

**CLARKE COUNTY PLANNING COMMISSION
 COMPREHENSIVE PLAN COMMITTEE
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 October 6, 2023 Meeting Packet**

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Clarke County Planning Commission

AGENDA – Comprehensive Plan Committee Meeting

Friday, October 6, 2023 – 10:00AM or immediately following Planning Commission
Business Meeting

Berryville/Clarke County Government Center – A/B Meeting Room

1. **Approval of Agenda**
2. **Approval of Minutes – August 31, 2023 Meeting**
3. **Old Business**
 - A. Continued Discussion, Rural Lands Plan Development
4. **New Business**

~None scheduled
5. **Adjourn**



Clarke County Planning Commission

DRAFT MINUTES – Comprehensive Plan Committee Meeting

Thursday, August 31, 2023 – 10:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
Randy Buckley (White Post)	✓	John Staelin (Millwood)	✓
Bob Glover (Millwood)	✓*	Terri Catlett (Board of Supervisors)	✓
George L. Ohrstrom, II (Ex Officio)	X		

* -- Denotes arrived late

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/
Zoning Administrator)

CALL TO ORDER: By Mr. Stidham at 10:00AM.

1. Approval of Agenda

Members approved the agenda by consensus as presented by Staff.

2. Approval of Minutes – May 15, 2023 Meeting

Members voted unanimously to approve the May 15, 2023 meeting minutes as presented by Staff.

Motion to approve the May 15, 2023 meeting minutes as presented by Staff:			
Buckley	AYE (moved)	Staelin	AYE (seconded)
Glover	ABSENT	Catlett	AYE

3A. Old Business – Discussion, Continuation of the 2016 Waterloo Area Plan

Mr. Stidham reviewed the Staff memo for this item. He stated that the Clarke County Sanitary Authority’s Utility Master Plan showed that the water and sewer systems have sufficient capacity to support current uses as well as projected usage based on the Comprehensive Plan. He said that based on the recent lack of interest in expanding the Plan Area beyond its current boundaries and in light of the Master Plan’s conclusions, Staff recommends that the Area Plan be continued for an additional five years without changes. He also noted the draft resolution included to forward to the full Commission for consideration.

Commissioner Staelin asked whether there is current capacity to support the build-out of Boyce, Waterloo, and Millwood. Mr. Stidham replied yes so long as it is consistent with the current Comprehensive Plan. Commissioner Staelin asked if there is excess capacity and Mr. Stidham replied that he is not aware of any.

Commissioner Glover entered the meeting at 10:03AM.

Mr. Camp noted that maximum capacity is typically identified as 80% because it is based on peak usage. Mr. Stidham noted that there are some maintenance items in the future that will need to be added to the capital improvement plan.

Members agreed by consensus to forward the resolution to continue the 2016 Waterloo Area Plan for five years to the full Commission in October.

3B. Old Business – Discussion, Rural Lands Plan Development

Mr. Stidham reviewed the Staff memo for this item. He reviewed the draft work plan noting that a central focus should be avoiding overlap and redundancy with other component plans. He also reviewed how he envisions the village workshops would be conducted and what information would be solicited from participants.

Commissioner Staelin asked whether workshops should be done for the areas outside of the villages. Mr. Stidham said that he is undecided and noted that workshops for the mountain and valley areas may not be well attended. He cautioned that any workshop held for the mountain areas would need to be targeted so that people will understand its purpose. He also suggested soliciting input on agricultural issues at the Millwood and White Post workshops and input on mountain issues at the Pine Grove workshop. He added that this approach could over-complicate the village workshops with people attending who have no interest in village issues.

Commissioner Staelin noted that you could say that rural area issues are generally addressed in the Comprehensive Plan.

Commissioner Staelin asked why the river corridor is grouped with the mountain area and asked whether it should be treated separately. Commissioner Glover said that to him the river is a boundary. Commissioner Staelin pointed out that Mr. Stidham has grouped the mountain areas with the Shenandoah River corridor and separately grouped the valley and agricultural areas. Commissioner Glover said that the river could be treated as a boundary instead of a corridor. Commissioner Staelin asked Mr. Stidham why he wanted to treat the river as a corridor. Mr. Stidham replied that we will need to address river-based issues in the Plan so he has identified it as a corridor. Commissioner Glover noted that it is more of a basin than a corridor. Mr. Stidham said an alternative approach could be to address the river in a natural resources chapter since there may be issues common to Opequon Creek. He said the drawback is that you would possibly be overlapping with the Water Resources Plan. He suggested possibly omitting the river since it is addressed in detail in the Water Resources Plan. He also noted that the County's stringent floodplain regulations prohibit most development along the river and, absent other issues besides development, there may not be a reason to address the river. Commissioner Staelin suggested including language to reference the Water Resources Plan for guidance pertaining to the river. Mr. Stidham said that it is a good idea to reference the other component plans. Commissioner Catlett asked for confirmation as to what constitutes the river corridor. Mr. Stidham replied that it is the river and the lands on either side.

Members agreed that they are comfortable with the work plan. Commissioner Glover added that we can always make changes as we go along.

Mr. Stidham provided an overview of the visioning and issue identification exercise. He noted that he identified several preliminary issues although he identified more for the valley areas than the mountain areas. He said that this is because the current Mountain Land Plan has been fully implemented. He also said that we can reiterate the original mountain plan objectives but need to identify new ones as well. He said that one critical new issue to address is viewshed protection versus the demand for scenic views. Commissioner Staelin asked if we have rules on clear-cutting to establish views. Mr. Stidham replied that we cannot prevent a property owner from conducting a forestry operation.

Mr. Camp asked how policies on solar power plants will be addressed. Mr. Stidham replied that this issue is included under avoiding farmland conversion. Commissioner Glover asked if it is clear in the Zoning Ordinance that solar power plants are not allowed on the mountain and Mr. Camp replied that it is a prohibited use in the Forestal-Open Space-Conservation (FOC) District. Commissioner Staelin asked if there is a qualifying substation on the mountain and Mr. Stidham replied no. Mr. Stidham noted that if we adopt regulations to allow community-scale solar, some properties on the “bench” area of the mountain might qualify. Vice-Chair Buckley asked if there is enough land on the bench that would not need to be clear-cut to allow solar. Mr. Stidham replied that you would need as much as 10 acres for a 1 megawatt solar array and there could be significant costs to connect that system to the electric grid from the bench area. Commissioner Catlett noted that some properties in Pine Grove have large fields that could be used for solar. Mr. Stidham said that he has never received inquiries about utility-scale solar and added that topography or adjacent forested land may prevent direct sunlight from reaching a facility at certain times of the day. Commissioner Glover asked whether solar panels could be placed in the floodplain on taller posts. Mr. Stidham replied that he did not think our floodplain regulations would allow solar panels in the floodplain. Mr. Camp added that solar panels theoretically could be allowed in the flood fringe but not the floodway.

Commissioner Glover asked if septic system issues on the mountain need to be addressed or is it covered by current regulations. Mr. Stidham replied that this is noted under “Shared Issues and Challenges” as “long-term viability of private wells and onsite sewage disposal systems.” He added that this is not included in any of our current plans and should probably be addressed.

Mr. Camp suggested addressing the agricultural and forestal district (AFD) program, noting that during the most recent district renewal process that members discussed whether there is any real benefit to participating in the program. Mr. Stidham said that in the past the AFD program has been for landowners who are not ready to put their land into permanent conservation easement but want to have some of the benefits. Mr. Camp added that the only benefit is that the AFD process allows you to participate in the land use taxation program more quickly. Mr. Stidham said that the AFD program has its greatest benefit in counties that may be considering discontinuing their land use taxation program. Mr. Camp added that in those counties, AFD participants would be guaranteed land use taxation until their participation in the program ends. Mr. Stidham noted that we do not mention the AFD program in detail anywhere in our plans. Mr. Camp said that landowners have commented that they would be more interested in participating in the program if the paperwork was simplified. Vice-Chair Buckley noted that this is a benefit to participating in the conservation easement program because land use taxation forms do not need to be filed every year. Mr. Stidham said that the question to answer is if I am

a landowner currently in land use taxation, what is the benefit to participating in the AFD program? Commissioner Staelin asked if local AFD programs have to be operated under specific state regulations or is there flexibility to operate the program as the locality wishes. Mr. Camp said that there are basic rules that can be varied, such as the length of time for the district period. Mr. Stidham noted that AFD participants are limited in how they can subdivide. Commissioner Staelin asked if the AFD designation transfers if the property changes hands and Mr. Camp replied yes. Vice-Chair Buckley asked if you can be released from the AFD program before the end of the district term with a penalty. Mr. Stidham said no and there are only certain circumstances such as hardship that would allow a property to be released from the AFD program. Commissioner Staelin said that you can include in the plan an objective to review the program regulations on a regular basis. Commissioner Glover asked if the conservation easement terms are the same in FOC as in AOC and Mr. Stidham replied yes.

Mr. Stidham asked members if they thought there would be any drawbacks to designate in the plan where we would like to get new conservation easement properties. Vice-Chair Buckley said that we would like to get conservation easements everywhere and have gone back and forth about properties adjoining the towns' boundaries. He added that we have a hard time getting easements in the northwestern part of the county and have specifically targeted properties in the groundwater recharge area and on the mountain. Commissioner Staelin noted that if there are any thoughts of expanding any of the villages, you may not want to take easements adjacent to them. He said this may be a point for conversation. Mr. Stidham said he does not think there will be a big push to expand the villages but it would be a good idea to address taking easements adjacent to the towns. Vice-Chair Buckley said that the Easement Authority would not hesitate to take an easement adjacent to a village. He added that the more difficult question is whether to take an easement on a lot in the Berryville annexation area. Commissioner Glover said that it would be beneficial to include a few paragraphs about the easement program but maybe not go into which properties should and should not be placed under easement. Mr. Stidham noted that it would be a good discussion as to whether properties in the Berryville Area Plan's potential future growth areas should be placed under easement. Vice-Chair Buckley said he thought the Virginia Outdoors Foundation (VOF) would take an easement adjacent to a town and Commissioner Staelin replied that VOF would have to follow the county's comprehensive plan.

Mr. Stidham asked if there were any other mountain issues to add to the list. Commissioner Glover said that you could reference the Route 7/Route 601 intersection issues but that is referenced in the Transportation Plan. Commissioner Catlett says she receives a lot of calls about tree clearing on the mountain. Mr. Stidham said that he thought the only way to have authority to control tree cutting would be to create a new zoning district where agriculture and forestry is not allowed by-right.

