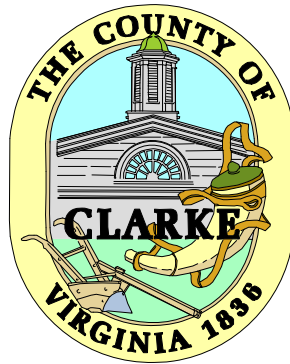


Board of Supervisors Committee Meeting Packet



Monday, January 9, 2017

Personnel Committee	9:30 am
Organizational Meeting & Work Session	10:00 am
Finance Committee	Cancelled



Personnel Committee Items

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611

Monday, January 9, 2017 9:30 am

Item No.

Description

- A. Expiration of Term for appointments expiring through March 2017
- B. Personnel Policy Update
- C. Administrative Assistant / Floating Clerk

Appointments by Expiration Through March 2017

Appt Date Exp Date Orig Appt Date:

December 2016

Board of Septic & Well Appeals

Caldwell	Anne	Millwood District; Planning Commission; Vice Chair - Alternate	1/8/2016	12/31/2016	1/10/2014
----------	------	--	----------	------------	-----------

1 Staff Rep; § 143-11. Appeals & variances. A. Board of Septic & Well Appeals 2. (a) the member of the Board of Supervisors, who serves as the Board's liaison to the Planning Commission, with The Vice Chair of the Board designated as his/her alternate, (b) a Chair of Planning Commission with the Vice Chair designated as his/her alternate, and (c) a member of the public, who is a resident of the county with the Vice Chair of the Planning Commission designated as his/her alternate. All members shall be appointed by the Board of Supervisors at their first regular meeting of each year.

Ohrstrom, II	George	Russell District; Planning Commission Chair	1/8/2015	12/31/2016	1/10/2014
--------------	--------	---	----------	------------	-----------

1 Staff Rep; § 143-11. Appeals & variances. A. Board of Septic & Well Appeals 2. (a) the member of the Board of Supervisors, who serves as the Board's liaison to the Planning Commission, with The Vice Chair of the Board designated as his/her alternate, (b) a Chair of Planning Commission with the Vice Chair designated as his/her alternate, and (c) a member of the public, who is a resident of the county with the Vice Chair of the Planning Commission designated as his/her alternate. All members shall be appointed by the Board of Supervisors at their first regular meeting of each year.

January 2017

Clarke County Sanitary Authority

4 Yr

DeArment	Roderick	White Post District, Chair	6/25/2015	1/5/2017	6/16/2015
----------	----------	----------------------------	-----------	----------	-----------

Elected Chair 2016

The board of the Authority shall be appointed by the BOS and shall be composed of 5 members, 1 of whom shall be a resident of the Town of Boyce, each for a term of 4 years and until his successor is appointed and qualifies except appointments to fill vacancies, which shall be for the remainder of such un-expired term. The Town may submit a nominee or nominees to the BOS for its consideration in making the appointment of the Boyce resident member. From VA Code 15.2-5113 D) Alternate board members may also be selected. Such alternates shall be selected in the same manner and shall have the same qualifications as the board members except that an alternate for an elected board member need not be an elected official. Oath of Office Required.

Mackay-Smith, J	Alexander	White Post District, Vice Chair	1/15/2013	1/5/2017	11/20/2001
-----------------	-----------	---------------------------------	-----------	----------	------------

The board of the Authority shall be appointed by the BOS and shall be composed of 5 members, 1 of whom shall be a resident of the Town of Boyce, each for a term of 4 years and until his successor is appointed and qualifies except appointments to fill vacancies, which shall be for the remainder of such un-expired term. The Town may submit a nominee or nominees to the BOS for its consideration in making the appointment of the Boyce resident member. From VA Code 15.2-5113 D) Alternate board members may also be selected. Such alternates shall be selected in the same manner and shall have the same qualifications as the board members except that an alternate for an elected board member need not be an elected official. Oath of Office Required.

March 2017

Berryville Area Development Authority

3 Yr

Smart	Kathy	White Post District	1/23/2014	3/31/2017	3/20/2012
-------	-------	---------------------	-----------	-----------	-----------

3 members appointed by the BOS and 3 members appointed by the BTC; Membership set by the County/Town Annexation Agreement of 1988

Clarke County Committee Listing

			<i>Appt Date</i>	<i>Exp Date</i>
<i>Agricultural & Forestal District Advisory Committee</i>				6 Yr
Buckley	Samuel	Landowner/Producer	8/18/2015	7/15/2021
Childs	Corey	Landowner	8/18/2015	7/15/2021
Day	Emily	Landowner/Producer	8/18/2015	7/15/2021
Dorsey	Tupper	Landowner/Producer	8/18/2015	7/15/2021
Gordon	Carolyn	Landowner	8/18/2015	7/15/2021
Haynes	Carole	Landowner	9/15/2015	7/15/2021
McKay	Beverly B.	BoS - Appointed Member	8/18/2015	7/15/2021
Peake	Donna	Commissioner of the Revenue	8/18/2015	7/15/2021
Shenk	Philip	Landowner/Producer	8/18/2015	7/15/2021
<i>Barns of Rose Hill Board of Directors</i>				3 Yr
Cammack	Thomas		1/19/2016	12/31/2018
<i>BCCGC Joint Building Committee</i>				Open-End
Ash	David L.	County Administrator		
Dalton	Keith	Berryville Town Manager		
Kitselman	Allen	Berryville Town Council Representative		
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Berryville Area Development Authority</i>				4 Yr
McFillen	Thomas	Berryville District	10/18/2016	3/31/2018
Ohrstrom, II	George	Russell District	3/15/2016	3/31/2019
Smart	Kathy	White Post District	1/23/2014	3/31/2017
<i>Berryville/Clarke County Joint Committee for Economic Development and Tourism</i>				Ongoing
Arnold, Jr.	Harry Lee	BTC - Appointed Member		
Ash	David L.	County Administrator	1/11/2016	12/31/2016
Capelli	Len	Director of Economic Development	4/14/2015	
Dunkle	Christy	Staff Representative - Town		
Stidham	Brandon	Staff Representative - County	5/20/2014	
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Board of Septic & Well Appeals</i>				4 Yr
Blatz	Joseph	White Post District; Citizen Member	1/19/2016	2/15/2020
Caldwell	Anne	Millwood District; Planning Commission; Vice Chair - Alternate	1/8/2016	12/31/2016
Daniel	Mary L.C.	BoS - Alternate	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Vice Chair Appointed Member	1/11/2016	12/31/2016
Ohrstrom, II	George	Russell District; Planning Commission Chair	1/8/2015	12/31/2016

Friday, December 30, 2016

Page 1 of 7

			<i>Appt Date</i>	<i>Exp Date</i>
<i>Board of Social Services</i>				4 Yr
Butcher	Jeff		10/18/2016	7/15/2017
Byrd	Barbara J.	BoS - Appointed Member	1/11/2016	12/31/2016
Dodson	Gerald		10/18/2016	7/15/2020
Gray	Lynn	Berryville District	6/17/2014	7/15/2018
Pierce	Edwin Ralph	Berryville District	11/18/2014	7/15/2018
<i>Board of Supervisors</i>				4 Yr
Byrd	Barbara J.	Russell District	1/1/2016	12/31/2019
Catlett	Terri T.	Millwood/Pinegrove Districts	1/1/2016	12/31/2019
Daniel	Mary L.C.	Berryville District	1/1/2016	12/31/2019
McKay	Beverly B.	White Post District, Vice Chair	1/1/2016	12/31/2019
Weiss	David S.	Buckmarsh/Blue Ridge Districts; Chair	1/1/2016	12/31/2019
<i>Board of Supervisors Finance Committee</i>				1 Yr
Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
Catlett	Terri T.	BoS - Appointed Member	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Board of Supervisors Personnel Committee</i>				1 Yr
Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Board of Zoning Appeals</i>				5 Yr
Borel	Alain F.	White Post District	1/23/2014	2/15/2019
Caldwell	Anne	Millwood District	2/25/2015	2/15/2020
Kackley	Charles	Russell District	2/12/2008	2/15/2018
McKelvy	Pat	Alternate At Large	2/6/2014	2/15/2019
Means	Howard	Millwood District	2/15/2016	2/15/2021
Volk	Laurie	White Post District	2/18/2014	2/15/2019
<i>Building and Grounds</i>				1 Yr
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
Weiss	David S.	BoS - Alternate	1/11/2016	12/31/2016
<i>Career and Technical Education Advisory Committee</i>				1 Yr
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Clarke County Historic Preservation Commission</i>				4 Yr
Arnett	Betsy	Berryville District	4/19/2016	5/31/2020
Caldwell	Anne	Millwood District	4/16/2014	5/31/2017

Friday, December 30, 2016

Page 2 of 7

			<i>Appt Date</i>	<i>Exp Date</i>
Carter	Paige	White Post District	4/19/2016	5/31/2020
Joyce	Jon	Buckmarsh District	6/16/2015	5/31/2019
Kruhm	Doug	Planning Commission Representative	2/16/2016	4/30/2017
Stieg, Jr.	Robert	Millwood District	6/17/2014	5/31/2018
Teotor	Alison	Staff Representative		
York	Robert	White Post District	6/18/2013	5/31/2017
<i>Clarke County Humane Foundation</i>				<i>1 Yr</i>
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
<i>Clarke County Library Advisory Council</i>				<i>4 Yr</i>
Al-Khalili	Adeela	Buckmarsh District	3/17/2015	4/15/2019
Bogert	Aubrey	White Post District	9/20/2016	4/15/2018
Curran	Christopher	Buckmarsh District	4/16/2013	4/15/2017
Daisley	Shelley	Russell District	5/17/2016	4/15/2020
Daniel	Mary L.C.	BoS - Liaison	1/11/2016	12/31/2016
Foster	Nancy	Russell District	4/19/2016	4/15/2020
Holscher	Dirck	Russell District	4/16/2013	4/15/2017
Kalbian	Maral	Millwood District	2/17/2015	4/15/2019
White	Kenlynne	Berryville District	7/15/2014	4/15/2017
Zinman	Maxine	Russell District	3/17/2015	4/15/2019
<i>Clarke County Litter Committee</i>				<i>1 Yr</i>
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
<i>Clarke County Planning Commission</i>				<i>4 Yr</i>
Bouffault	Robina Rich	White Post / Greenway District	3/15/2016	4/30/2020
Buckley	Randy	White Post District	1/23/2014	4/30/2018
Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
Caldwell	Anne	Millwood / Chapel District; Vice Chair	4/16/2013	4/30/2017
Daniel	Mary L.C.	BoS - Appointed Member	1/11/2016	12/31/2016
Kreider	Scott	Buckmarsh / Battletown District	3/15/2016	4/30/2020
Kruhm	Doug	Buckmarsh / Battletown District	3/18/2014	4/30/2018
Lee	Francis	Berryville District	5/20/2014	4/30/2018
Malone	Gwendolyn	Berryville District	3/15/2016	4/30/2020
Nelson	Clifford	Russell / Longmarsh District	4/16/2013	4/30/2017
Ohrstrom, II	George	Russell District; Chair	3/17/2015	4/30/2019
Stidham	Brandon	Staff Representative	4/30/2012	
Turkel	Jon	Millwood / Chapel District	3/17/2015	4/30/2019
<i>Clarke County Sanitary Authority</i>				<i>4 Yr</i>
DeArment	Roderick	White Post District, Chair	6/25/2015	1/5/2017
Dunning, Jr.	A.R.	White Post District, Treasurer/Secretary	11/19/2013	1/5/2018

