing shall be imposed and added to cover administrative costs and reasonable attorney's or collection agency's fees actually contracted for.* CC-2014-01 16
Article IX – Wills and Grants of Administration Tax
The Clarke County Board of Supervisors will consider amending §165-51 to reflect a 2010 change in the Code of Virginia §§58.1-1717.1, 58.1-1718, and 58.1-3805 allowing counties to charge a $25 fee for the filing of a list of heirs or affidavit when a will has not been probated and there has been no grant of administration and to reflect the current minimum estate value CC-10-05 25
Article VI - § 165-34. Eligibility. Amend from $65,000 to $75,000 and $22,000 to $28,000 19

Article VII - § 165-41. Filing of application; fee. Add new B, C providing for filing of land use taxation applications for a 30-day period after 11/01 deadline upon payment of a late filing fee and renumber D,E,F 23
Article VII - § 165-43. Filing of application; fee. so to extend the late filing date for land use taxation from between November 2 and December 1 to between November 2 and December 31 as allowed by State Code 58.1-3234. CC-10-02 23
Article XII - Amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on natural gas service is calculated from a dollar amount to a cubic foot to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on volume measured in CCF including customer charges and amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on electrical service is calculated from a dollar amount to a kilowatt hour basis to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on kilowatt hours delivered including customer charges. 2000-10-17 32
Article XIX – Add Assessment of Jail Processing Fee § 165-80. Fee imposed; collection; use. 02-06-18 41
Article XVI -
§ 165-70. Amount of tax; purpose. Increase tax from $2 to $3 per line 04-04-04 38
Article XVI - § 165-70. Amount of tax; purpose. Increase tax from $1 to $2 per line. 95-05-20 . 38
Article XVIII Add Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use. 02-06-18 40
Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use - in accordance with action taken by the General Assembly amending Section 53.1-120 of the Code of Virginia to allow for the increase of court security fee for persons convicted in Clarke County District or Circuit Court from $5 to 10 effective upon passage 40

Chapter 17
§17-11 Service fee for ambulance transport add CC-2015-01 01-20-2015. 7
Add Chapter 17 CC-2014-3 10-21-2014. 7

Chapter 175
Vehicle and Traffic Article II §175-11 Reimbursement of Expenses Incurred In Responding to DUI and Other Traffic Incidents - Correct content and typographical errors, to more closely track the language of the enabling legislation, and to update the flat fee amount from $250 to $350. CC-10-06 5
Vehicle and Traffic Article II Add §175-11 Reimbursement of Expenses Incurred In Responding to DUI and Other Traffic Incidents to become effective upon passage. Renumber 175-11 thru 13 to 175-12 thru 14 5

Chapter 180
Article I - § 180-4. Deposition of human excrement: add The term “Human Excrement” does not include “biosolids”, as defined by the Virginia Department of Health, which are a treated human waste product. 00-01-25 2
Article I - § 180-5. Subsurface conventional septic tank and drainfield systems required; alternative systems: Change from Board of Supervisors to Board of Well & Septic Appeals 00-01-25 2

Article V - Add § 180-27. Waterloo Commercial Area; § 180-28. Waterloo Commercial Area Sewage Collection System; § 180-29. Exclusive Service Area 10
Article VI - Add § 180-30. Exclusive Service Area Town of Boyce 11
Article VI - Amend § 180-30. 02-05-21 11
Article VII - Add Article VII § 180-31. Millwood Exclusive Service Area, § 180-32. Millwood Sewer Exclusive Service Area Sewage Collection System, § 180-33. Exclusive Service Area 02-05-21 11
Article VIII § 180-34.1 thru § 180-34.52 Added 04-07-20 35
Article X § 180-34.53 thru § 180-34.61 Water Conservation / Drought Response CC-08-01, 05/20/2008 39
Article X. Water Conservation / Drought Response change title and add reference to the Regional Drought Response and Contingency Plan rather than the local Drought Plan CC-11-04, 09/27/2011 39
§ 180-5 so as to delete Section 180-5 Subsurface conventional septic tank and soil treatment area systems, required; alternative systems 39