Mr. Stidham asked the members how they thought we should address Shenandoah Retreat. He added that they have almost the same number of residents as Boyce. Commissioner Catlett asked about a similar subdivision along the river and Mr. Stidham said that is River Park. She then asked if River Park shares any of the same issues as the Retreat. Mr. Stidham replied that they both have a shared water system. Commissioner Glover said the Retreat is so much more densely populated than other subdivisions on the mountain. Mr. Stidham said that we should probably plan for addressing issues such as septic systems and roads in the event that Retreat

property owners come to the County in the future for help. Commissioner Staelin said that we should evaluate sanitary districts. He said that might be their solution because they are self-taxing and self-managed. Mr. Stidham referenced the Shenandoah Farms matter that came up a few years ago. Commissioner Catlett said that the concern with the Shenandoah Farms sanitary district was that the County did not have the equipment to maintain their road system. Mr. Stidham said that Warren and Frederick Counties have made heavy use of utility districts to address private road problems that we have not had in Clarke. He added that eventually someone is going to approach the County about helping with a private road. Mr. Camp noted that sanitary districts were used to repair and maintain private roads for further subdivision development. Commissioner Staelin thought that counties only act as the fiscal agent for funding and that the property owners are responsible for the work. Mr. Stidham said that counties bear the responsibility of ensuring that work is completed in sanitary districts.

Commissioner Glover suggested addressing “rural subdivisions” generally in the plan so you would not have to single out the Retreat. Vice-Chair Buckley said that the Retreat has unique issues because there are so many ¼ acre lots. Mr. Stidham suggested that you could start by stating that issues facing rural subdivisions are the responsibility of the property owners. He also said you can add parameters by which the County would offer assistance. Mr. Camp said the biggest problem is the older failing systems such as cesspools. Commissioner Catlett asked if alternative systems are a solution in the Retreat and Mr. Camp replied that alternative systems are probably the only septic systems being installed there. Mr. Camp also noted that multiple lots often have to be merged to create a viable building lot. Vice-Chair Buckley said he would like to know more about utility districts. Mr. Stidham said that he will pull information on this for the next meeting. He added that utility districts for road maintenance may be a problem because if you grant it for one private road, everyone would want one. Vice-Chair Buckley said he would only see it as a solution for wells and septic system failures. Commissioner Staelin said neighborhood road maintenance agreements can result in property owners not paying enough to complete the work and other neighbors volunteering their time to make repairs themselves. He added that with utility districts, a tax is collected that covers the cost of road maintenance. Vice-Chair Buckley said that most homeowners associations have to deal with road issues.

Regarding the village workshops, Mr. Stidham said that in addition to getting participants to define their vision for the village we will also want them to define its boundary. He said that this will differ from village to village and from issue to issue. Vice-Chair Buckley asked if we define village boundaries and Mr. Stidham said that the only thing we have are zoning district boundaries. Commissioner Staelin said that there are some areas of Millwood that are in the AOC District. He also said that for transportation purposes, Millwood residents may envision a different boundary. Mr. Stidham said that you can have AOC zoning in the village boundary but you need to be very specific as to what can and cannot happen on these properties. He added that as an example in Millwood, you could say that the RR-zoned properties should stay zoned RR and the AOC properties should stay zoned AOC. Mr. Camp suggested using a broadly defined circle instead of hard boundary. Mr. Stidham replied that this would encourage some to tie more significance than intended to being in the circle and others who do not want to be in the circle. Vice-Chair Buckley said he thinks the tighter the village boundaries are, the better. Commissioner Catlett suggested providing zoning maps of each village for the next meeting.

Mr. Camp said regardless of what boundaries are chosen, there will be a push from some to add other land and he gave Carter Hall as an example. Mr. Stidham noted that it is a good question as to whether Carter Hall is or is not part of the village of Millwood. Commissioner Staelin said from a zoning standpoint it is not but from a cultural and historic perspective it would be. Vice-Chair Buckley asked if you want an 80-acre parcel in a village and Mr. Stidham replied that it depends on what that 80-acre parcel contributes to that village. Commissioner Glover noted that there are a number of agricultural lots in Pine Grove with road frontage but long driveways. He added that there is no central point of focus for that village and he sees that village as going from one end of Pine Grove Road to the other. Mr. Stidham said that you are creating a defined policy area and drafting policies applicable to land in that area. He added that one of those policies could be that Carter Hall stays AOC with AOC uses.

Mr. Stidham said that he will have maps for the next meeting and can dive right into the village discussion. Members agreed to schedule the next two meetings for Friday, October 6 after the Commission Business Meeting and Tuesday, October 31 at 1:30 before the Work Session.

4. New Business – none scheduled

ADJOURN: Meeting was adjourned by consensus at 11:17AM.

Brandon Stidham, Clerk



Clarke County Planning Department

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Berryville, Virginia 22611

(540) 955-5132

www.clarkecounty.gov

TO: Planning Commission Comprehensive Plan Committee members

FROM: Brandon Stidham, Planning Director

RE: Continued Discussion, Rural Lands Plan Development

DATE: September 29, 2023

The focus of the October 6 meeting is continued work on the Rural Lands Plan. For this meeting, we will discuss the following topics:

Identification of additional issues

Enclosed you will find a revised version of the Rural Lands Plan concept outline which includes modifications requested at the previous meeting. As we go through the Plan development process and identify new issues to be addressed, this outline can be further modified to include these issues with the end result being a comprehensive final Plan outline.

Staff made the following additions and changes based on the August 31 meeting discussion:

- Deleted “Shenandoah River corridor” as being part of the mountain areas addressed in the Introduction (Chapter I) and Mountain Lands (Chapter III). Moved Shenandoah River reference to Shared Issues and Challenges (Chapter V) where the goals and objectives applicable to the river and found in other plans (e.g., Comprehensive Plan, Recreation Plan) will be referenced.
- Added possible reference to multiple maps depicting the plan areas for each village. This is in response to our discussion that the planning area boundaries for each village may be different depending on the topic (see discussion of Village “boundaries” below).
- Added creation of policies for public water and sewer in Millwood and public water in White Post.
- Added a section on conservation easements in Shared Issues and Challenges (Chapter V). This section would include areas where conservation easements are needed/prioritized (e.g., mountain areas, groundwater recharge areas) and where easements generally should not be accepted (e.g., adjacent to town boundaries, annexation area)
- Added a section on the importance of land use value assessment including information on the benefits of the Agricultural & Forestal District program.

- Added a section on residential uses and subdivisions in the rural areas which will include policies on the degree of County involvement in the current and future infrastructure needs of these uses and subdivisions. This includes:
 - The long-term viability of wells (including shared well systems) and septic systems and what the County will do to assist property owners if these systems fail
 - Emphasis that private roads and access easements are the sole responsibility of the landowners and easement holders that use them
 - Possibility of using sanitary districts or similar tools – this will be primarily for informational purposes including pros and cons and could include policies on when the Board of Supervisors would consider using them

Staff encourages commissioners to offer more ideas and suggestions especially in regards to mountain area specific issues as the outline remains “light” for that chapter.

Village “boundaries”

Included in the packet are maps for each village from the County GIS – one map depicting the current zoning and one map showing aerial photos with the current location of public water and/or sewer (excluding Pine Grove). For this meeting, Staff suggests beginning discussions on identifying the boundaries of each village as well as whether there are different boundaries to consider depending on the planning topic being discussed including:

- Land use (current and future)
- Public utilities (water for White Post, water and sewer for Millwood)
- Transportation impacts

As you will note from the maps, neither the current zoning nor the public utility locations establish a consensus boundary for each village. Staff recommends the Committee discuss the maps and work towards a consensus on whether to establish one boundary map for each village or multiple maps based on planning topic.

Background information on sanitary districts

In response to Commissioner Staelin’s request, Staff has included information on sanitary districts including language from the Code of Virginia and a citizen-oriented brochure produced by Warren County that does an excellent job of summarizing the law.

As mentioned at the last meeting, Clarke County briefly had a sanitary district in 2015-2016 for Shenandoah Farms lots primarily for maintenance of private roads and common areas. Under previous state law, sanitary districts were created by the circuit court upon petition of a certain number of residents and counties had no choice to accept them and the responsibilities that come with them. Furthermore, sanitary districts could only be abolished by the circuit court upon petition of a certain number of residents in the district. Clarke’s sanitary district was ultimately abolished in 2016 after the requisite number of affected county residents petitioned for its elimination. State code was amended in 2017 to authorize local governing bodies to create and abolish sanitary districts at their discretion and to remove the circuit court from the process.

As you will note, sanitary districts are special taxing districts which allow the governing body to collect funds from landowners in the district to construct and maintain a wide variety of private infrastructure used in the district. Most commonly this is used for water and sewer systems, private roads, and common area maintenance. Staff has included a section for inclusion of sanitary district information and policies in Chapter V. Regardless of whether the Committee supports, opposes, or is undecided on the use of sanitary districts, it will be helpful to develop guidance to help future governing bodies decide on their usage.

Please let me know if you have questions in advance of the meeting.

RURAL LANDS PLAN CONCEPT

The “Rural Lands Plan” is a new proposed implementing component plan that would replace both the Agricultural Land Plan and the Mountain Land Plan and serve as an overall plan for the unincorporated areas of the County. While the County’s valley and mountain areas have obvious differences including terrain and soil type, these rural areas share a number of challenges that may call for the same or similar recommendations and solutions.