Friday, December 30, 2016

Page 3 of 7

			<i>Appt Date</i>	<i>Exp Date</i>
Legge	Michael	Staff Representative		
Mackay-Smith, Jr.	Alexander	White Post District, Vice Chair	1/15/2013	1/5/2017
McKay	Beverly B.	BoS - Liaison	1/11/2016	12/31/2016
Myer	Joseph	Town of Boyce	11/17/2015	1/5/2020
Welliver	Ralph	Berryville District	7/19/2016	6/30/2020
<i>Conservation Easement Authority</i>				<i>3 Yr</i>
Buckley	Randy	White Post District	12/20/2016	12/31/2019
Byrd	Barbara J.	BoS - Appointed Member	1/11/2016	12/31/2016
Engel	Peter	White Post District	11/17/2015	12/31/2018
Jones	Michelle	Millwood / Pine Grove District	12/20/2016	12/31/2019
Ohrstrom, II	George	Russell District; Planning Commission Representative	3/15/2016	4/30/2019
Teetor	Alison	Staff Representative		
Thomas	Walker	Buckmarsh District	11/17/2015	12/31/2018
Wallace	Laure	Millwood District	12/20/2016	12/31/2019
<i>Constitutional Officer</i>				
Butts	Helen	Clerk of the Circuit Court	1/1/2016	12/31/2023
Keeler	Sharon	Treasurer	1/1/2016	12/31/2019
Mackall	Suzanne	Commonwealth Attorney	1/1/2016	12/31/2019
Peake	Donna	Commissioner of the Revenue	1/1/2016	12/31/2019
Roper	Anthony	Sheriff	1/1/2016	12/31/2019
<i>County Administrator</i>				
Ash	David L.	County Administrator	3/19/1991	
<i>Economic Development Advisory Committee</i>				<i>4 Yr</i>
Barb	Jim	Real Estate Rep, Business Owner	11/29/2013	12/31/2017
Conrad	Bryan H.	Agriculture, Fire & Rescue	12/16/2014	12/31/2018
Dunkle	Christy	Town of Berryville Representative	1/1/2016	12/31/2019
Kraybill	Christina	Berryville District, Business Owner	11/18/2014	12/31/2017
Milleson	John R.	Banking, Finance	12/16/2014	12/31/2018
Myer	Dr. Eric	Agriculture Rep, Business Owner	12/16/2014	12/31/2018
Pritchard	Elizabeth	Hospitality Industry	8/16/2016	8/31/2020
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Fire & EMS Commission</i>				
Armacost, Jr.	Van	John H. Enders VFRC Rep	10/18/2016	8/31/2017
Conrad	Bryan H.	Citizen-at-large	9/1/2015	8/31/2019
Hoff	Matt	Boyce VFRC Rep	10/18/2016	8/31/207
Leffel	Elizabeth	Chair; Citizen-at-large	10/18/2016	8/31/2020
Lichty	Brian	Staff Representative	11/14/2016	

Friday, December 30, 2016

Page 4 of 7

			<i>Appt Date</i>	<i>Exp Date</i>
Roper	Anthony	Sheriff	1/1/2016	12/31/2019
Wallace	Laure	Citizen-at-large	9/1/2014	8/31/2017
Weiss	David S.	BoS - Representative	1/11/2016	12/31/2016
White	Jacob	Blue Ridge VFRC Rep	10/18/2016	8/31/2017
<i>Handley Regional Library Board</i>				4 Yr
Leahy	Cindy		12/20/2016	11/30/2017
<i>Industrial Development Authority of the Clarke County, Virginia</i>				4 Yr
Cochran	Mark	Buckmarsh District; Vice Chair 2016	9/17/2013	10/30/2017
Ferrell	Brian	Buckmarsh District	6/21/2016	10/30/2019
Frederickson	Allan	White Post District; Secretary / Treasurer 2016	9/17/2013	10/30/2017
Jones	Paul	Russell District	3/15/2016	10/30/2019
Juday	David	Russell District; Chair 2016	10/21/2014	10/30/2018
Koontz	English	Buckmarsh District	6/16/2015	10/30/2018
Pierce	Rodney	Buckmarsh District	10/18/2016	10/30/2020
Weiss	David S.	BoS - Liaison	1/11/2016	12/31/2016
<i>Joint Administrative Services Board</i>				Open-End
Ash	David L.	County Administrator	12/22/1993	
Bishop	Chuck	School Superintendent	7/1/2014	
Judge	Tom	Staff Representative	2/14/1994	
Keeler	Sharon	Treasurer	3/12/2005	
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
Schutte	Charles	School Board Representative	1/8/2012	
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Legislative Liaison and High Growth Coalition</i>				1 Yr
Daniel	Mary L.C.	BoS - Liaison	1/11/2016	12/31/2016
<i>Lord Fairfax Community College Board</i>				4 Yr
Daniel	William	Berryville District	7/19/2016	6/30/2020
<i>Lord Fairfax Emergency Medical Services Council</i>				3 Yr
Burns	Jason	Career Representative; Buckmarsh District	4/21/2015	6/30/2018
Conrad	Bryan H.	Volunteer Representative; White Post District	6/17/2014	6/30/2017
Stidham	Angela	Medical Professional; White Post District	7/19/2016	6/30/2019
<i>Northern Shenandoah Valley Regional Commission</i>				1 Yr
Daniel	Mary L.C.	BoS - Alternate	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016

Friday, December 30, 2016

Page 5 of 7

			<i>Appt Date</i>	<i>Exp Date</i>
Stidham	Brandon	Citizen Representative [Planning Director]	4/19/2016	1/31/2019
<i>Northwest Regional Adult Drug Treatment Court Advisory Committee</i>				<i>Open End</i>
Byrd	Barbara J.	Russell District	5/17/2016	
<i>Northwestern Community Services Board</i>				<i>4 Yr</i>
Brown	Audrey	White Post District	11/17/2015	12/31/2017
Harris	Celie	Millwood District	11/17/2015	12/31/2018
<i>Northwestern Regional Jail Authority</i>				<i>1 Yr</i>
Ash	David L.	BoS - Appointed Member	1/11/2016	12/31/2016
Byrd	Barbara J.	BoS - Liaison - Alternate	1/11/2016	12/31/2016
Roper	Anthony	Sheriff	1/1/2016	12/31/2019
Wyatt	Jimmy	Millwood District	11/17/2015	12/31/2019
<i>Northwestern Regional Juvenile Detention Center Commission</i>				<i>1 Yr</i>
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
Wyatt	Jimmy	Millwood District	12/20/2016	12/20/2020
<i>Old Dominion Alcohol Safety Action Policy Board & Division of Court Services</i>				<i>3 Yr</i>
Roper	Anthony	Sheriff	12/20/2016	12/31/2019
<i>Old Dominion Community Criminal Justice Board</i>				<i>3 Yr</i>
Roper	Anthony	Sheriff	12/20/2016	12/31/2019
<i>Our Health</i>				<i>3 Yr</i>
Shipe	Diane	Buckmarsh District	7/19/2016	3/15/2019
<i>Parks & Recreation Advisory Board</i>				<i>1 Yr</i>
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
Heflin	Dennis	White Post District	12/20/2016	12/31/2019
Huff	Ronnie	Town of Berryville Representative	1/1/2016	12/31/2019
Jones	Paul	Russell District; At Large	12/16/2014	12/31/2018
Lichliter	Gary	Russell District	12/20/2016	12/31/2019
Rhodes	Emily	Buckmarsh District	11/17/2015	12/31/2019
Sheetz	Daniel A.	Berryville District	11/19/2013	12/31/2017
Smith	Tracy	Millwood District	3/15/2016	12/31/2017
Trenary	Randy	School Superintendent Designee	10/24/2013	
Wisecarver	Steve	Appointed by Town of Boyce	11/5/2013	12/31/2017
<i>People Inc. of Virginia</i>				<i>3 Yr</i>
Hillerson	Coleen	Clarke County Rep Board of Directors	8/16/2016	7/31/2019
<i>Regional Airport Authority</i>				<i>1 Yr</i>
<i>Friday, December 30, 2016</i>				<i>Page 6 of 7</i>

			<i>Appt Date</i>	<i>Exp Date</i>
Ash	David L.	BoS - Alternate	1/11/2016	12/31/2016
Crawford	John	Buckmarsh District	7/19/2016	6/30/2020
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
<i>Shenandoah Area Agency on Aging, Inc.</i>				4 Yr
Bouffault	Robina Rich	White Post District	10/21/2014	9/30/2018
<i>Shenandoah Valley Chief Local Elected Officials Consortium</i>				
Ash	David L.	BoS Designee for Chief Elected Official		
<i>Shenandoah Valley Workforce Investment Board</i>				4 Yr
James	Patricia	Buckmarsh District	9/17/2013	6/30/2017
<i>Towns and Villages: Berryville</i>				1 Yr
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
Daniel	Mary L.C.	BoS - Liaison - Alternate	1/11/2016	12/31/2016
<i>Towns and Villages: Boyce</i>				1 Yr
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: Millwood</i>				1 Yr
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: Pine Grove</i>				1 Yr
Catlett	Terri T.	Bos - Liaison	1/11/2016	12/31/2016
Weiss	David S.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: White Post</i>				1 Yr
McKay	Beverly B.	Bos - Liaison	1/11/2016	12/31/2016



