

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

Sanitary Authority -- See Ch. 34.
Nuisances -- See Ch. 124.
Septic systems -- See Ch. 143.
Subdivision of land -- See Ch. 161.

CODE OF VIRGINIA REFERENCES

Sewage disposal and water supply systems -- ~ 15.1-317 et seq.

ARTICLE II

Sinkholes

[Adopted 1-19-1988 as Secs. 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 section ~ 180-9 may be prosecuted for the commission of a misdemeanor.