The Rural Lands Plan would be organized as follows:

Chapter I – Introduction

- A. Summary Statement of Plan Purpose**
- B. Plan Goals – to include vision statements for:**
 - Valley – agricultural areas
 - Mountain areas ~~and Shenandoah River corridor~~
 - Villages

Chapter II – Agriculture, Forestry, Agribusiness, and Agritourism

- A. Background information**
 - Define the valley environment
- B. Objectives and policies**
 - Support the practice of agriculture and preservation of agricultural land
 - Protect prime agricultural soils from development; preserve for agricultural usage
 - Avoid farmland conversion (e.g., nutrient credit banks, utility-scale solar)
 - Support the practice of forestry and forest management
 - Protect forestry resources from development
 - Identify compatible non-traditional agricultural businesses
 - Address hydroponic growing facilities
 - Identify compatible agribusiness and agritourism activities
 - Agribusinesses – abattoirs, agricultural processing, agricultural support
 - Agritourism – farm wineries/breweries/distilleries, agricultural event venues, public assembly

Chapter III – Mountain Lands

A. Background information

- Define the mountain environment ~~and river corridor~~

B. Objectives and policies

- Protection of sensitive slopes and surface water features from development impacts
- Viewshed protection vs. demand for scenic views

Chapter IV – Unincorporated Villages

A. Background information

- Importance of defining village planning area boundaries by subject including:
 - Current and future land use, zoning
 - Transportation
 - Public utilities

B. Millwood

1. Overview of village, current uses, and current zoning
2. Statement of village character
3. Map(s) depicting village plan area
4. Objectives and future development policies
5. Policies regarding public water and sewer

C. Pine Grove

1. Overview of village, current uses, and current zoning
2. Statement of village character
3. Map(s) depicting village plan area
4. Objectives and future development policies

D. White Post

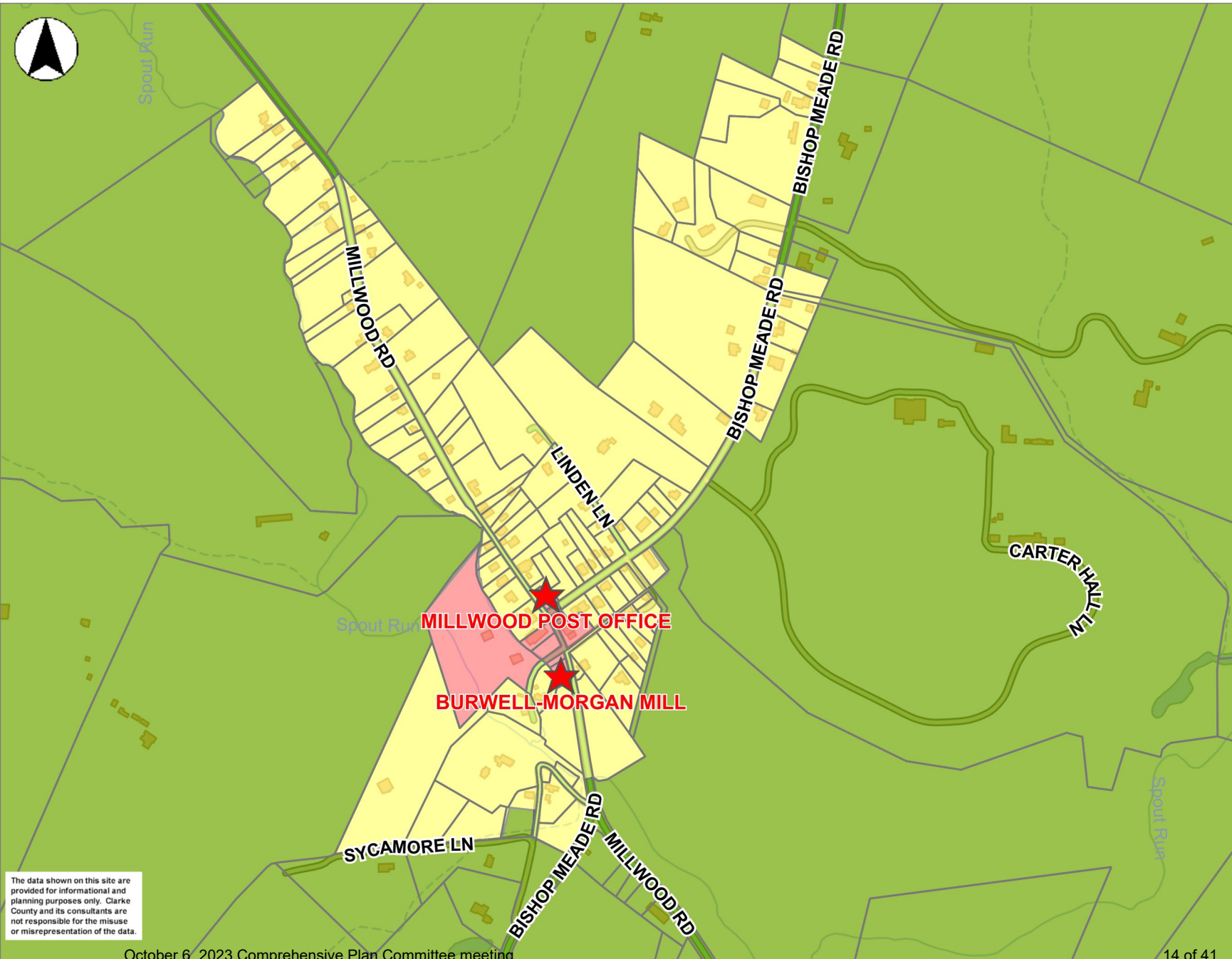
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4. Objectives and future development policies
5. Policies regarding public water

Chapter V – Shared Issues and Challenges

- Balance preservation of cultural/historic/scenic/natural resources with public’s desire to enjoy them and the rights of private property owners to use and enjoy their lands
 - Reference to Shenandoah River goals/objectives in other plans
- Secondary road safety and impacts
- Conservation easements
 - Areas where conservation easements are needed/prioritized
 - Areas where conservation easements should not be accepted
- The importance of land use value assessment; benefits of the Agricultural & Forestal District program
- Residential uses and subdivisions in the rural areas
 - Long-term viability of private wells (including shared well systems) and onsite sewage disposal systems
 - Policies on private roads and access easements – landowners’ responsibility
 - Possibility of using sanitary districts or similar tools
- Broadband



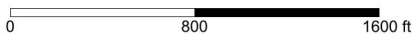
- Public
- Points of Interest
- Parcels
- County Zoning
 - Rural Residential (RR)
 - Commercial Nhb (C)
 - Commercial Hwy (C)
 - Ag/OS/Conserv (AO)
 - Forest/OS/Conserv (F)
 - Towns
- Clarke County Boundary
- Major Roads
 - Interstate
 - US Highway
 - State Highway
- Surrounding Counties Open
- Clarke County Roads
 - Private Roads
 - Roads
- Rail
- Buildings
- Appalachian Trail
- Streams
 - Perennial Streams
 - Intermittent Streams
- Ponds
- Rivers



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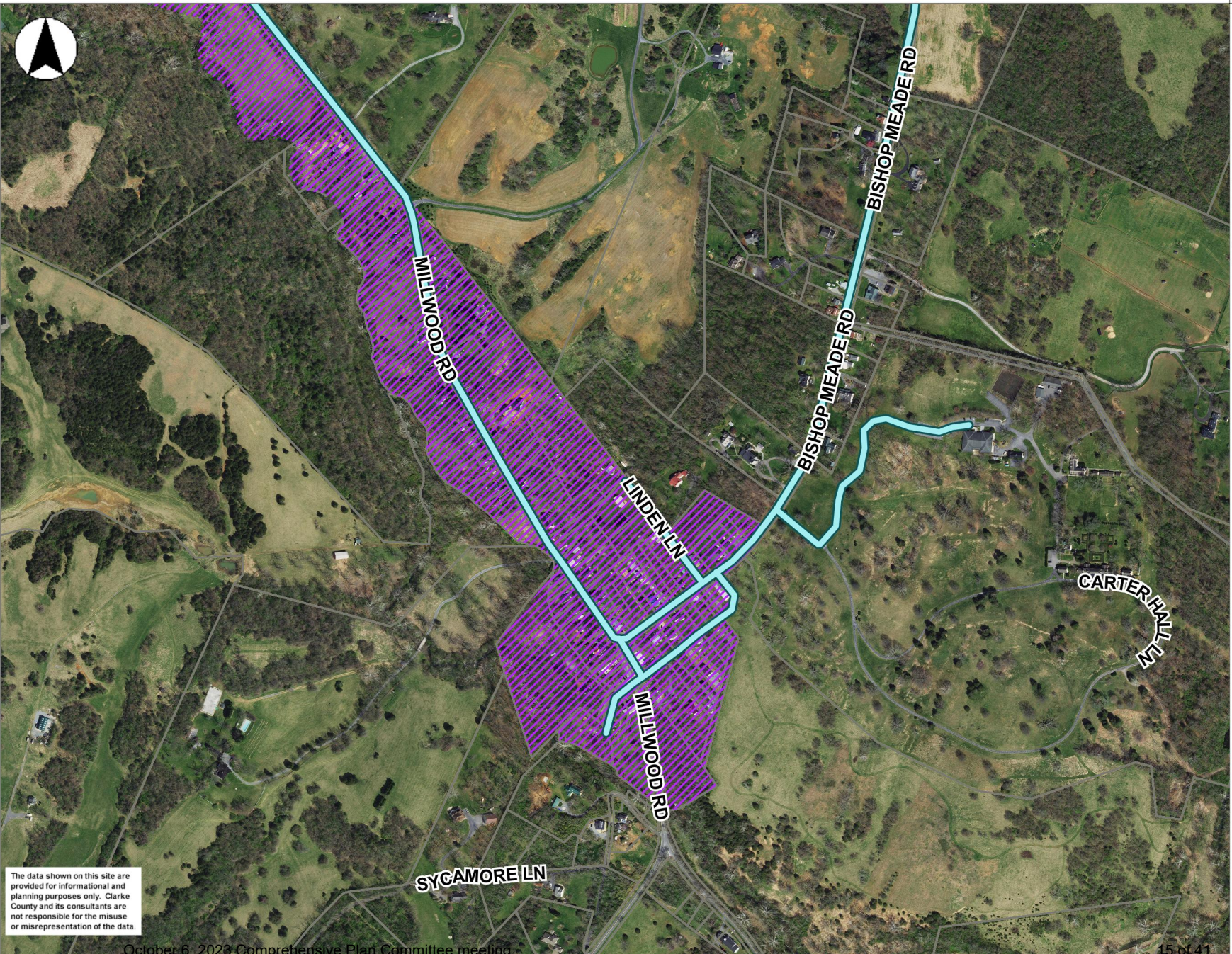