Board of Supervisors Organizational Meeting & Work Session Agenda

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611

January 9, 2017 10:00 AM

Item No.	Description
----------	-------------

A. Organizational Items:

- Elect Chair
 - o *Move to nominate and elect _____ to serve as 2017 Chair.*
 - o *Move to close nominations for Chair*
 - o *David Ash will call for vote on the motion to nominate and elect. Following vote, the meeting will be turned over to the newly elected 2017 Chair.*
- Elect Vice Chair
 - o *Move to nominate and elect _____ to serve as 2017 Vice Chair.*
 - o *Move to close nominations for Vice Chair*
 - o *Chair will call for vote on the motion to nominate and elect.*
- Set Meeting Date, Time and Location
 - o *Move to adopt the schedule as presented, or corrected, modified with specifics*
- Adopt Rules of Procedure
 - o *Move to adopt the Rules of Procedure Revision 11 as presented or corrected, modified with specifics*
- Review Chair Appointments
- Annual Distribution: [Information Only]
 - o Code of Virginia Code of Virginia Title 2.2. Administration of Government Chapter 31. State and Local Government Conflict of Interests Act
 - o Code of Virginia Title 2.2. Administration of Government Chapter 37. Virginia Freedom of Information Act
 - o Code of Virginia Title 42.1. Libraries Chapter 7. Virginia Public Records Act

B. Economic Development Director Review and Direction Continued Discussion

2017 Clarke County Board of Supervisors Meeting Schedule - Draft

<i>Meeting Type</i>	<i>Day</i>	<i>Date</i>	<i>Time</i>	<i>Additional Info</i>
Committee Meetings	Monday	January 9	9:30 am	2017 Organizational Meeting
Regular Meeting	Tuesday	January 17	1 pm	
Committee Meetings	Monday	February 13	9:30 am	
Regular Meeting	Tuesday	February 21	1 pm	
Committee Meetings	Monday	March 13	9:30 am	
Regular Meeting	Tuesday	March 21	1 pm	
Committee Meetings	Monday	April 10	9:30 am	
Regular Meeting	Tuesday	April 18	1 pm	
Committee Meetings	Monday	May 8	9:30 am	
Regular Meeting	Tuesday	May 16	1 pm	
Committee Meetings	Monday	June 12	9:30 am	
Regular Meeting	Tuesday	June 20	1 pm	
Committee Meetings	Monday	July 10	9:30 am	
Regular Meeting	Tuesday	July 18	1 pm	
Committee Meetings	Monday	August 7	9:30 am	
Regular Meeting	Tuesday	August 15	1 pm	
Committee Meetings	Monday	September 11	9:30 am	
Regular Meeting	Tuesday	September 19	1 pm	
<i>Committee Meetings</i>	<i>Tuesday*</i>	<i>October 10</i>	<i>9:30 am</i>	<i>Columbus Day Monday Oct 9</i>
Regular Meeting	Tuesday	October 17	1 pm	
<i>Committee Meetings</i>	<i>Thursday</i>	<i>November 9</i>	<i>9:30 am</i>	<i>Date to accommodate VACo Conference November 12-14</i>
Regular Meeting	Tuesday	November 21	1 pm	
Committee Meetings	Monday	December 11	9:30 am	
Regular Meeting	Tuesday	December 19	1 pm	

Unless otherwise noted, Regular Meetings are held in the Main Meeting Room and Committee Meetings are held in Meeting Room AB in the Berryville Clarke County Government Center, 2nd Floor, 101 Chalmers Court, Berryville, Virginia

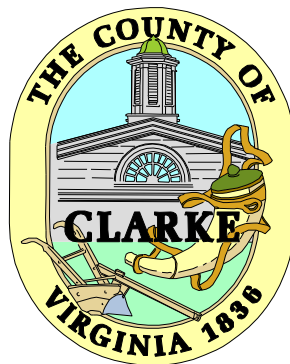
Note: Work Sessions scheduled for Committee Meeting days on matters for which the Board has deemed additional discussion and/or information necessary.

Agenda Items / Packet Material due by 5 pm on the Monday one week prior to the scheduled meeting.

Draft 12/06/2016

Clarke County, Virginia Board of Supervisors

Rules of Procedure



Rules of Procedure

Record of Revisions

Revision No.	Revision Date	Description of Change	Approval Initials
New	01/15/02	New Document	
1	01/21/03	For consistent language, use Chair and Vice Chair throughout document. Information map and add attachment section: Closed Meetings Procedure, Sample Sign-in Sheets Citizen Comments and Public Hearing	
N/A	1/12/04	Reviewed and adopted as written – no change	
2	1/18/05	Page 13, Article IV Conduct of Business, Section 4-1. Order of Business, Item J Public Hearings be moved to G; Item I Scheduled Presentations moved to H, and the section renumbered accordingly	
3	1/17/06	<i>2006 date set for Board meetings is the third Tuesday of each month beginning at 2:00 pm; The alternate date for meetings for 2006 was set for 2:00 pm on the Thursday following the regularly-scheduled Tuesday; Page 12 Conduct of Business move Item (g) Public Hearings to Item (n) and list Item (e) Citizens' Comment in afternoon and evening session as Item (m)</i>	
4	3/20/07	<i>2007 regular meeting date and alternate remain unchanged. Start time changed from 2:00 pm to 1:00 pm. Section 4-5 Scheduled Presentations add bullet "The bias of the Board is that the Chair . . . rest of the Board at the meeting."</i>	
5	01/12/2009	Amend Section 1-1. Annual Meeting; Schedule of Regular Meetings Main Meeting Room, Berryville Clarke County Joint Government Center, Board of Supervisors' Meeting Room of the Circuit Courthouse, Berryville, Virginia; Amend Section 3-3. Posting and Notice and included with the calendars mailed pursuant to § 2.2-3707(E) of the Code of Virginia, as amended. ; Amend Section 5-6. Order of Speaking; Remove Attachment C	
6	01/01/2010	Amend 1-8 Reconsideration of Motions, Etc., Upon Which Vote Has Been: Remove At any meeting of the Board,... Add - A motion to reconsider may only be made at the meeting at which the vote was taken, or at the next succeeding regular meeting of the Board or at any intervening meeting of the Board before the next succeeding regular meeting of the Board. Announced 4-1 Order of Business: Add School Board Update after Adoption of Agenda, Add Board Member Committee Status Reports after Closed Session [when necessary]	
7	01/01/2011	3.3 change from www.co.clarke.va.us to www.clarkecounty.gov ; 3.4 change from the Public Library to official County website ; add Individuals desiring complete paper copies . . .;	

Rules of Procedure

Table of Contents

Table of Contents 4

Article I—Meetings..... 6

 Section 1-1. Annual Meeting; Schedule of Regular Meetings 6

 Section 1-2. Special Meetings 6

 Section 1-3. Adjourned Meetings..... 6

 Section 1-4. Quorum and Method of Voting..... 6

 Section 1-5. Motions..... 7

 Section 1-6. Motion to Adjourn 7

 Section 1-7. Motions While a Question is Under Debate 7

 Section 1-8. Reconsideration of Motions, Etc., Upon Which Vote Has Been Announced 7

 Section 1-9. Robert’s Rules of Order; Suspending Rules 8

 Section 1-10. Board to Sit with Open Doors 8

 Section 1-11. Limitations on duration and hour of meetings; Adjournment 8

 Section 1-12. Electronic Participation in Meetings from Remote Locations 8

Article II—Officers..... 12

 Section 2-1. Chair and Vice Chair 12

 Section 2-2. Authority of the Chair..... 12

 Section 2-3. Clerk..... 13

Article III—Agenda..... 14

 Section 3-1. Preparation..... 14

 Section 3-2. Delivery 14

 Section 3-3. Posting and Notice 14

 Section 3-4. Copies 14

Article IV—Conduct Of Business 15

 Section 4-1. Order of Business..... 15

 Section 4-2. Adoption of Agenda 15

 Section 4-3. Consent Agenda..... 16

 Section 4-4. Citizen Comment Period..... 16

 Section 4-5. Scheduled Presentations..... 17

Article V – Public Hearings 18

 Section 5-1. Format for Public Hearings 18

Rules of Procedure

Section 5-2. Order of Business.....	18
Section 5-3. Identification of Issue and Verification of Required Notice	18
Section 5-4. Staff and/or applicant presentation	18
Section 5-5. Public Comment	19
Section 5-6. Order of Speaking	19
Section 5-7. Presentation of Comments	19
Section 5-8. Supervisors' Questions.....	19
Section 5-9. Close of Hearing.....	19
Article VI—Citizen Responsibilities	21
Section 6-1. Application of Rules.....	21
Section 6-2. Addressing the Board.....	21
Section 6-3. Conduct while Speaking	21
Section 6-4. Name and place of residence.....	21
Section 6-5. Organizational Representation	21
Section 6-6. Order of Speaking	22
Section 6-7. Time Limits	22
Section 6-9. Written copy of comments	22
Section 6-10. Information sources	22
Article VII—Appointments.....	23
Section 7-1. Appointments	23
Article VIII—Amendments.....	23
Section 8-1. Amendments	23
Attachments.....	23
Attachment A – Closed Meetings Procedure	24
Attachment B – Citizen Comment Period – Sign-In Sheet	25

Rules of Procedure

Article I—Meetings

Section 1-1. Annual Meeting; Schedule of Regular Meetings

On the third Tuesday of January of each year, or on such other date in the month of January as it may designate, the Board shall assemble in the Main Meeting Room, Berryville Clarke County Joint Government Center or such other public place as it may designate, in regular session and conduct its annual or organizational meeting.

During the course of such meeting, the Board shall fix the date, time, and place of all of its regular meetings during the ensuing calendar year, and shall fix the day on which a regular meeting shall be continued should the Chair later declare that weather or other conditions make it hazardous for members to attend.

Thereafter, no changes shall be made to the schedule of regular meetings and continued dates of same unless the requirements of Section 15.2-1416 of the Code of Virginia, 1950, as amended, are first met.

Section 1-2. Special Meetings

The Board of Supervisors may hold such special meetings as it deems necessary and at such times and places as it may find convenient.