Chapter 184
§ 184-1 Definitions – add definition for ground-source heat pump well – closed loop and open loop; § 184-10 General Requirements add J prohibiting open-loop ground-source heat pump wells 03-08-19 22
§ 184-1 Definitions – remove definition of Spring and reference to definition in § 143.7 04-04-20 22
§ 184-1, -4, -7, -10, -11, -12 General changes to clarify and update. § 184-12 Specifications for construction of shallow wells deleted and subsequent sections renumbered. 22
§ 184-4-16 appeals and Variance Process so as to delete this section and add a reference to Septic Ordinance revised section 143-11. 00-04-18 22
§ 184-9-H, Location of Water Supplies, so as to allow repair or replacement wells closer to site features than normally allowed. 99-08-17 22
§ 184-1, -9, -10, Appendix 1 Table 1, 1 add foundation and modify private water supply system; -9 add j. well separation; -10 h 1 modify to read is prohibited. J. change title and add closed loop 22

Chapter 34
§34-2. Membership - revise membership requirements to reflect changes mandated by State Code. and update Code of Virginia references. CC-09-06 1

Chapter 36
Reestablish the Industrial Development Authority 3

Chapter 40
§ 40-1 Voting Districts (Ord. adopted 5/19/92) – Approved. July 17, 2001 9
§ 40-1 Voting Districts population of districts and supervisor representation revise to reflect 2010 Census population increase from 12,652 to 14,034 (+11.4%) CC-11-03 2011-02ORD 10
§ 40-2. Central Absentee Voter Election District (Ord. Adopted 10/16/01) – Approved. October 16, 2001 9

§ 40-2. Central Absentee Voter Election District a) Add Central absentee voter precincts; counting ballots; b) change from 102 North Church Street to Grace Episcopal Parish Hall 110 North Church Street 9
§ 40-2. Central Absentee Voter Election District b) change from Grace Episcopal Parish Hall 110 North Church Street to Berryville Clarke County Government Center, 101 Chalmers Court CC-10-03 10
§ 40-3 Polling Places Established Millwood Voting District from Millwood Community Center to Powhatan School; Russell Voting District from Ruritan Social Hall to Clarke County Recreation Center; White Post Voting District from Boyce Elementary School to Boyce Volunteer Fire Department CC-06-06. 07-01-16 10
§ 40-3 Polling Places Established. Amend A. For Berryville Voting District Change from 110 North Church Street to 317 West Main Street CC-2014-02 10
§ 40-3. Polling Places established - Amended for Buckmarsh from VFW to John H. Enders Fire Company. 99-04-20 9
§ 40-3. Polling Places established – Amended for White Post From Boyce Volunteer Fire Dept. to Boyce Elementary Schoo. 98-05-19l 9
§ 40-3. Polling Places established to change polling places for Berryville and Central Absentee Ballot Precincts from 102 North Church Street and 104 North Church Street, respectively, to Grace Episcopal Church Parish Hall, 110 North Church Street. 9
§ 40-3. Polling Places established: Amended for Millwood from Bishop's Chapel to Millwood Community Center and For Pine Grove from Church of the Good Shepard to Blue Ridge Volunteer Fire Company Amended May 21, 2002 9

Chapter 48
§ 48-2 Addition of lands to district. Remove 2-C-(3) Add to § 48-5-A-(1) subdivision requirements. 98-03-17 4
Adopted by the Board of Supervisors of Clarke County. 3-17-1992. Amendments noted where applicable. 92-03-17] 4
Clarke County Agricultural renamed Clarke County Agricultural and Forestal District and add FOC throughout Chapter. 04-03-16 4
County Code amended to include open space category with criteria for acceptance, criteria for boundary line adjustments and formal renaming of District from Agricultural District to Agricultural and Forestal District. CC-10-02 4

Chapter 56
Amended to require a minimum traffic volume on a secondary route to be designated as a highway. 98-10-20 5
Amended to simplify procedure. 99-10-19 5
Chapter Adopted without number assigned. Number assigned by staff for consistency with other localities, 97-11-18 5
Updates to remove initial road naming process, add ongoing address system maintenance procedures, editorial changes CC-2013-01 5

Chapter 57
§ 57-2 Definitions amend the term Special Events § 57.4. Application for permit so as to add the requirement to send written notice and remove the requirement to send the full application by certified mail § 57.6. Action on applications so as to remove the requirement of the County