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Clarke County MapsOnline



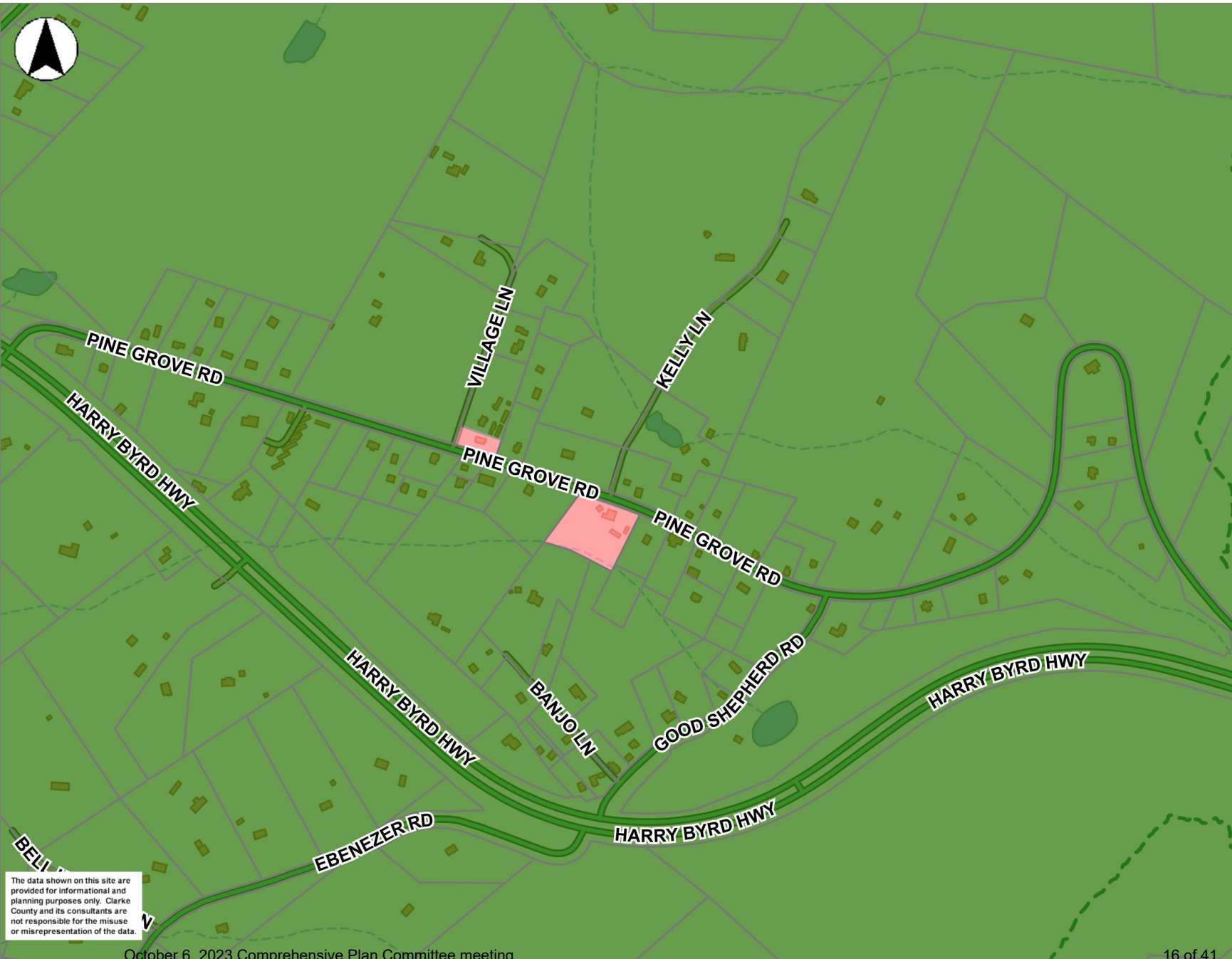
- CCSA-Water
- Exclusive Sewer Service Area
- Parcels
- Parcels With Orthos
- Clarke County Boundary
- Major Roads
 - Interstate
 - US Highway
 - State Highway
- Surrounding Counties Open
- Surrounding Counties Non



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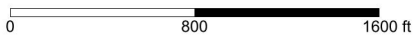
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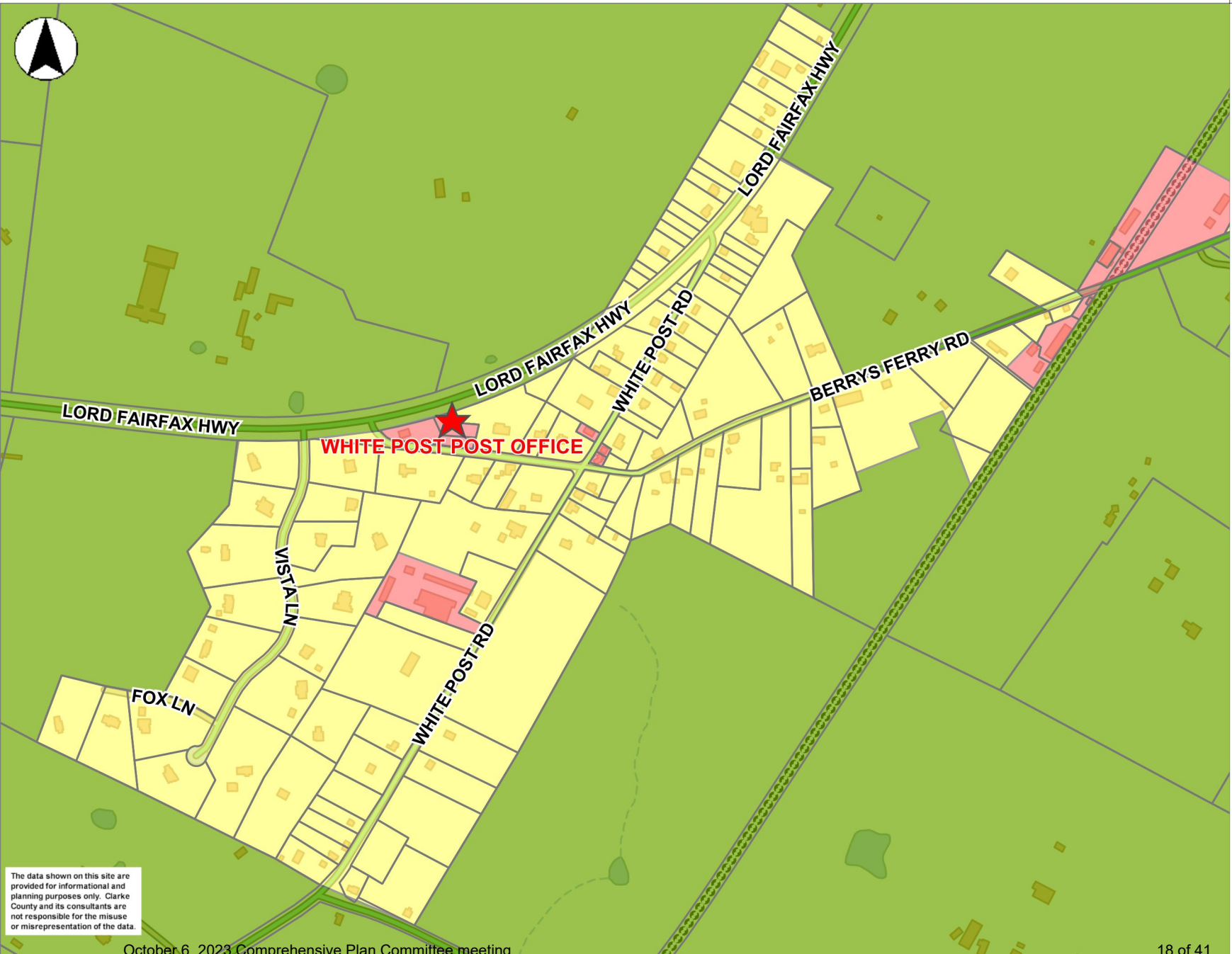


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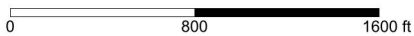
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What are the drawbacks of forming a sanitary district?

- In addition to the 50% of qualified voters required to sign the petition to create the district, there also needs to be the support of 50% of all real property owners.
- In order to become a sanitary district, BOS approval must be secured.

What are the drawbacks of sanitary district status?

- The BOS must approve the annual budget, tax rate, and any building impact fees.
- If not operated properly, the County has the authority to step in and take over operations.
- Must follow County/State procurement requirements.
- Must have an annual audit performed
- County would charge a 5% plus \$350 annual fee for collection.

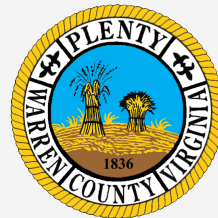
How do we get started?

The residents of the subdivision must circulate a petition for the creation of a sanitary district. Interested registered voters who reside in the subdivision should sign the petition. Once the required number of signatures has been obtained, an attorney may draft the necessary paperwork to file the petition with the County Administrator's Office for the creation of the sanitary district.

October 6, 2023 Comprehensive Plan Committee meeting

Currently there are 14 sanitary districts in Warren County. They include:

- Blue Mountain
- Cedarville Heights
- High Knob
- Lake Front Royal
- Linden Heights
- Osprey Lane
- Riverside
- Shangri-La
- Shannon Woods
- Shenandoah Farms
- Shenandoah Shores
- Skyland Estates
- South River Estates
- Wildcat Drive



If your subdivision is interested in becoming a sanitary district, or if you would like to receive more information regarding the process to become one, please contact Edwin C. Daley, Interim County Administrator by phone at (540) 636-4600 or via email at edaley@warrencountyva.net.



Sanitary Districts



Warren County Planning Department

220 North Commerce Avenue
Suite 400
Front Royal, Virginia 22630
(540) 636-3354

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What is a sanitary district and what are its powers and duties?

A sanitary district is a special taxing district allowed by the Code of Virginia. The governing body of a sanitary district has the following powers and duties:

- To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment, power, gas, streets, parking lots, curbs, gutters, sidewalks, community buildings, community centers and other recreational facilities for the use and benefit of the public in such sanitary districts.
- To acquire by gift, condemnation, purchase, lease or otherwise the systems listed above.
- To levy and collect an annual tax upon all property in such sanitary district.
- To abate nuisances that may exist within the district.

How is a sanitary district created?

The Board of Supervisors of any county, upon the petition of 50 qualified voters of a proposed district, or if the proposed district contains less than 100 qualified voters upon petition of 50% of the qualified voters of the proposed district, may adopt an ordinance creating a sanitary district. The ordinance shall create the boundaries and powers for such district. To approve, the Board of Supervisors must find that creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50% of persons who own real property in the district or, in the case of enlargement, the area proposed to be included.