A special meeting can only be called pursuant to the requirements imposed by Sections 15.2-1417 and 15.2-1418 of the Code of Virginia, 1950, as amended.

Section 1-3. Adjourned Meetings

Upon majority vote of the members attending, the Board may continue its meetings, regular or special, from time to time as it may find convenient or necessary with no requirement to further advertise or announce.

Section 1-4. Quorum and Method of Voting

At any meeting, a majority of the Supervisors shall constitute a quorum.

All questions submitted to the Board for decision shall be determined by a majority vote of the Supervisors present and voting on any such question, unless otherwise provided by law or these Rules of Procedure.

The name of each member voting and how he or she voted will be recorded for each action taken by the Board of Supervisors.

The Board of Supervisors has elected not to have a tiebreaker, as provided for by the Code of Virginia, 1950, as amended.

Rules of Procedure

Section 1-5. Motions

Subject to limitations imposed hereafter in these rules, discussion of items on the agenda shall be permitted for purposes of clarifying the issues and/or the options available for consideration.

No call for a vote shall be allowed until a member of the Board moves a specific action with reasonable clarity and each member of the Board has thereafter had an opportunity to speak to the specific motion. Motions shall not require a second.

When possible, Board members making complex, multi-part, or lengthy motions are requested to provide the clerk with a written copy of the motion at the time the motion is made.

Section 1-6. Motion to Adjourn

At a meeting of the Board, a motion to adjourn shall always be in order and shall be decided without debate, provided each member of the Board is given a reasonable opportunity to be heard.

Section 1-7. Motions While a Question is Under Debate

When a motion is under debate at a meeting of the Board no motion shall be received unless it is one:

- To amend,
 - To commit,
 - To postpone,
 - For the previous question,
 - For a substitute motion to lay on the table,
 - Or to adjourn.
-

Section 1-8. Reconsideration of Motions, Etc., Upon Which Vote Has Been Announced

When any vote upon any motion, resolution, ordinance, or question has been previously announced, it may not be reconsidered unless and until a motion to that effect is presented by a member of the Board who previously voted with the prevailing side when such motion, resolution, ordinance, or question was considered. A motion to reconsider may only be made at the meeting at which the vote was taken, or at the next succeeding regular meeting of the Board or at any intervening meeting of the Board before the next succeeding regular meeting of the Board.

Any such motion to reconsider shall be decided by a majority vote of the members present at the time such motion to reconsider is presented.

Rules of Procedure

Section 1-9. Robert's Rules of Order; Suspending Rules

The proceedings of the Board of Supervisors, except as otherwise provided in these rules and by applicable State law, shall be governed by Robert's Rules of Order.

These Rules of Procedure of the Board may only be suspended on presentation of a motion to that effect, which is carried by unanimous vote of the members present and voting.

Section 1-10. Board to Sit with Open Doors

The Board of Supervisors shall sit with open doors, and all persons conducting themselves in an orderly manner may attend the meetings. However, the Board may hold closed meetings as permitted by law.

Closed meetings may be placed on the agenda, or may be requested by any member of the Board. However, no closed meeting shall be convened unless and until the Board has favorably acted on a motion to so convene, and, then, only if such motion accurately states a lawful reason for such closed meeting as permitted by and outlined in Section 2.2-3701344 of the Code of Virginia, 1950, as amended.

For additional detail, refer to Attachment A – Closed Meetings Procedure of this document.

Section 1-11. Limitations on duration and hour of meetings; Adjournment

Meetings of the Board of Supervisors shall not continue for more than four [4] consecutive hours or later than 10:00 pm without the consent of a majority of the members present.

Should it appear to the Chair that the matter or matters before the Board cannot be heard within the time remaining, the Chair shall poll the members of the Board to determine the desire of the members.

The Chair shall adjourn or recess the meeting upon final action on the current agenda item unless a majority of the members agree to exceed the limits established by this section.

Any items not taken up by the Board of Supervisors prior to adjourning will be added to the agenda of the next meeting without further action of the Board.

Section 1-12. Electronic Participation in

Pursuant to Code of Virginia:

§ 2.2-3708 Electronic communication meetings; applicability; physical quorum required; exceptions; notice; report.

Rules of Procedure

Meetings from Remote
Locations

§ 2.2-3708.1 Participation in meetings in event of emergency or personal matter; certain disabilities; distance from meeting location for certain public bodies.

§ 2.2-3710. Transaction of public business other than by votes at meetings prohibited.

Except as provided hereafter, the Board of Supervisors shall not conduct any meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled.

A. Quorum Physically Assembled

A Board of Supervisor member may participate in a meeting through electronic communication means from a remote location that is not open to the public:

1. If, on or before the day of a meeting, the Board member notifies the Board of Supervisors Chair that he or she is unable to attend the meeting due to an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter, and the Board of Supervisors:
 - Approves the member's participation by a majority vote of the members present at a meeting; and,
 - Records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated.

In deciding whether or not to approve a Board member's request to participate from a remote location, the Board shall not consider the identity of the member making the request or the matters that will be considered or voted on at the meeting.

If a Board member's participation from a remote location is disapproved, such disapproval will be recorded in the minutes with specificity.

Such participation by a Board member shall be limited each calendar year to two [2] meetings or 25 percent of the meetings of the Board of Supervisors, whichever is fewer.

Rules of Procedure

2. If a Board member notifies the Chair that he or she is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the Board records this fact and the remote location from which the member participated in its minutes.

A Board member may participate in a meeting by electronic means pursuant to this section only when:

- A quorum of the Board is physically assembled at the primary or central meeting location; and
- The Board makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

B. Quorum Not Physically Assembled

The Board of Supervisors may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with Va. Code § 44-146.17, provided:

- The catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location, and
- The purpose of the meeting is to address the emergency.

If it holds a meeting pursuant to this section, the Board shall:

- Give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided members of the Board;
- Make arrangements for public access to the meeting;
- Make available to the public, at the time of the meeting, agenda packets and all materials, unless exempt, that will be distributed to members of the Board and that have been made available to the Board's staff in sufficient time for duplication and forwarding to all locations at which public access will be provided;
- Record minutes of the meeting in accordance with policy; and
- Record in the minutes votes taken by name in roll-call fashion.

The nature of the emergency, the fact that the meeting was held by

Rules of Procedure

electronic communication means and the type of electronic communication means by which the meeting was held shall be stated in the minutes of the meeting.

C. Reporting

1. If the Board meets by electronic means, it shall make a written report of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science by December 15 of each year:
 - The total number of electronic communication meetings held that year.
 - The dates and purposes of the meetings.
 - A copy of the agenda for each meeting.
 - The number of sites for each meeting.
 - The types of electronic communication means by which the meetings were held.
 - The number of participants, including members of the public, at each meeting location.
 - The identity of the members of the board recorded as absent and those recorded as present at each meeting location.
 - A summary of any public comment received about the electronic communication meetings.
 - A summary of the board's experience using electronic communication meetings, including its logistical and technical experience.
 2. At any meeting at which any member of the Board participates electronically, the Board will make copies of the public comment form prepared by the Virginia Freedom of Information Advisory Council available to the public.
-

Rules of Procedure

Article II—Officers

*Section 2-1. Chair
and Vice Chair*

At the annual or organizational meeting of the Board of Supervisors, as described in Section 1-3 hereof, the Board shall elect from its membership a Chair and a Vice Chair, each of whom shall serve for a one-year term expiring on December 31st of the same year in which he or she is elected, provided however, that unless the term of office has expired and the member has not been re-elected, the Chair and Vice-Chair shall serve until their respective successor(s) shall have been elected and qualify.

In the event that the Chair is absent from any meeting the Vice Chair shall assume the authority and duties of the Chair.

In the event the Chair and Vice Chair are absent from any meeting of the Board, then, the members present at such meeting shall choose one of their number as temporary Chair by majority vote of the members present and voting.

*Section 2-2. Authority
of the Chair*

The efficient and dignified conduct of public business is the ultimate concern of the Board. Accordingly, it is the policy of the Board that its meetings be conducted with the highest degree of order and decorum, and the Board will permit no behavior, which is not in keeping with this policy.

The Chair shall preserve order and decorum at all meetings.

- He shall recognize persons desiring to speak and shall ensure that speaker's comments are limited to the issue before the Board for consideration and that any limitations on time are observed.
 - The Chair shall ensure that all persons entitled and desiring to speak are permitted to do so without interruption or comment during their presentation.
 - The Chair shall determine if statements are demeaning, inappropriate, or out of order, and shall have the authority to revoke the speaker's right to continue.
-

*Section 2-2 Authority
of the Chair
Continued*

The Chair may order the expulsion of any person for violation of rules, disruptive behavior, or any words or action that incite violence or disorder, subject to appeal to the Board.

- Any person so expelled shall not be readmitted for the remainder of the meeting from which he was expelled.
 - Any person who has been so expelled and who at a later meeting again engages in words or actions justifying expulsion may be barred from
-

Rules of Procedure

attendance at future meetings of the Board for a specified and reasonable period of time not to exceed six months or upon a still subsequent expulsion, a period not to exceed one year, either by the Chair, subject to appeal to the board, or by motion passed by the Board.

The Chair shall have the power to administer an oath of honesty to any person concerning any matter submitted to the Board, or, connected with its powers and duties. The power to administer an oath granted to the Chair in this section shall be no greater than the same power authorized by Section 15.2-1410 of the Code of Virginia, 1950, as amended.

Section 2-3. Clerk

The Clerk of the Board shall be the County Administrator, and the duties and responsibilities of that position shall be as specified in Sections 15.2-407 and 15.2-1539 of the Code of Virginia, 1950, as amended.

At the discretion of the Board, any County employee can be designated as Deputy Clerk, or Temporary Clerk, as the circumstances may require, and said employee shall have the same powers and duties outlined herein for the duration of said appointment.

Rules of Procedure

Article III—Agenda

*Section 3-1.
Preparation*

The Clerk shall prepare an Agenda for each meeting of the Board of Supervisors, conforming to the order of business specified in Section 4-1 under Order of Business.

- Supporting information for every item to be placed on the Regular Meeting Agenda shall be received in the Office of the County Administrator before the close of the working day on the Monday that falls in the week immediately prior to the regularly scheduled Board meeting.
 - Agendas for special meetings shall be prepared as far in advance as the circumstances necessitating the special meeting allow.
 - The clerk shall include on the agenda all matters for which a written request and supporting information have been received in advance of the deadline herein established.
-

Section 3-2. Delivery

Each member of the Board shall receive the Regular Meeting Agenda, along with the supporting information available to staff, on the Friday of the week prior to the regular meeting to be held on the third Tuesday of each month.