Administrator and/or Board to provide notice to applicant and adjacent property owners via certified mail. CC-10-01. 12
§ 57-2, Definitions, so as to change the definition of Special Events to include activities that occur 10 or more times in a calendar year,; § 57-3, Permit Required, and § 57-4, Application for Permit, so as to clarify the requirements for a permit and the criteria for a permit application, and; § 57-6, Action on Applications, so as to allow the Board of Supervisors and the County Administrator to approve any number of Special Events for multiple years at the same location. CC-09-02 12
Chapter readopted with title change from Amusements to Special Events, Reference Updates Ch 78 Dance Halls, Ch 97 Fireworks, Ch 112 Littering, Ch 124 Nuisances, Ch 165 Taxation, CC-07-01, 2008-09-16 11

Chapter 6
Article I - Appointments
Adopted 1-19-1988 as § 2-6 of the 1987 Code 2
Article II - -School Board
Adopted 1995-3-21 2

Chapter 61
§ 165-18. Violations and penalties
Amended 1-19-1993; 4-20-1993; 5-20-1997] 7
Article II - Dogs -Added 7-18-1995 14

Chapter 71
§ 71-6 Shrink-Swell Soil Testing Amended to allow builders to construct foundations to an increased standard designed to protect against the impact of shrink/swell soils as an alternative to performing soil tests. 00-07-20 5
§ 71-6. Shrink-Swell Soil Testing Section Added. 99-10-19 5

Chapter 72
§ 72-5 Selection Criteria, so as to add reference to the Property Resource Score, 72-7 Procedures and 72-8 Duties of the Authority, so as to reference and reflect the proposed purchase policy, 72-12 Five Year Review, so as to provide a summary of the Authority's accomplishments to the Board every five years. CC-09-08 6
§ 72-7, D, Procedures for the Clarke County Conservation Easement Authority, so that the Authority will use the Selection Criteria Score of a property and such other factors that it may be determined (in addition to the appraised value of the proposed easement, and the Income Criteria for property owners) when determining the maximum amount of county funds that would be offered to a property owner (Purchase Price) for the purchase of an easement. CC-04-05, Added 04-10-19 6

Chapter 84
Adopted 94-09-20 1
Updated Emergency Operations Plan 03-11-18 1

Chapter 86
Added Article II County-wide Explosives Ordinance. Number assigned by staff. 03-12-16 5

Adopted Article I Prospect Hill Spring Explosives Ordinance. Chapter number assigned by staff 03-04-08. 5

Chapter 93

§ 93.3. Open Burning Restrictions Added 99-10-19 1

Article I Conduct at Fire Scenes rename to Open Burning Restrictions, Delete § 93-1. Obedience to and authority of officers and § 93-2. Authority of Fire Marshal, Renumber § 93.3. Open Burning Restrictions to § 93.1. Delete Code of Virginia References CC-2014-3, 10-21-2014 1

Code of Clarke County General Revision for Website Posting Approved December 12, 2011 BOS Work Session Be it resolved that the Clarke County Board of Supervisors authorizes the posting of the Clarke County Code of 1997 as amended in pdf format on the Clarke County website with the inclusion of the following editorial note and further authorizes the County Administrator to make any necessary non-substantive revisions to facilitate this posting. Editor's Note. Unmistakable clerical errors, misspellings and other unmistakable errors may be corrected editorially, as may consequential changes in the titles of officers, agencies, or departments made necessary by usage in statutes or ordinances of such titles, terminology and references. Unmistakable errors in cross-references to federal, state, or local statutes or ordinances that have become outdated or incorrect due to subsequent amendment to, revision, or repeal of the sections to which reference is made may be corrected editorially. Any chapter, article, division, section heading, catchline, or table within this Code may be renumbered, renamed, or rearranged within this Code when it is deemed necessary because of any disturbance or interruption of orderly or consecutive arrangement. Such non-substantive corrections, as well as mere updating of citations to the Code of Virginia, are not described in a separate amendment note following the affected section. However, all such minor amendments have been clearly designated in the proposed texts of affected ordinances available to the public at the time of publication of notice of the Board of Supervisors' intention to consider adoption of such proposed amendments and have been duly adopted by the Board of Supervisors as part of the regular updating of the Clarke County Code of 1997 as amended. In the event that a Title in the Code of Virginia has been repealed and re-enacted with renumbering and substantive revisions of sections therein, a separate amendment note will be placed in this Code to indicate the change in state authority. ii

Code of Virginia Listing

§ 8.01-386 judicial notice of laws 1
§ 10.1, Chapter 5, Article 4 (Sec. 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law. 1
§ 10.1-1100 et seq.) of the Code of Virginia 2
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