October 6, 2023 Comprehensive Plan Committee meeting

How would sanitary district status affect an existing Homeowners'/Property Owners' Association (HOA/POA) and current fees?

The Warren County Board of Supervisors (BOS) would be designated as the governing board of the sanitary district. The HOA/POA would submit an annual budget and proposed tax rate to the BOS for approval. Once a subdivision is designated as a sanitary district, the subdivision governing body could waive or eliminate the annual fees currently paid to the association.

What are the benefits of becoming a sanitary district?

There are a number of benefits that the residents of a subdivision would receive from becoming a sanitary district, which include:

- Sanitary district status will not affect the privacy of roads, gate, pool, etc.
- The ability to establish uniform fees throughout the entire subdivision (some subdivisions have different covenanted rates).
- All lots, including those owned by a developer, would be subject to sanitary district taxes.
- Sanitary district taxes would be collected by the Warren County Treasurer's Office, thereby increasing the collection rate and freeing the HOA/POA from the burden of collection. Currently the County charges a fee of 5% plus \$350.00 for collecting the Sanitary District tax, much less than collection firms charge for collecting on delinquent accounts.
- Sanitary district fees are treated as taxes and therefore may be deductible on one's

Federal Income Tax Return. Taxpayers should consult a tax advisor to determine if this general rule applies to their particular tax situation.

- For the majority of homeowners, sanitary district taxes would be collected along with County taxes on one's mortgage escrow each year.
- Sanitary district tax rates could be set up on a tiered system to allow for a lower rate for undeveloped lots.
- Builders could be required to pay impact fees prior to the issuance of a building permit.
- The district would be eligible for various State and Federal disaster relief funds and be allowed to acquire surplus government property.
- The district could have the ability to raise additional revenue to make necessary improvements to the community.
- There would no longer be a need for the HOA/POA to place liens on property as any unpaid sanitary district taxes would have to be paid before the sale of any property. The HOA/POA could lose unpaid fees if there is no lien placed on individual properties when they are sold.
- Sanitary district status can provide stability for a subdivision and can likely increase property values. It could also improve the credit status of the district.

Can a sanitary district be dissolved?

The Code of Virginia contains provisions to abolish any sanitary district created after July 1, 2017 upon petition by ordinance of the Board of Supervisors.

Virginia Authorities Sanitary Districts

§ 21-112.22. Definitions

Whenever the words "circuit court" are used in this chapter, they shall also be construed to mean "circuit or corporation court" of a city; whenever the word "county" appears in this chapter, it shall also be construed to mean "city," and whenever the words "governing body of a county" shall appear, they shall also be construed to mean "city council."
1964, c. 525.

§ 21-113. Creation; inclusion of town in new or enlarged district

The governing body of a county in the Commonwealth, upon the petition of 50 qualified voters of a proposed district or, if the proposed district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters of the proposed district, may, by ordinance, create a sanitary district or districts in and for the county, which ordinance shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

1930, p. 1002; 1933, p. 32; 1936-7, p. 69; Michie Code 1942, § 1560m; 1970, c. 584; 2017, c. 14.

§ 21-114. Hearing and notice thereof

Upon the filing of the petition, the governing body of a county shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a finding of fact of whether creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons who reside in or who own real property in (a) a proposed district or (b) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body, with the first publication appearing no more than 21 days before the hearing. No such district shall be created until the notice has been given and the hearing had.

1930, p. 1002; 1940, p. 173; Michie Code 1942, § 1560n; 1985, c. 104; 2017, c. 14; 2023, cc. 506, 507.

§ 21-115. Answer and defense

Any person interested may answer the petition and make defense thereto; and if upon such hearing the governing body of a county be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

1940, p. 173; Michie Code 1942, § 1560n; 2017, c. 14.

§ 21-116. Enlargement of sanitary districts

The governing body of a county, upon the petition of 25 percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may, by ordinance, extend the boundaries and enlarge any sanitary district created under the provisions of this article, which ordinance shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ 21-114 and 21-115, and the notice of such hearing may require all interested persons to appear and show cause why any

special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § 21-118 may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such ordinance enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the district, and such ordinance shall expressly preserve and protect such rights and interests. All interested persons who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing.

1947, p. 136; Michie Suppl. 1948, § 1560s4; 1964, c. 517; 1985, c. 104; 2017, c. 14.

§ 21-116.1. Alteration of boundaries or reduction of area of sanitary districts in certain counties

Chapter 549 of the Acts of 1950, as amended by Acts 1952, c. 202, relating to alteration of boundaries or reduction of area of sanitary districts in any county adjoining a county having a population in excess of 2,000 per square mile, is incorporated in this Code by this reference.

1950, c. 549; 1952, c. 202.

§ 21-117. Merger of sanitary districts

Any two or more sanitary districts heretofore or hereafter created in any county under the provisions of this article may be merged into a single district by the governing body of the county, by ordinance, upon the petition of not less than 50 qualified voters residing within the boundaries of each of the districts desiring to be so merged, which ordinance shall prescribe the metes and bounds and the name or other designation of the single district created by such merger. From and after the adoption of such ordinance, the governing body of such county shall, as to the single districts so created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by § 21-118, and all funds then on hand to the credit of each of the districts so merged shall be merged into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the governing body of the county upon the hearing next herein provided for.

Upon the filing of the petition, a hearing shall be had before the governing body of the county, after notice as provided by § 21-114, which notice shall require all interested parties to appear and show cause, if any they can, (i) why the funds then on hand to the credit of each of the merged districts should not be merged into a single fund for the purpose above mentioned; and (ii) why a special tax should not be levied on all the property within the limits of the consolidated district, subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the principal at maturity of any then outstanding bonds theretofore issued by any one or more of the districts so merged.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the combination of the funds on hand to the credit of each of the districts so merged and the levying of a special tax on all the taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned, provided that such ordinance shall preserve and protect the rights of the holders of any such outstanding bonds, whose rights and interests shall not be limited or affected by any of the provisions of this section.

1942, p. 247; Michie Code 1942, § 1560s1; 2017, c. 14.

§ 21-117.1. Abolishing sanitary districts

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article may be abolished by ordinance adopted by the governing body of such county, upon the petition of no less than 50 qualified voters residing within the

boundaries of the district desired to be abolished or, if the district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the governing body of the county shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the governing body of the county shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body of the county, with the first publication appearing no more than 21 days before the hearing. No such district shall be abolished until the notice has been given and the hearing had.

Any interested parties may appear and be heard on any matters pertaining to the subject of the hearing.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the abolition of the district and as to the funds on hand to the credit of the district, provided, however, that no such ordinance shall be adopted abolishing the sanitary district unless any bonds of the sanitary district that have theretofore been issued have been redeemed and the purposes for which the sanitary district was created have been completed, or unless all obligations and functions of the sanitary district have been taken over by the county as a whole, or unless the purposes for which the sanitary district was created are impractical or impossible of accomplishment and no obligations have been incurred by said sanitary district.

1954, c. 135; 2017, c. 14; 2023, cc. 506, 507.

§ 21-118. Powers and duties of governing body

After the adoption of such ordinance creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.
2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least seven days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.
3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.
4. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.
5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § 21-118.4 (d), and to provide for the collection

of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission.

6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. To employ and fix the compensation of any technical, clerical or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems and sidewalks.

8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district.

9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.

10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:

a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2, and by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1;

b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1; or

c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of Title 25.1.

11. To appoint, employ and compensate out of the funds of the district as many persons as special policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of the Commonwealth and of the county within such district. Such special policemen shall have, within such district and within one-half mile thereof, all of the powers vested in policemen appointed under the provisions of Article 1 (§ 15.2-1700 et seq.) of Chapter 17 of Title 15.2.

1930, p. 1002; 1934, p. 494; 1936, p. 463; 1938, p. 19; Michie Code 1942, § 1560a; 1952, c. 113; 1956, c. 588; 1960, c. 36; 1962, c. 497; 1976, cc. 585, 684; 1977, cc. 276, 516; 1981, c. 564; 2002, c. 194; 2003, c. 940; 2017, c. 14; 2023, cc. 506, 507.

§ 21-118.1. Authority to acquire property from United States or any agency thereof

Notwithstanding the provisions of any other law, the governing body of any sanitary district may, by ordinance or resolution, authorize the acquisition and purchase from the United States, or any agency thereof, whether now existing or hereafter created, of any equipment, supplies, materials, or other property, real or personal, in such manner as such governing body may determine.

It is the purpose of this section to enable sanitary districts to secure from time to time promptly

the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends such districts shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed. 1945, p. 35; Michie Suppl. 1946, § 2734e.

§ 21-118.2. Certain counties authorized to use sanitary district funds for certain purposes

The board of supervisors of any county operating sanitary districts under the provisions of this chapter as amended or under the provisions of an act or acts continued in effect by § 21-120, may use sanitary district funds for police protection and for construction and operation of community houses within the district, provided that this section shall apply only to Chesterfield County and Henrico County. Action hereunder shall be subject to the rights of the holders of any bonds issued by such district.

1952, c. 26; 2007, c. 813.

§ 21-118.3. Levy and expenditure of taxes in certain counties; validation of expenditures

In addition to the powers granted in § 21-118 of the Code of Virginia, the governing body of any county having a population in excess of 30,000 but not in excess of 35,000 and containing two cities of the first class, in which a sanitary district has been created pursuant to the provisions of this article, may levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay the whole or any part of the cost of construction of a sewerage and/or water supply system in such district and to pay the costs of preliminary engineering surveys and other expenses in connection with the construction of any such system.

Such governing body may expend funds from the general county levy to pay the costs for which taxes are hereinabove authorized to be levied in anticipation of the collection of such taxes.

Should it be determined that a sewerage and/or water supply system in such district is not feasible, or for any other reason should the same not be constructed, the governing body of said county, after the creation of such district has been ordered, may levy and collect an annual tax upon all the property within the boundaries of such sanitary district subject to local taxation, to reimburse the county's general levy fund for any expenditures advanced therefrom in connection with engineering surveys and other expenses in and about the creation of any such district. Any such expenditure made prior to April 3, 1952, is hereby validated.

1952, c. 555.