Special meeting Agendas and supporting information will be delivered as far in advance as the circumstances necessitating the special meeting allow.

*Section 3-3. Posting
and Notice*

A copy of the Meeting Agendas shall be available in the Office of the County Administrator as of the date and time the information is distributed to members of the Board.

Agendas will also be posted on the County Web page at www.clarkecounty.gov.

Section 3-4. Copies

The Clerk or Deputy Clerk of the Board shall prepare or cause to be prepared extra copies of the Agenda and supporting information, and shall make the same available to the public in the Office of the County Administrator and official County website at the same time that the Agenda is posted pursuant to Section 3-3, above.

Individuals desiring complete paper copies of Agenda packages shall arrange with the Clerk for the delivery and cost of the information desired.

The Clerk or Deputy Clerk shall also have a copy of agenda packet available at each meeting.

Rules of Procedure

**Article IV—Conduct Of
Business**

*Section 4-1. Order of
Business*

At meetings of the Board, the order of business should normally be as follows:

- (a) Call to Order
- (b) Adoption of Agenda
- (c) Citizens' Comment
- (d) School Board Update *[as requested]*
- (e) Department of Transportation Matters
- (f) Approval of Minutes
- (g) Approval of Consent Agenda
- (h) Scheduled Presentations
- (i) Ratification of Committee Action
- (j) Joint Administrative Services Board Monthly Update
- (k) Project Update
- (l) Miscellaneous Items
- (m) Summary of Required Action
- (n) Board Member Committee Status Reports
- (o) Closed Session *[when required]*

When public hearings are scheduled, there will be a recess at this point until 6:30 pm and Items (p), (q), and (r) shall be conducted.

- (p) Citizens' Comment
 - (q) Public Hearings (when required)
 - (r) Adjournment
-

*Section 4-2. Adoption
of Agenda*

The Agenda presented for adoption shall be the agenda prepared and delivered as required in Article III.

Additions, deletions, or modifications to the agenda shall require the consent of a majority of the members of the Board present at the meeting.

Rules of Procedure

Section 4-3. Consent Agenda

The Consent Agenda shall be introduced by a motion “to approve the Consent Agenda”, and shall be considered by the Board as a single item. There shall be no debate or discussion by any member of the Board regarding any item on the Consent Agenda, beyond asking questions for simple clarification.

On objection by any member of the Board of Supervisors to inclusion of any item on the Consent Agenda, that item shall be removed from the Consent Agenda forthwith.

- Such objection may be recorded at any time prior to completing the taking of a vote on the motion to approve the Consent Agenda.
- Items, which have been objected to and removed from the Consent Agenda, shall be moved to the Miscellaneous Item on the agenda and be considered individually and in the order in which they were objected to.

Approval of the motion to approve the Consent Agenda shall constitute approval, adoption, or enactment of each motion, resolution, or other item of business thereon, exactly as if each had been acted upon individually.

Section 4-4. Citizen Comment Period.

Any person desiring to address the Board of Supervisors at the Citizen Comment period shall be required to abide by the rules governing such presentations as set forth in these rules in Article VI—Citizen Responsibilities.

A register for persons desiring to address the Board of Supervisors during the Citizen Comment Period shall be furnished prior to the beginning of every regular meeting of the Board of Supervisors. [For sample, refer to Attachment B – Citizen Comment Period – Sign-In Sheet of this document.] Citizens desiring to address the Board of Supervisors during this period shall provide their name, the issue they want to address, and their place of residence on the register provided.

Each speaker at a Citizen’s Comment Period shall be limited to one appearance at each regular meeting of the Board and only issues that are not scheduled for future Public Hearings may be addressed. Individuals speaking during the Citizens’ Comment Period shall be subject to a five-minute time limitation.

Members of the Board shall neither engage in debate with, nor shall they be expected to answer questions posed by individuals speaking during the Citizen Comment period.

Should a review of the register indicate that more than two persons desire to speak on the same issue during the Citizen Comment Period the Chair may ask those desiring to speak to pick two people to represent their views.

Rules of Procedure

- If those desiring to speak cannot agree on two representative speakers the Chair shall let the first two citizens speak for up to 5 minutes each but may limit subsequent speakers to the time required to present different opinions or new information.
 - In lieu of the above, a majority of the Board of Supervisors present and voting at the meeting may direct the matter be scheduled for public comment at the next regular meeting of the Board, and defer public comment until that time.
-

*Section 4-5.
Scheduled
Presentations*

Any person desiring to address the Board of Supervisors at a Scheduled Presentation period of a Board of Supervisors meeting shall be required to abide by the rules governing such presentations as set forth in these rules in Article VI—Citizen Responsibilities.

Any citizen or staff member who desires to address the Board during the “Scheduled Presentations” portion of the Agenda at a Regular Meeting shall submit a written request to the Clerk, or his/her designee, identifying, with reasonable certainty, the subject matter of the presentation.

- Such request must be in the Clerk’s hands not later than the Agenda deadline specified in Section 3-1 hereof.
 - The bias of the Board is that the Chair should honor all such requests and the person making the request should be allowed at least five [5] minutes of meeting time to address the Board. However, the Chair may delay the request to a future meeting or decline the request entirely if the meeting schedule is full or the topic is deemed to be inappropriate. Any such action on the part of the Chair must be reported to the rest of the Board at the meeting.
 - Only the person requesting to make the presentation may do so, unless otherwise permitted by the Chair, and every such speaker shall be subject to a five minute time limit for the presentation itself, which limit can be extended with agreement of the Chair.
 - Board Member questions and discussion of the material presented shall not be subject to any time limit.
 - Persons making presentations should be prepared to answer questions and provide detailed information in response to questions from members of the Board.
-

Rules of Procedure

Article V – Public Hearings

Section 5-1. Format for Public Hearings

It is the purpose and objective of the Board of Supervisors to give each citizen an opportunity to express his/her views on the issue(s) at hand at public hearings and to give all speakers equal treatment and courtesy.

While it is often necessary to have a presentation by an applicant and staff, it is the desire of the Board to hear from the public, and therefore, the applicant and staff presentations will be as brief as possible.

In order to accomplish this objective it is necessary that certain rules of order prevail at all hearings of the Board of Supervisors as follows:

Section 5-2. Order of Business

At public hearings, the order of business will be as follows:

- (a) Identification of Issue and Verification of Notice
 - (b) Staff and/or Applicant Presentation
 - (c) Public Comment
 - (d) Board Member Questions
 - (e) Staff, Applicant or Public Response
 - (f) Close of Public Hearing
 - (g) Board discussion and/or consideration
-

Section 5-3. Identification of Issue and Verification of Required Notice

The Chair shall call upon the appropriate County Staff member to verify that any required notice has been given and to read or summarize the notice for the benefit of those attending the public hearing.

Section 5-4. Staff and/or applicant presentation

The Chair will call upon the appropriate County staff and/or applicant to present such information as is necessary to explain the action requested of the Board of Supervisors.

Presentations will be brief, concise summaries for the Supervisor's and the public's information and understanding, provided that sufficient time will be allowed to present, properly and fairly, the subject matter.

When written information has been provided prior to the hearing, that information should be summarized and only new information should be presented in detail.

Rules of Procedure

*Section 5-5. Public
Comment*

Any person desiring to address the Board of Supervisors at a Public Hearing conducted by the Board of Supervisors shall be required to abide by the rules governing such presentations as set forth in these rules in Article VI—Citizen Responsibilities.

Prior to permitting public comment, the Chair shall determine, to the best of his ability, the approximate number of persons desiring to comment at the public hearing and shall establish the manner in which speakers are recognized and the length of time each may speak.

Should the Chair determine that the likely number of persons desiring to speak is 10 or more in number, he may direct that individuals desiring to speak register with staff, providing their name and the district in which they reside. Should registration be required, the Chair shall verify that all such registration has been completed before beginning the hearing begins.

*Section 5-6. Order of
Speaking*

Members of the public shall be permitted to speak as the Chair recognizes each, provided that no member of the public shall be recognized to speak a second time until all persons desiring to speak have had an opportunity to do so. In the event the number of persons desiring to speak necessitates a register, speakers shall be recognized in the order in which they have registered.

In the event the number of speakers results in the continuation of a public hearing, any persons registered but not heard at the initial Public Hearing will be the first given an opportunity to speak at the continued hearing.

*Section 5-7.
Presentation of
Comments*

Each person may address the Board as many times as the Chair, in his or her discretion, may allow, but no speaker shall exceed the total time limit set by the Chair regardless of the number of times recognized.

*Section 5-8.
Supervisors'
Questions*

Upon completion of a presentation by staff, applicant or member of the public, any Member of the Board may ask questions to enhance their understanding of the issue, verify information presented or clarify the action or actions requested.

Members of the Board shall not engage in debate with the person or persons making the presentation.

*Section 5-9. Close of
Hearing*

When the Chair of the Board shall have closed a Public Hearing no further public comments shall be received.

Rules of Procedure

At the close of the public hearing, the Board of Supervisors shall, at its discretion, act or defer action upon the matter set for public hearing. In the event the Board defers action to a later date, the record shall be left open to receive written comments up until the time that a vote is taken.

Rules of Procedure

**Article VI—Citizen
Responsibilities**

*Section 6-1.
Application of Rules.*

Any person desiring to address the Board of Supervisors during any portion of a meeting designated for public comment shall be required to abide by the rules governing such presentations as hereafter set forth in these rules.

*Section 6-2.
Addressing the Board.*

All persons speaking at a meeting of the Board during any portion of a meeting designated for public comment shall address their comments to the Board of Supervisors and shall limit their comments to the matter before the Board of Supervisors. Speakers shall not engage in debate with other speakers or members of the public.

Questions shall not be asked of other speakers, but may be directed to the Chair of the Board for consideration by the Board in later deliberating the matter.

*Section 6-3. Conduct
while Speaking*

Persons speaking at a meeting of the Board of Supervisors shall do so in a courteous manner.