§ 21-118.4. Certain additional powers of governing body

Notwithstanding any other provisions of law, when an ordinance has been adopted creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors" shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to, and operate dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain, and operate, or to contract for such acquisition, construction, maintenance, and operation, within such sanitary district, such community buildings, community centers, other recreational facilities, and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal,

heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to, and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to, and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a \$50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed 10 percent of the amount due or \$10, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least 65 years of age or persons permanently and totally disabled as defined in § 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers or person or persons as it may determine, and the officer or officers or person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town, or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If any rates, fees or charges for the use of and for the services furnished by any system acquired

or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such 30-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services, and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees, or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees, or charges with interest shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such 30-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board, or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate

subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation, or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority, or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain, and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within 60 days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or 15 days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any

water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of 90 days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

1962, c. 571; 1964, c. 517; 1970, c. 674; 1975, cc. 251, 490; 1976, c. 684; 1977, c. 516; 1981, cc. 554, 563, 564; 1982, c. 447; 1983, c. 422; 1994, c. 432; 1997, c. 12; 2000, c. 230; 2011, cc. 438, 496; 2012, c. 485; 2017, c. 14.

§ 21-118.5. Unified water supply and sewerage systems for counties and sanitary districts; power of county governing body to fix rates; application of Public Finance Act

Whenever the board of supervisors of any county, as the governing board of such county, shall enter into, or has heretofore entered into, an agreement with one or more sanitary districts located within such county whereby the county has agreed to connect, operate, maintain, alter, improve, add to and extend within and without the territory of such sanitary district or districts the water supply or sewerage systems, or the water supply and sewerage systems, of such county and such district or districts, or the water supply or sewerage systems, or the water supply and sewerage systems, of two or more such sanitary districts, in the manner of and as a unified single water supply or sewerage system, or a unified single water supply and sewerage system, each of which is hereinafter referred to in this chapter as a "unified system," then, notwithstanding the provisions of the first sentence of § 21-118.4 (e), such board of supervisors is empowered to fix and prescribe the rate of charge for the use of such unified system with a view to the needs of such unified system as a whole. Such unified system shall constitute a "project" and a "revenue producing undertaking" for the purposes of and as defined in the Public Finance Act, Chapter 26 (§ 15.2-2600 et seq.) of Title 15.2. Such county in respect of such project and revenue producing undertaking shall have all the powers granted to counties by the Public Finance Act. Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

1972, c. 221; 1997, c. 12.

§ 21-118.6. Same; application of revenues; tax levy where revenues insufficient

Whenever a county and one or more sanitary districts have entered into an agreement for a unified water supply or sewerage system, or unified water supply and sewerage system, and such county has agreed therein to pay from the revenues of such unified system the principal of and interest on all bonds issued for water or sewer purposes, or both, as the case may be, by such sanitary district or districts, and to impose such schedule of rates, rentals, fees and charges for the use and services of such unified system so as to produce revenues sufficient for such payment, such county may also apply the revenues derived from such rates, rentals, fees and charges to the payment of the cost of operation and maintenance of the unified system, to the cost of renewals and replacements and to any other lawful purposes connected with or pertaining to such unified system, including the making of additions to and expansions of such unified system, to the payment of the principal of and interest on any bonds issued by such county for the purpose of such unified system and to the creation and maintenance of such reserves as may

be deemed necessary by such county to effect any financing for such unified system. The order of any priority of the application of such revenues to any of the foregoing purposes, including to the payment of the principal of and interest on such bonds of the sanitary districts, may be determined by the board of supervisors as the governing body of the county. If at any time the revenues derived from rates, rentals, fees and charges for the use and services of such unified system, are insufficient to provide for the operation and maintenance of the unified system, and for payment of principal of and interest on such bonded indebtedness of the sanitary district as the same shall become due, such sanitary district shall levy an annual tax upon all property in such sanitary district subject to local taxation to pay such principal and interest as the same shall become due. Nothing contained in the immediately preceding sentence shall, however, be construed to relieve the county of its obligations under any such agreement to impose rates, rentals, fees and charges for the use and services of such system sufficient to pay such costs of operation and maintenance and to provide for the payment of such principal and interest.
1972, c. 221.

§ 21-118.7. Same; payment to county of revenues held by district

Any agreement for the creation of a unified system may provide for the payment over to the county of net revenues held by the district or districts theretofore derived from the water supply or sewerage systems, or both, of the district or districts that are to become part of such unified system.
1972, c. 221.

§ 21-118.8. Same; ratification of prior agreements

Any agreement heretofore entered by a county with one or more sanitary districts with respect to a unified system containing provisions substantially in compliance with §§ 21-118.5, 21-118.6 or 21-118.7, and the proceedings heretofore taken with respect to such agreement, are hereby ratified, validated, confirmed and approved, notwithstanding that any provisions of said agreement may have been inconsistent with the provisions of this chapter prior to the enactment of §§ 21-118.5 to 21-118.8.
1972, c. 221.

§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing bodies, etc., not affected

A. Each sanitary district created or purported to be created by the governing body of a county, heretofore or hereafter made and adopted pursuant to any general law of the Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or hereafter made by or for any such district are hereby determined to be general tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges, magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B, the board of supervisors of Buckingham County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners

abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in § 21-118.4.

1936, p. 497; Michie Suppl. 1946, § 1560s3; 1997, c. 261; 2005, c. 839; 2007, c. 813; 2017, c. 14.

§ 21-119.1. Transfer of certain sanitary districts to towns

(1) The governing body of any county in which a sanitary district has been established and subsequent thereto a town has been created, the boundaries of such town being the same as those of the sanitary district, is authorized to transfer all jurisdiction and control over such district to such town.

(2) Such transfer shall be subject to approval by the bondholders.

(3) Upon the transfer of such district to the town all power and authority of the county over the affairs of such district shall terminate and all such power and authority shall be transferred to and vest in the governing body of the town and all obligations and indebtedness of such district shall be and become an obligation of the town. Such transfer shall not be made, unless, in addition to the other conditions herein set forth, the governing body of such town assents thereto.

1952, c. 626.

§ 21-120. In certain cities and counties

Chapter 161 of the Acts of 1926, as amended, codified as §§ 1560a-1560l2 of Michie Code 1942 and Michie Suppl. 1946, and last amended by chapter 465 of the Acts of 1948, providing for sanitary districts in counties having more than 500 inhabitants per square mile or adjoining a county having more than 1,000 inhabitants per square mile or adjoining a city having a population of 170,000 or more, is continued in effect. Chapter 189 of the Acts of 1932, codified as §§ 1560t-1560z of Michie Code 1942, providing for sanitary districts in counties having a population of between 35,000 and 37,000 according to the census of 1930, is continued in effect. Chapter 232 of the Acts of 1944, codified as § 1560l3 of Michie Suppl. 1946, relating to levy of sanitary district tax in lieu of issuance of bonds in counties having an area of more than forty-five and less than sixty square miles, is continued in effect. Chapter 305 of the Acts of 1944, as amended by Chapter 372 of the Acts of 1946, and Chapter 70 of the Acts of 1948, relating to levy of assessments in sanitary districts in counties adjoining a county having more than 1,000 inhabitants per square mile, is continued in effect.

The following amendments and repeal of Acts of Assembly continued in effect by this section are incorporated in this Code by this reference:

Amendments to Chapter 161, as amended, of the Acts of 1926.

Chapter 198 of the Acts of 1950.

Chapter 442 of the Acts of 1950.

Chapter 300 of the Acts of 1952.

Chapter 324 of the Acts of 1954.

Chapter 691 of the Acts of 1956.

Chapter 454 of the Acts of 1958.

Chapter 521 of the Acts of 1958.

Chapter 561 of the Acts of 1960.

Chapter 554 of the Acts of 1962.

Chapter 344 of the Acts of 1964.

Chapter 678 of the Acts of 1968.

Chapter 253 of the Acts of 1970.

Chapter 597 of the Acts of 1970.

Chapter 219 of the Acts of 1972.

Chapter 222 of the Acts of 1972.

Chapter 303 of the Acts of 1977.

Chapter 294 of the Acts of 1981.

Chapter 732 of the Acts of 1984.
Chapter 51 of the Acts of 1989.
Chapter 394 of the Acts of 1989.
Chapter 1025 of the Acts of 1999.
Repeal of Chapter 189 of the Acts of 1932.
Chapter 139 of the Acts of 1956.

§ 21-121. Validation of proceedings

All proceedings had in the creation of sanitary districts in the Commonwealth prior to January 1, 1970, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created under existing law or by special act are declared to have been validly created and established notwithstanding any defects or irregularities in the creation thereof.

1946, p. 64; 1958, c. 588; 1968, c. 62; 1970, c. 441.

§ 21-121.1. Further validation of proceedings

All proceedings had in the creation of sanitary districts in the Commonwealth prior to June 30, 1954, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created, under existing general law or by special act, are declared to be validly created and established, notwithstanding any defects or irregularities in the creation thereof, including any curable unconstitutionality of a procedural character, such as failure of the act to correspond with title and such constitutional questions.

1950, p. 4; 1954, c. 68.

§ 21-121.2. Additional validation of proceedings

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

1960, c. 562; 1962, c. 26; 1964, c. 243.

§ 21-121.2:1. Same; bond issues

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

All proceedings heretofore taken and all elections heretofore held in sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, to provide for, and with respect to, the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of all such sanitary districts, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of the governing body of the county in which any such district is located to authorize and issue such bonds, or to authorize the execution, sale or delivery thereof, and notwithstanding any defects or irregularities in any such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be binding, legal, valid and enforceable obligations of any such sanitary districts, notwithstanding any statutory limitation on the amount thereof.

It is the intention of the General Assembly that this section shall be liberally construed to effectuate the purposes set out therein.

1966, c. 199.

§ 21-121.3. Powers of districts created under other laws

Any sanitary district heretofore created under general law or special act shall have all of the powers specified in this article notwithstanding any limitations contained in any general law or special act pursuant to which such sanitary district was created and notwithstanding any limitations contained in the proceedings taken for the creation thereof.

1964, c. 165.

§ 21-121.4. Powers of boards of supervisors and other governing bodies of counties with respect to sanitary districts

Notwithstanding anything in this article to the contrary, the board of supervisors or other governing body of a county and the requisite number of qualified voters may, with respect to any and all sanitary districts of whatsoever kind, whether heretofore or hereafter created pursuant to this article or pursuant to any other general or special act, exercise all of the powers granted them by §§ 21-116, 21-117, 21-117.1, 21-118, 21-118.1 and 21-118.4.

1968, c. 275.

§ 21-121.5. Validation of certain actions

All proceedings had in the creation, enlargement or merger of sanitary districts in the Commonwealth prior to January 1, 1977, whether under general law or by special act, are validated and confirmed, and all such districts so created, enlarged or merged or attempted to be created, enlarged or merged under existing law or by special act are declared to have been validly created, established, enlarged or merged notwithstanding any defects or irregularities in the creation, enlargement or merger thereof.

1977, c. 183.

§ 21-121.6. Sanitary districts in certain counties with a water and sewer authority

A. This section shall apply to any sanitary district created after January 1, 1993, in a county with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.).

B. The circuit court shall not enter an order pursuant to § 21-123 requiring an election until a resolution of the governing body requesting the entry of such order has been filed with the circuit court.

C. Notwithstanding the provisions of §§ 21-125 and 21-128, if an election conducted pursuant to § 21-124 indicates that a majority of the qualified voters of the sanitary district voting on the question are in favor of issuing bonds for a purpose for which the sanitary district was created, no bonds of the sanitary district shall be issued, and the circuit court shall not require the issuance of such bonds, without the approval of the governing body of the county.

D. If a sanitary district levies a tax upon property within the sanitary district pursuant to subdivision 6 of § 21-118, such tax shall be based on the full assessed value of the taxable property within the sanitary district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. In addition to the notice required pursuant to § 21-114, the petitioners shall provide a written notice of the court hearing to each owner of property within the proposed district which is currently assessed at its use value pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. Such notice shall be mailed, first class, at least twenty-one days prior to the hearing to each such owner as listed in the current real estate assessment records, and an affidavit shall be filed with the court evidencing that such notice has been mailed.

E. The county's claim of taxes and its lien on property pursuant to Article 11 (§ 58.1-3340 et seq.) of Chapter 32 of Title 58.1 shall have priority over any claim or lien for any tax levied pursuant to subdivision 6 of § 21-118.

F. The governing body of a sanitary district may enter into agreements with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) for the construction, operation, use, control, ownership, and maintenance of any water supply, sewerage or other systems or facilities located within or outside of the boundaries of the sanitary district. Such agreements may provide that the authority will provide any service which the authority is permitted to provide and which the sanitary district may provide through the construction, establishment, maintenance, and operation of its own system or systems. The governing body of the county shall have the power to issue bonds of the sanitary district for the construction, establishment, and maintenance of any systems providing such service, whether such systems are owned by the sanitary district or the authority. The sanitary district and the authority may also agree on the imposition, collection, and use of rates, fees, and charges relating to such systems, including reimbursements by or to persons utilizing such systems. Notwithstanding the provisions of subdivision 2 of § 21-118, the sanitary district may sell, lease as lessor, transfer or dispose of any of its property, real, personal or mixed, to the authority without holding a public hearing.
1993, c. 272.

§ 21-122. Authority to issue bonds; limitation of amount

The governing body of any county in which a sanitary district has been or may hereafter be created by general or special law shall have power, subject to the conditions and limitations of this article, to issue bonds of such sanitary district to an amount in the aggregate of not exceeding eighteen per centum of the assessed value of all real estate in the district subject to local taxation, for the purpose of raising the necessary funds to carry into effect any or all of the purposes specified in Article 1 (§ 21-112.22 et seq.) of Chapter 2 of Title 21, provided, however, that such limitation of eighteen per centum shall not apply if the petition required by § 21-123 states the maximum amount of bonds to be issued, and if such bonds are to be issued for a specific undertaking from which the sanitary district may derive revenue, but from and after a period to be determined by the governing body of the county, not exceeding five years from the date of the election authorized in § 21-123, whenever and for so long as such undertaking fails to produce sufficient revenue to pay the cost of operation and administration (including interest on bonds issued therefor), and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay, at or before maturity, all bonds issued on account of such undertaking, all such bonds outstanding shall be included in determining such limitation.

1946, p. 180; Michie Suppl. 1946, § 1560z1; 1964, c. 165.

§ 21-122.1. Bonds for special purpose; no election required

The governing body of any county in which a sanitary district has been or may be created by general or special law shall have the power to issue bonds to satisfy improvements to water or sewerage systems mandated by the State Water Control Board, pursuant to the Federal Water Pollution Control Act, as amended (P.L. 92-500).

The principal and interest on bonds issued under this section shall be paid by the governing body exclusively from revenues and receipts from the water or sewerage system which is to be improved.

For the purposes of this section, the term "mandated" shall also mean any agreement between a governing body and the State Water Control Board to come into compliance with the requirements of the State Water Control Law.

Issuance of such bonds shall be subject to the conditions or limitations of this article; however, no bond referendum shall be required for bonds to be issued pursuant to this section. The sections of this article pertaining to election requirements and procedures shall not be applicable where bonds are to be issued for the purposes set forth herein. In addition, the provisions of §§ 21-137.2 and 21-138, authorizing an annual tax to be levied upon all the property in the district

in order to pay the principal and interest due on the bonds, shall not be applicable to bonds issued under this section.

All bonds issued under the provisions of this section shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town or other subdivision of the Commonwealth are pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this section shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or other subdivision of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this section.

1986, c. 340.

§ 21-123. Order requiring election

The circuit court of such county, upon the petition of a majority of the members of the governing body of the county, or upon the petition of fifty qualified voters residing in such sanitary district, shall make an order in accordance with § 24.2-684 requiring the officers of election to open a poll and take the sense of the qualified voters of the district on the question whether the governing body shall issue bonds for one or more of the purposes for which the sanitary district was created.

1946, p. 181; Michie Suppl. 1946, § 1560z2; 1976, c. 11.

§ 21-124. Conduct of election; canvass of returns, etc

The election shall be conducted in the manner prescribed by law for the conduct of regular elections, and the ballots shall be printed and voted, and the returns made and canvassed and the results certified, in accordance with the provisions of § 24.2-684.

1946, p. 181; Michie Suppl. 1946, § 1560z3.

§ 21-125. Procedure after election

If it shall appear from the report of the commissioners of election that a majority of the qualified voters of the sanitary district voting on the question are in favor of issuing the bonds, the circuit court, or the judge thereof in vacation, shall enter of record an order requiring the governing body to proceed at its next meeting to carry out the wishes of the voters as expressed at the election.

1946, p. 181; Michie Suppl. 1946, § 1560z4.

§ 21-126. Inquiry into election and returns

Whenever the sense of the qualified voters of the district shall be taken on the question whether the governing body shall issue bonds for one or more of the purposes for which the sanitary district was created, election and returns shall be subject to the inquiry, determination and judgment of the circuit court of the county upon the written complaint of twenty-five or more of the qualified voters of the district, of an undue election or false returns, two of whom shall take an oath that the facts set forth in such complaint are true to the best of their knowledge and belief, and the court shall, in judging of such election and returns, proceed upon the merits thereof and determine concerning the same according to the Constitution and laws of this Commonwealth, but such complaint shall not be valid unless it shall have been filed within thirty days after the election in the office of the clerk of the court. The governing body of the county shall be made a defendant by summons or notice to its chairman of the filing of the complaint, and after such service of notice on the chairman of such governing body, either party, upon reasonable notice to the other, shall be at liberty to take depositions to sustain or invalidate such election. Service of notice on any three of the complainants shall be sufficient. The court shall proceed at its next term after such service of summons or notice to determine the contest without a jury on the evidence, oral or written, unless good cause be shown for a continuance, and shall make a proper record of its judgment. If the judgment be that the election was a valid one in favor of the issuance of bonds in the district, the court shall make an order in conformity

with § 21-125.

1946, p. 181; Michie Suppl. 1946, § 1560z5.

§ 21-127. Amount of bonds

The governing body at its next meeting or as soon thereafter as practicable, shall determine what amount of bonds shall be issued for the purposes defined in the order calling the election.

The maximum amount of bonds issued shall in no case exceed the limitations prescribed in § 21-122, and in the event such governing body does not at such meeting direct the present issuing of all bonds, it may thereafter, from time to time, direct the residue thereof to be issued to carry out the wishes of the voters, so far as necessary, as expressed in such election.

1946, p. 181; Michie Suppl. 1946, § 1560z6.

§ 21-127.1. Borrowing in anticipation of bond issue

(a) In anticipation of the issuance of bonds under the provisions of this chapter and of the receipt of the proceeds of sale of such bonds, the governing body may on behalf of the sanitary district borrow money for the purpose for which such bonds have been authorized and within the maximum authorized amount of the bond issue. Each such loan shall mature and be paid within two years from the date of its original issue; provided, that on or after such maturity, any loan now outstanding or hereafter made may be extended from time to time, provided, further, that no such extension shall mature and be paid later than five years from the date of the original issue of said loan. The governing body may, in its discretion, retire any such loans by means of current revenues, special assessments, or other funds, in lieu of retiring them by means of bonds; provided that the maximum amount of bonds that has been authorized shall be reduced by the amount of such loans retired in such manner.

(b) Negotiable notes or other obligations shall be issued for all moneys borrowed under subsection (a). Such notes or other obligations may be renewed from time to time and money may be borrowed upon notes or other obligations from time to time for the payment of any indebtedness evidenced thereby, but all such notes or other obligations shall mature within the time limited by said subsection (a). The issuance of such notes or other obligations and other details thereof shall be governed by the provisions of this chapter with respect to bonds insofar as the same may be applicable.

(c) All such notes or other obligations heretofore issued on behalf of a sanitary district and proceedings had in connection therewith which conform to this section are hereby ratified, validated and confirmed and declared to be legal and as fully binding obligations as if issued under this section.

1966, c. 189; 1970, c. 124.