- Cursing or other obscene language or gestures; threats; insults; or other actions intended to harass, provoke or incite a fight, brawl, or other such disorderly response will not be permitted.
 - Any person whose conduct is contrary to this section will be removed as provided for in section 2-2. of these rules.
-

*Section 6-4. Name
and place of
residence.*

Individuals addressing the Board during any portion of a meeting designated for public comment shall clearly state their name and place of residence prior to making any further comments. Should a person be recognized to speak more than once, they shall identify themselves each time before speaking.

*Section 6-5.
Organizational
Representation*

Any person speaking at any portion of a meeting designated for public comment, who represents himself as being an officer or representative of an organization, group, association, corporation, or other entity, shall, upon request of a member of the Board,

- (a) Disclose for the organization, group, association, corporation, or other entity,
 - (b) The history,
 - (c) Size,
-

Rules of Procedure

- (d) Dues,
- (e) Structure,
- (f) Date of creation,
- (g) Requirements for membership,
- (h) Tax status; and
- (i) Shall reveal the organizations method of determining its official position, and
- (j) The speaker's authority to represent the organization.

Unreasonable failure to provide this information to the satisfaction of the Board of Supervisors shall bar the speaker from speaking on behalf of the organization.

Section 6-6. Order of Speaking

Persons speaking during any portion of a meeting designated for public comment shall do so in the order in which they are recognized and called upon by the Chair.

Section 6-7. Time Limits

All persons speaking during any portion of a meeting designated for public comment shall observe all time limits established by the board and shall yield the floor when informed their time has expired.

Section 6-8. Registration.

Should registration of speakers be required, all persons desiring to speak shall sign the register, providing their name and place of residence.

Section 6-9. Written copy of comments

Speakers are requested, but not required, to leave written statements and/or comments with the Clerk or Deputy Clerk of the Board to be incorporated into the written record of the meeting.

Section 6-10. Information sources

No person who speaks or otherwise presents information during any portion of a meeting designated for public comment shall knowingly present false or untrue information to the Board of Supervisors, and shall, upon request of any Board Member, provide the source of any information presented.

Rules of Procedure

**Article VII—
Appointments**

*Section 7-1.
Appointments*

Subject to ratification of a majority of the members of the Board of Supervisors, the Chair shall appoint members of the Board to such authorities, boards, commissions, committees or other organizations or positions as the Board shall so authorize.

**Article VIII—
Amendments**

*Section 8-1.
Amendments*

These Rules of Procedure may, from time to time, be revised, repealed, or otherwise amended upon an affirmative vote by a majority of the members of the Board of Supervisors present and voting.

Attachments

- A. Closed Meetings Procedure
 - B. Citizen Comment Sign-in Sheet
-

Rules of Procedure

Attachment A – Closed Meetings Procedure

Closed Meetings can be held only for discussion of certain limited topics and can be entered only from a properly convened public meeting upon motion of a member of the Board of Supervisors. Most frequently, the Board of Supervisors convenes a closed session to discuss one of the following:

- Specific Employees or appointees of the Board - §2.2-3711-A1
- Acquisition or Sale of Property - §2.2-3711-A3
- Privacy of individuals in personal matters - §2.2-3711-A4
- Discussion of unannounced business location - §2.2-3711-A5
- Discussion of the investment of public funds where competition or bargaining is involved - §2.2-3711-A6
- Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. - §2.2-3711-A7
- Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body - §2.2-3711-A29

To convene a closed session, a member of the Board of Supervisors should:

“Move to convene a closed session pursuant to Section (see section number above), of the Code of Virginia, as amended, to discuss (identify to extent possible).”

To reconvene in public session after a closed session, the Board of Supervisors should readmit the public and only then a member of the Board should:

“Move to reconvene in open session.” With the vote taken immediately thereafter.

Next, a member of the Board should:

“Move to certify that to the best of the member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under Chapter 2.2-3700, et sec, of the Code of Virginia, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Board.”

A roll-call vote is required. Any member of the Board who believes that there was a departure from the requirements of the certifications in the above motion shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. That statement shall be recorded in the minutes of the Board.

Rules of Procedure

Attachment B – Citizen Comment Period – Sign-In Sheet

Citizen Comment Period - Sign-In Sheet

Name (Please Print)	Address	Topic
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		

If you are representing an Organization: Rules of Procedure - Section 6-5. – Organizational Representation

Any person speaking at any portion of a meeting designated for public comment, who represents himself as being an officer or representative of an organization, group, association, corporation, or other entity, shall, upon request of a member of the Board, disclose for the organization, group, association, corporation, or other entity, the history, size, dues, structure, date of creation, requirements for membership, tax status; and shall reveal the organizations method of determining its official position and the speaker's authority to represent the organization. Unreasonable failure to provide this information to the satisfaction of the Board of Supervisors shall bar the speaker from speaking on behalf of the organization.

End of document.

2016 BOS Assignments By Supervisor

	<i>Position</i>	<i>Appt Date</i>	<i>Exp Date</i>
David Ash			
BCCGC Joint Building Committee	County Administrator		
Berryville/Clarke County Joint Committee for Economic Development and Tourism	BoS - Appointed Member	1/11/2016	12/31/2016
Joint Administrative Services Board	County Administrator		
Northwestern Regional Jail Authority	BoS - Appointed Member	1/11/2016	12/31/2016
Regional Airport Authority	BoS - Alternate	1/11/2016	12/31/2016
Barbara J. Byrd			
Board of Social Services	BoS - Appointed Member	1/11/2016	12/31/2016
Board of Supervisors Finance Committee	BoS - Alternate	1/11/2016	12/31/2016
Board of Supervisors Personnel Committee	BoS - Alternate	1/11/2016	12/31/2016
Clarke County Humane Foundation	BoS - Liaison	1/11/2016	12/31/2016
Clarke County Litter Committee	BoS - Liaison	1/11/2016	12/31/2016
Clarke County Planning Commission	BoS - Alternate	1/11/2016	12/31/2016
Clarke County School Board	BoS - Alternate	1/11/2016	12/31/2016
Conservation Easement Authority	BoS - Appointed Member	1/11/2016	12/31/2016
Northwest Regional Adult Drug Treatment Court Advisory Committee	BoS - Appointed Member	5/17/2016	
Northwestern Regional Jail Authority	BoS - Liaison - Alternate	1/11/2016	12/31/2016
Northwestern Regional Juvenile Detention Center Commission	BoS - Liaison	1/11/2016	12/31/2016
Towns and Villages: Berryville	BoS - Liaison	1/11/2016	12/31/2016
Terri T. Catlett			
Board of Supervisors Finance Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Clarke County School Board	BoS - Liaison	1/11/2016	12/31/2016
Parks & Recreation Advisory Board	BoS - Liaison	1/11/2016	12/31/2016
Towns and Villages: Boyce	BoS - Liaison - Alternate	1/11/2016	12/31/2016
Towns and Villages: Millwood	BoS - Liaison	1/11/2016	12/31/2016

Friday, December 30, 2016

Page 1 of 3

	<i>Position</i>	<i>Appt Date</i>	<i>Exp Date</i>
Towns and Villages: Pine Grove	BoS - Liaison	1/11/2016	12/31/2016
Mary L.C. Daniel			
Board of Septic & Well Appeals	BoS - Alternate	1/11/2016	12/31/2016
Clarke County Library Advisory Council	BoS - Liaison	1/11/2016	12/31/2016
Clarke County Planning Commission	BoS - Appointed Member	1/11/2016	12/31/2016
Legislative Liaison and High Growth Coalition	BoS - Liaison	1/11/2016	12/31/2016
Northern Shenandoah Valley Regional Commission	BoS - Alternate	1/11/2016	12/31/2016
Towns and Villages: Berryville	BoS - Liaison - Alternate	1/11/2016	12/31/2016
Beverly B. McKay			
Agricultural & Forestal District Advisory Committee	BoS - Appointed Member	1/11/2016	12/31/2016
BCCGC Joint Building Committee	BoS - Appointment Member	1/11/2016	12/31/2016
Board of Septic & Well Appeals	BoS - Appointed Member Vice Chair	1/11/2016	12/31/2016
Board of Supervisors	Vice Chair	1/11/2016	12/31/2016
Board of Supervisors Finance Committee	BoS - Alternate	1/11/2016	12/31/2016
Board of Supervisors Personnel Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Building and Grounds	BoS - Appointed Member	1/11/2016	12/31/2016
Career and Technical Education Advisory Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Clarke County Sanitary Authority	BoS - Liaison	1/11/2016	12/31/2016
Housing and Community Services Board	BoS - Appointed Member	1/11/2016	12/31/2016
Joint Administrative Services Board	BoS - Alternate	1/11/2016	12/31/2016
Northern Shenandoah Valley Regional Commission	BoS - Appointed Member	1/11/2016	12/31/2016
Regional Airport Authority	BoS - Alternate	1/11/2016	12/31/2016
Towns and Villages: Boyce	BoS - Liaison	1/11/2016	12/31/2016
Towns and Villages: White Post	BoS - Liaison	1/11/2016	12/31/2016
David S. Weiss			
Berryville/Clarke County Joint Committee for Economic Development and Tourism	BoS - Appointed Member	1/11/2016	12/31/2016
Board of Supervisors	Chair	1/11/2016	12/31/2016

	<i>Position</i>	<i>Appt Date</i>	<i>Exp Date</i>
Board of Supervisors Finance Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Board of Supervisors Personnel Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Building and Grounds	BoS - Alternate	1/11/2016	12/31/2016
Clarke County Industrial Development Authority	BoS - Liaison	1/11/2016	12/31/2016
Economic Development Advisory Committee	BoS - Appointed Member	1/11/2016	12/31/2016
Emergency Services	BoS - Chair	1/11/2016	12/31/2016
Fire & EMS Commission	BoS - Representative	1/11/2016	12/31/2016
Joint Administrative Services Board	BoS - Appointed Member	1/11/2016	12/31/2016
Towns and Villages: Pine Grove	BoS - Liaison	1/11/2016	12/31/2016

Code of Virginia

Title 2.2. Administration of Government

Chapter 31. State and Local Government Conflict of Interests Act

Article 1. General Provisions

§ 2.2-3100. Policy; application; construction.

The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth.

This chapter shall supersede all general and special acts and charter provisions which purport to deal with matters covered by this chapter except that the provisions of §§ 15.2-852, 15.2-2287, 15.2-2287.1, and 15.2-2289 and ordinances adopted pursuant thereto shall remain in force and effect. The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title and ordinances adopted pursuant to § 2.2-3104.2 regulating receipt of gifts.

The provisions of this chapter do not preclude prosecution for any violation of any criminal law of the Commonwealth, including Articles 2 (Bribery and Related Offenses, § 18.2-438 et seq.) and 3 (Bribery of Public Servants and Party Officials, § 18.2-446 et seq.) of Chapter 10 of Title 18.2, and do not constitute a defense to any prosecution for such a violation.

This chapter shall be liberally construed to accomplish its purpose.

1987, Sp. Sess., c. 1, § 2.1-639.1; 1990, c. 672; 2001, c. 844; 2003, c. 694; 2008, c. 532; 2014, cc. 792, 804.

§ 2.2-3100.1. Copy of chapter; review by officers and employees.

Any person required to file a disclosure statement of personal interests pursuant to subsections A or B of § 2.2-3114, subsections A or B of § 2.2-3115 or § 2.2-3116 shall be furnished by the public body's administrator a copy of this chapter within two weeks following the person's election, reelection, employment, appointment or reappointment.

All officers and employees shall read and familiarize themselves with the provisions of this chapter.

2004, cc. 134, 392.

§ 2.2-3101. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a

governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and

reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; or (xv) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another

corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv) above.

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § [2.2-3114](#).

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

1987, Sp. Sess., c. 1, § 2.1-639.2; 1988, c. 536; 1992, c. 865; 1993, c. 303; 1994, cc. [74](#), [724](#); 1995, c.

495;1996, c. 77;1997, c. 641;2001, c. 844;2003, c. 694;2004, cc. 134, 392;2012, cc. 345, 771;2013, c. 475;2014, cc. 792, 804;2015, cc. 763, 777;2016, cc. 773, 774.

Article 2. Generally Prohibited and Unlawful Conduct

§ 2.2-3102. Application.

This article applies to generally prohibited conduct that shall be unlawful and to state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.3; 2001, c. 844.

§ 2.2-3103. Prohibited conduct.

No officer or employee of a state or local governmental or advisory agency shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;
2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;
3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;
4. Use for his own economic benefit or that of another party confidential information that he has acquired by reason of his public position and which is not available to the public;
5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;
6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;
7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of departments of state government;
8. Accept a gift from a person who has interests that may be substantially affected by the performance of the officer's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject

to criminal law penalties;

9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties; or

10. Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this subdivision shall not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

1987, Sp. Sess., c. 1, § 2.1-639.4; 1994, cc. [663](#), [815](#), [851](#);2001, c. [844](#);2006, cc. [787](#), [892](#);2015, c. [574](#).

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § [2.2-3117](#) or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ [2.2-418](#) et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § [2.2-419](#);or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § [2.2-3117](#) or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ [2.2-418](#) et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § [2.2-419](#);or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

2014, cc. 792, 804;2015, cc. 763, 777.

§ 2.2-3103.2. Return of gifts.

No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in subsection B or C of § 2.2-3103.1.

2015, cc. 763, 777.

§ 2.2-3104. Prohibited conduct for certain officers and employees of state government.

For one year after the termination of public employment or service, no state officer or employee shall, before the agency of which he was an officer or employee, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to legislation, executive orders, or regulations promulgated by the agency of which he was an officer or employee. This prohibition shall be in addition to the prohibitions contained in § 2.2-3103.

For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor, Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not, who are regularly employed on a full-time salaried basis; those officers and employees of executive branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to the agency head and are at a payband 6 or higher and (ii) the officers and professional employees of the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the General Assembly and the legislative branch agencies shall be deemed one agency.

To the extent this prohibition applies to the Governor's Secretaries, "agency" means all agencies assigned to the Secretary by law or by executive order of the Governor.

Any person subject to the provisions of this section may apply to the Council or Attorney General, as provided in § 2.2-3121 or 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

1994, cc. 727, 776, § 2.1-639.4:1; 2001, c. 844;2013, c. 648;2014, cc. 792, 804;2015, cc. 763, 777.

§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act; loans or grants from the Commonwealth's Development Opportunity Fund.

A. Neither the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an executive branch agency that is directly responsible to the Governor pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), or

the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)(i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.

B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as set forth in § 2.2-4302.1.

C. Any person who knowingly violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater, and the contribution, gift, or other item shall be returned to the donor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

2010, c. 732;2011, c. 624;2013, c. 583;2015, cc. 763, 777;2016, c. 641.

§ 2.2-3104.02. Prohibited conduct for constitutional officers.

In addition to the prohibitions contained in § 2.2-3103, no constitutional officer shall, during the one year after the termination of his public service, act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he was an officer.

The provisions of this section shall not apply to any attorney for the Commonwealth.

Any person subject to the provisions of this section may apply to the attorney for the Commonwealth for the jurisdiction where such person was elected as provided in § 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

2011, c. 591.

§ 2.2-3104.1. Exclusion of certain awards from scope of chapter.

The provisions of this chapter shall not be construed to prohibit or apply to the acceptance by (i) any employee of a local government, or (ii) a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code .

2001, c. 48, § 2.1-639.4:2; 2008, cc. 478, 497.

§ 2.2-3104.2. Ordinance regulating receipt of gifts.

The governing body of any county, city, or town may adopt an ordinance setting a monetary limit on the acceptance of any gift by the officers, appointees or employees of the county, city or town and requiring the disclosure by such officers, appointees or employees of the receipt of any gift.

2003, c. 694.

Article 3. Prohibited Conduct Relating to Contracts

§ 2.2-3105. Application.

This article proscribes certain conduct relating to contracts by state and local government officers and employees. The provisions of this article shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title.

1987, Sp. Sess., c. 1, § 2.1-639.5; 2001, c. 844; 2003, c. 694.

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a state institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in Virginia or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or

otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in Virginia that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in Virginia or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in Virginia or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered

subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of visitors.

1987, Sp. Sess., c. 1, § 2.1-639.6; 1989, c. 74; 1991, c. 470; 1993, c. 876; 1995, c. 403; 1998, c. 838; 2001, c. 844; 2002, cc. 87, 478; 2003, c. 646; 2006, c. 839; 2013, c. 583; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3107. Prohibited contracts by members of county boards of supervisors, city councils and town councils.

A. No person elected or appointed as a member of the governing body of a county, city or town shall have a personal interest in (i) any contract with his governing body, or (ii) any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body of which he is a member, or (iii) any contract other than a contract of employment with any other governmental agency if such person's governing body appoints a majority of the members of the governing body of the second governmental agency.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided (i) the officer or employee was employed by the governmental agency prior to July 1, 1983, in accordance with the provisions of the former Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) of Title 2.1 as it existed on June 30, 1983, or (ii) the employment first began prior to the member becoming a

member of the governing body;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a governing body as a result of competitive sealed bidding where the governing body has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the governing body. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1987, Sp. Sess., c. 1, § 2.1-639.7; 2001, c. 844.

§ 2.2-3108. Prohibited contracts by members of school boards.

A. No person elected or appointed as a member of a local school board shall have a personal interest in (i) any contract with his school board or (ii) any contract with any governmental agency that is subject to the ultimate control of the school board of which he is a member.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the school board;

2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or

3. A contract awarded to a member of a school board as a result of competitive sealed bidding where the school board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1996, c. 548, § 2.1-639.7:1; 2001, c. 844.

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies.

A. No other officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;
2. An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;
3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
4. Members of local governing bodies who are subject to § 2.2-3107;
5. Members of local school boards who are subject to § 2.2-3108; or
6. Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.

1987, Sp. Sess., c. 1, § 2.1-639.8; 1996, c. 548; 2001, c. 844; 2004, c. 530; 2009, c. 862; 2013, c. 583; 2015, c. 699.

§ 2.2-3109.1. Prohibited contracts; additional exclusions for contracts by officers and employees of hospital authorities.

A. As used in this section, "hospital authority" means a hospital authority established pursuant to Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 or an Act of Assembly.

B. The provisions of § 2.2-3109 shall not apply to:

1. The personal interest of an officer or employee of a hospital authority in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are licensed members of the medical profession or hold administrative support positions at the hospital authority, (ii) the governing board of the hospital authority finds that it is in the best interests of the hospital authority and the county, city, or town for such dual employment to exist, and (iii) after such finding, the governing board of the hospital authority ensures that neither the officer or employee, nor the immediate family member, has sole authority to supervise, evaluate, or make personnel decisions regarding the other;
2. Subject to approval by the governing board of the hospital authority, an officer or employee's personal interest in a contract between his hospital authority and a professional entity that operates a clinical practice at any medical facilities of such other hospital authority and of which such officer or employee is a member or employee;
3. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract for research and development or commercialization of intellectual property between the hospital authority and a business in which the employee has a personal interest, provided (i) the officer or employee's personal interest has been disclosed to and approved by the hospital authority prior to the time at which the contract is entered into; (ii) the officer or employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such

statement annually on or before January 15; (iii) the local hospital authority has established a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its governing body; and (iv) no later than December 31 of each year, the local hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of such hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council; or

4. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract between the hospital authority and a business in which the officer or employee has a personal interest, provided (i) the personal interest has been disclosed to the hospital authority prior to the time the contract is entered into; (ii) the officer or employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the officer or employee does not participate in the hospital authority's decision to contract; (iv) the president or chief executive officer of the hospital authority finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by any of the hospital authority's medical facilities or any of its affiliated organizations, or is otherwise necessary for the fulfillment of its mission, including but not limited to the acquisition of drugs, therapies, and medical technologies; and (v) no later than December 31 of each year, the hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council.

C. Notwithstanding the provisions of subdivisions B 3 and B 4, if the research and development or commercialization of intellectual property or the officer or employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interest, the policies established by the hospital authority pursuant to such federal requirements shall constitute compliance with subdivisions B 3 and B 4, upon notification by the hospital authority to the Virginia Conflict of Interest and Ethics Advisory Council by January 31 of each year of evidence of its compliance with such federal policies and regulations.

D. The governing body may delegate the authority granted under subdivision B 2 to the president or chief executive officer of hospital authority. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision B 3. In those instances where the board has delegated such authority, on or before December 1 of each year, the president or chief executive officer of the hospital authority shall file a report with the relevant governing body disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the

hospital authority's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the governing body.

2015, c. 699;2016, cc. 773, 774.

§ 2.2-3110. Further exceptions.