§ 21-128. Failure or refusal to issue bonds

In event the governing body, for any reason, fails or refuses to issue the bonds so authorized to be issued, the circuit court of the county may, upon the complaint of ten qualified voters of the district, and after ten days' notice to the chairman of the governing body, for cause shown, issue an order directing it to issue such bonds or any unissued residue thereof, or such portion thereof as the court may, from time to time, deem proper to be issued in order to carry out the wishes of the voters as expressed in the election.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-129. Agents for sale of bonds

The governing body shall have power to appoint an agent or agents to sell the bonds and to pay such agent or agents a commission for negotiating the sale not exceeding three per centum of the amount of bonds sold by them, provided the bonds shall be sold to be paid for in lawful money only, and shall not be sold at less than their par value. When such a sale has been negotiated, the governing body shall issue the bonds.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-130. Form of bonds

Such bonds may be either registered or with coupons attached, as the governing body may prescribe, and coupon bonds may be registerable as to principal, or as to principal and interest, at the option of the holder, under such rules and regulations as may be prescribed by the governing body. The bonds shall be signed by the chairman and countersigned by the clerk of the governing body under its seal; shall be in denominations of \$100 or some multiple thereof; shall bear interest at a rate not exceeding six percent per annum, payable semi-annually, both principal and interest to be payable at such place or places as may be determined by the governing body, and shall be payable not exceeding thirty-four years from the date thereof, but may, in the discretion of the governing body, be made redeemable at such time or times within such period or periods and upon such notice as the governing body may prescribe and stipulate upon the face of the bond when issued.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-130.1. Bonds mutilated, lost or destroyed

Should any bond issued under this chapter become mutilated or be lost or destroyed, the governing body of the county may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon cancellation of, such mutilated bond and its interest coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured interest coupons. Such new bond shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expense and charges in connection therewith and (2) in the case of a lost or destroyed bond has filed with the governing body and the county treasurer evidence satisfactory to such governing body and treasurer that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the county treasurer.

1962, c. 208.

§ 21-131. Delivery to treasurer

The governing body shall deliver the bonds to the treasurer of the county, who shall deliver them to the purchasers thereof, or to their order, upon the payment of the purchase price thereof.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-132. Liability of treasurer

The treasurer and his sureties shall be liable for the amount received for such bonds as though it were a county levy, and such funds shall be expended for the purposes for which the bonds were voted and none other.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-133. Cost of giving surety on additional bond or bonds required

The treasurer shall receive the reasonable cost of giving surety on such additional bond or bonds as may be required of him, if any, on account of his receipts heretofore or hereafter of such funds.

1946, p. 182; Michie Suppl. 1946, § 1560z6; 1952, c. 283.

§ 21-134. Deposit of proceeds

The governing body may direct the treasurer to deposit the proceeds of the bond issue in such bank or banks as it may approve, to the credit of such treasurer, to be paid out on his checks therefor, and at the rate of interest to be specified, and all interest accrued therefrom shall be accounted for by the treasurer, and shall be expended for the purposes for which the bonds were issued, and insofar as not necessary therefor, shall be paid into the sinking fund to redeem the principal thereof at maturity.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-134.01. Allocation of county funds to sanitary districts

The governing body of any county may advance funds, not otherwise specifically allocated or obligated, from the general fund to a sanitary district to assist the sanitary district to initiate the project for which it was created.

1964, c. 242, § 15.1-26.1; 1997, c. 587.

§ 21-134.1. Reimbursement of county for advances to sanitary district

Notwithstanding the provisions of § 21-132, the governing body shall direct the treasurer to reimburse the general fund of the county from the proceeds of the bond issue or from any funds to the credit of the sanitary district, not otherwise specifically allocated or obligated to the extent that the county has made advances to the sanitary district from such general fund to assist the district to initiate or effectuate the project for which it was created.

1954, c. 321; 1962, c. 335.

§ 21-134.2. Validation of advances to sanitary district

The advancement of any funds heretofore advanced from the general fund by the board of supervisors of any county in this Commonwealth for the benefit of a sanitary district in effectuating a project lawful for such sanitary district is hereby validated and confirmed.

1954, c. 321.

§ 21-135. Insolvency of depository

The treasurer shall not be liable for any deposits which shall be lost by reason of the insolvency or failure of any bank in which he shall have been directed by the governing body to deposit them.

1946, p. 183; Michie Suppl. 1946, § 1560z6.

§ 21-136. Bond of depository

A bond with surety may be required by such governing body from any bank in which such deposits are made.

1946, p. 183; Michie Suppl. 1946, § 1560z6.

§ 21-137. Repealed

Repealed by Acts 1972, c. 236.

§ 21-137.1. Payment of interest on and maintenance of sinking fund for term bonds; tax levy;

what constitutes "term bonds" and "serial bonds."

When term bonds have been issued the net revenue derived from the operation of such systems shall be set apart by the said board to pay the interest on the bonds so issued or to be issued, and to create a sinking fund to redeem the principal thereof at maturity. The board of supervisors is hereby authorized and empowered to apply any part or all of said sinking fund to the payment, if redeemable by their terms, or to the purchase of any such bonds, at any time, and all bonds so paid off or purchased by the board of supervisors shall be immediately cancelled, and shall not be reissued. The board of supervisors is authorized and empowered to invest all accumulations of money to the credit of the sinking fund in bonds of the United States, of the Commonwealth of Virginia, or of any county, city or town of the Commonwealth of Virginia, or to lend out, upon real estate security, the loan not to exceed fifty per centum of the assessed value of such real estate, or deposit in bank at interest, all accumulations of money to the credit of the sinking fund and to collect and reinvest the same and the interest accruing thereon from time to time, so often as is necessary or expedient, until the bonds become subject to call; provided that no money to the credit of the sinking fund shall be loaned out or deposited or invested by the board of supervisors unless such loan, deposit or investment is first approved by the circuit court of the county, or the judge in vacation, and the form of the security be examined and approved by the attorney for the Commonwealth of the county, which approval shall be entered of record in the order book of the court.

The treasurer shall not be liable for any funds herein provided for that are lost while on deposit made by order of the board of supervisors with any bank or banks, or when invested in any real estate security as provided herein, but the board of supervisors may require of any such bank a bond, with corporate or other surety, to secure such deposit, or may require a pledge of securities to secure such deposits as provided in §§ 58.1-3158 and 2.2-4400.

The board of supervisors shall, if necessary for the payment of interest on the bonds or to increase the sinking fund provided for hereunder, levy an annual tax upon all property in such sanitary district subject to local taxation to pay such interest and to make payments into such sinking fund. For the purposes of this section and § 21-137.2, the words "serial bonds" and "term bonds" shall have the respective meanings customarily given them in the municipal bond market. A finding made by the board of supervisors that an issue of bonds comprises term bonds or serial bonds, or that specified portions thereof comprise term bonds or serial bonds, as the case may be, shall be conclusive for all purposes of this section and § 21-137.2.

1972, c. 236.

§ 21-137.2. Payment of interest on serial bonds; no sinking fund required; tax levy; use of excess revenues

When serial bonds have been issued, the net revenue derived from the operation of such systems shall be applied to pay the interest on and the principal of such serial bonds as the same become due, but no sinking fund shall be required in respect of serial bonds.

The board shall, if necessary, levy an annual tax upon all property in such sanitary district, subject to local taxation, to pay such principal and interest as shall annually become due for payment. In the event net revenue exceeds the annual principal and interest due thereon, the board may use such net revenue for extensions and additions to the system, purchase and retirement of outstanding bonds of the district, or for any other lawful purpose consistent therewith.

1972, c. 236.

§ 21-138. Same; levy of tax

The governing body shall, if necessary for the payment of the interest on the bonds or to increase the sinking fund provided for hereunder, levy an annual tax upon all the property in the district subject to local taxation to pay such interest and to make payments into the sinking fund.

1946, p. 183; Michie Suppl. 1946, § 1560z7.

§ 21-139. Laws continued in effect

Sections 4 through 7 of Chapter 460 of the Acts of 1930, as amended by Chapter 15 of the Acts of 1933; Chapter 274 of the Acts of 1936; Chapter 28 of the Acts of 1936-7, codified as §§ 1560p-1560s of Michie Code 1942, relating to bonds of sanitary districts, is continued in effect.

Chapter 186 of the Acts of 1932, as amended by Chapter 164 of the Acts of 1938, codified as §§ 1560aa through 1560gg of Michie Code 1942, relating to bonds of sanitary districts created by special act, is continued in effect.

Chapter 25 of the Acts of 1947, as amended by Chapter 72 of the Acts of 1948, relating to the issuance of bonds by sanitary districts in counties adjoining a county having a population of not less than 1,000 a square mile, is continued in effect.

§ 21-140. Validation of proceedings

All proceedings had and all elections held in any sanitary district of the Commonwealth prior to January 1, 1946, to provide for and with respect to the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of such district are validated and confirmed, notwithstanding any lack of power of the governing body of the county in which such district is located to authorize and issue such bonds, or to execute, sell or deliver the same, and notwithstanding any defects or irregularities in such proceedings or

elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be valid and enforceable obligations of such sanitary district.
1946, p. 64.

§ 21-140.1. Further validation of proceedings

All proceedings had and all elections held in any sanitary district of the Commonwealth prior to June 30, 1954, whether under general law or by special act, to provide for and in respect to the contracting of bonded indebtedness and the authorization, issuance, sale, execution, and delivery of bonds by or on behalf of such district prior to June 30, 1954, whether under general law or by special act, are ratified and confirmed, notwithstanding the lack of power of the governing body of the county in which such district is located to authorize and issue such bonds or to execute, sell or deliver the same, and notwithstanding any defects or irregularities in such proceedings or elections concerning such execution, sale, or delivery, and notwithstanding any curable unconstitutionality of a procedural character, such as failure of the act to conform to the title and such other constitutional questions; and such bonds so issued or to be issued are and shall be binding, legal, valid, and enforceable obligations of such sanitary district.
1950, p. 4; 1954, c. 68.

§ 21-140.2. Additional validation of proceedings

All proceedings heretofore taken and all elections heretofore held in sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, to provide for, and with respect to, the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of all such sanitary districts, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of the governing body of the county in which any such district is located to authorize and issue such bonds, or to authorize the execution, sale or delivery thereof, and notwithstanding any defects or irregularities in any such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be binding, legal, valid and enforceable obligations of any such sanitary districts, notwithstanding any statutory limitation on the amount thereof.
1960, c. 562; 1962, c. 26; 1964, c. 243; 1968, c. 62; 1970, c. 441.

§ 21-140.3. Validation of certain bonds

All bonds heretofore issued by any sanitary district for any or all of the purposes specified in Article 1 (§ 21-112.22 et seq.) of Chapter 2 of Title 21 are hereby declared to be valid and legally binding obligations of such sanitary district, notwithstanding any limitations contained in any general law or special act pursuant to which such sanitary district was created and notwithstanding any limitations contained in the proceedings taken for the creation thereof.
1964, c. 165.