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
2. The publication of official notices;
3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an officer or employee of that town or city government or school board when the total of such contracts between the town or city government or school board and the officer or employee of that town or city government or school board or a business controlled by him does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;
4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;
5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$10,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;
6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and

does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

1987, Sp. Sess., c. 1, § 2.1-639.9; 1990, c. 51; 1993, c. 303; 1994, cc. 450, 713; 1997, c. 641; 2001, c. 844; 2006, c. 839; 2010, cc. 301, 304; 2016, cc. 351, 531.

Article 4. Prohibited Conduct Relating to Transactions

§ 2.2-3111. Application.

This article proscribes certain conduct by state and local government officers and employees having a personal interest in a transaction.

1987, Sp. Sess., c. 1, § 2.1-639.10; 2001, c. 844.

§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction:

1. Shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidiary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to

subdivision 2, 3 or 4. Any disqualification under the provisions of this subdivision shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time;

2. May participate in the transaction if he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;

3. May participate in the transaction when a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection G of § 2.2-3114 or subsection I of § 2.2-3115; or

4. May participate in the transaction if it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

B. Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

C. Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.

Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

D. The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

E. The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by

the employee.

1987, Sp. Sess., c. 1, § 2.1-639.11; 2001, c. [844](#);2003, c. [694](#);2007, c. [613](#);2012, c. [429](#).

Article 5. Disclosure Statements Required to Be Filed

§ 2.2-3113. Application.

This article requires disclosure of certain personal and financial interests by state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.12; 2001, c. [844](#).

§ 2.2-3114. Disclosure by state officers and employees.

A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Virginia Alcoholic Beverage Control Board, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § [2.2-3117](#) and thereafter shall file such a statement annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday.

B. Nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § [2.2-3118](#) and thereafter shall file such form annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § [2.2-3118](#).

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § [30-356](#). All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after filing.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § [24.2-502](#).

E. Any officer or employee of state government who has a personal interest in any transaction

before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision A 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

1987, Sp. Sess., c. 1, § 2.1-639.13; 1988, cc. 767, 849; 1992, c. 710; 1993, c. 303; 1997, c. 641; 2001, cc. 217, 844; 2003, c. 694; 2005, c. 169; 2006, c. 779; 2014, cc. 225, 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3114.1. Filings of statements of economic interests by General Assembly members.

The filing of a current statement of economic interests by a General Assembly member, member-elect, or candidate for the General Assembly pursuant to §§ 30-110 and 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall suffice for the purposes of this chapter. The Secretary of the Commonwealth may obtain from the Council a copy of the statement of a General Assembly member who is appointed to a position for which a statement is required pursuant to § 2.2-3114. No General Assembly member, member-elect, or candidate shall

be required to file a separate statement of economic interests for the purposes of § 2.2-3114.

2002, c. 36;2015, cc. 763, 777.

§ 2.2-3114.2. Report of gifts by certain officers and employees of state government.

The Governor, Lieutenant Governor, Attorney General, and each member of the Governor's Cabinet shall file, on or before May 1, a report of gifts accepted or received by him or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. The gift report shall be on a form prescribed by the Council and shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the ensuing reconvened session. Any gifts reported pursuant to this section shall not be listed on the annual disclosure form prescribed by the Council pursuant to § 2.2-3117.

2016, cc. 773, 774.

§ 2.2-3115. Disclosure by local government officers and employees.

A. The members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before January 15.

The members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before January 15, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

Persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before January 15.

Persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before January 15.

B. Nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before January

15.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after filing.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town. Such disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city, or town on or before January 15. Such disclosures shall be filed and maintained as public records for five years. Such forms shall be made public no later than six weeks after filing. Forms for the filing of such reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to subdivision A 2 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the

provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

1987, Sp. Sess., c. 1, § 2.1-639.14; 1988, c. 849; 1995, c. 495; 1996, c. 526; 2000, c. 317; 2001, cc. 217, 844; 2003, c. 694; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3116. Disclosure by certain constitutional officers.

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before January 15. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.

1988, c. 469, § 2.1-639.14:1; 2001, c. 844; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3117. (Effective until January 1, 2017) Disclosure form.

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be substantially similar to the following. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.

STATEMENT OF ECONOMIC INTERESTS.

Name.....☒

Office or position held or sought.....☒

Address.....☒

Names of members of immediate family.....☒

DEFINITIONS AND EXPLANATORY MATERIAL.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Close financial association" means an association in which the person filing shares significant financial involvement with an individual and the filer would reasonably be expected to be aware of the individual's business activities and would have access to the necessary records either directly or through the individual. "Close financial association" does not mean an association based on (i) the receipt of retirement benefits or deferred compensation from a business by which the person filing this statement is no longer employed, or (ii) the receipt of compensation for work performed by the person filing as an independent contractor of a business that represents an entity before any state governmental agency when the person filing has had no communications with the state governmental agency.

"Contingent liability" means a liability that is not presently fixed or determined, but may become fixed or determined in the future with the occurrence of some certain event.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules; (xiii) travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or (xiv) gifts from relatives or personal friends. "Relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse. "Personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et

seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419;(c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. "Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

TRUST. If you or your immediate family, separately or together, are the only beneficiaries of a trust, treat the trust's assets as if you own them directly. If you or your immediate family has a proportional interest in a trust, treat that proportion of the trust's assets as if you own them directly. For example, if you and your immediate family have a one-third interest in a trust, complete your Statement as if you own one-third of each of the trust's assets. If you or a member of your immediate family created a trust and can revoke it without the beneficiaries' consent, treat its assets as if you own them directly.

REPORT TO THE BEST OF INFORMATION AND BELIEF. Information required on this Statement must be provided on the basis of the best knowledge, information, and belief of the individual filing the Statement as of the date of this report unless otherwise stated.

COMPLETE ITEMS 1 THROUGH 10. REFER TO SCHEDULES ONLY IF DIRECTED.

You may attach additional explanatory information.

1. Offices and Directorships.

Are you or a member of your immediate family a paid officer or paid director of a business?
EITHER check NO // OR check YES // and complete Schedule A.

2. Personal Liabilities.

Do you or a member of your immediate family owe more than \$5,000 to any one creditor including contingent liabilities? (Exclude debts to any government and loans secured by recorded liens on property at least equal in value to the loan.)
EITHER check NO // OR check YES // and complete Schedule B.

3. Securities.

Do you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$5,000 invested in one business? Account for mutual funds, limited partnerships and trusts.
EITHER check NO // OR check YES // and complete Schedule C.

4. Payments for Talks, Meetings, and Publications.

During the past six months did you receive in your capacity as an officer or employee of your agency lodging, transportation, money, or anything else of value with a combined value exceeding \$100 (i) for a single talk, meeting, or published work or (ii) for a meeting, conference, or event where your attendance at the meeting, conference, or event was designed to (a) educate you on issues relevant to your duties as an officer or employee of your agency or (b) enhance your knowledge and skills relative to your duties as an officer or employee of your agency?

EITHER check NO // OR check YES // and complete Schedule D.

5. Gifts.

During the past six months did a business, government, or individual other than a relative or personal friend (i) furnish you or a member of your immediate family with any gift or entertainment at a single event and the value received exceeded \$50 or (ii) furnish you or a member of your immediate family with gifts or entertainment in any combination and the total value received exceeded \$50, and for which you or the member of your immediate family neither paid nor rendered services in exchange? Account for entertainment events only if the average value per person attending the event exceeded \$50. Account for all business entertainment (except if related to the private profession or occupation of you or the member of your immediate family who received such business entertainment) even if unrelated to your official duties.

EITHER check NO // OR check YES // and complete Schedule E.

6. Salary and Wages.

List each employer that pays you or a member of your immediate family salary or wages in excess of \$5,000 annually. (Exclude state or local government or advisory agencies.)

If no reportable salary or wages, check here //.

-
-
-

7. Business Interests.

Do you or a member of your immediate family, separately or together, operate your own business, or own or control an interest in excess of \$5,000 in a business?

EITHER check NO // OR check YES // and complete Schedule F.

8. Payments for Representation and Other Services.

8A. Did you represent, excluding activity defined as lobbying in § 2.2-419, any businesses before any state governmental agencies, excluding courts or judges, for which you received total compensation during the past six months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-1.)

EITHER check NO // OR check YES // and complete Schedule G-1.

8B. Subject to the same exceptions as in 8A, did persons with whom you have a close financial association (partners, associates or others) represent, excluding activity defined as lobbying in § 2.2-419, any businesses before any state governmental agency for which total compensation was received during the past six months in excess of \$1,000? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-2.)

EITHER check NO // OR check YES // and complete Schedule G-2.

8C. Did you or persons with whom you have a close financial association furnish services to businesses operating in Virginia pursuant to an agreement between you and such businesses, or between persons with whom you have a close financial association and such businesses for which total compensation in excess of \$1,000 was received during the past six months? Services

reported under this provision shall not include services involving the representation of businesses that are reported under item 8A or 8B.

EITHER check NO // OR check YES // and complete Schedule G-3.

9. Real Estate.

9A. State Officers and Employees.

Do you or a member of your immediate family hold an interest, including a partnership interest, valued at more than \$5,000 in real property (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.

EITHER check NO // OR check YES // and complete Schedule H-1.

9B. Local Officers and Employees.

Do you or a member of your immediate family hold an interest, including a partnership interest, or option, easement, or land contract, valued at more than \$5,000 in real property (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.

EITHER check NO // OR check YES // and complete Schedule H-2.

10. Real Estate Contracts with Governmental Agencies.

Do you or a member of your immediate family hold an interest valued at more than \$5,000 in real estate, including a corporate, partnership, or trust interest, option, easement, or land contract, which real estate is the subject of a contract, whether pending or completed within the past six months, with a governmental agency? If the real estate contract provides for the leasing of the property to a governmental agency, do you or a member of your immediate family hold an interest in the real estate valued at more than \$1,000? Account for all such contracts whether or not your interest is reported in Schedule F, H-1, or H-2. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership interest exceeds three percent of the total equity of the business.

EITHER check NO // OR check YES // and complete Schedule I.

Statements of Economic Interests are open for public inspection.

AFFIRMATION BY ALL FILERS.

I swear or affirm that the foregoing information is full, true and correct to the best of my knowledge.

Signature.....

(Return only if needed to complete Statement.)

SCHEDULES

to

STATEMENT OF ECONOMIC INTERESTS.

NAME =If

SCHEDULE A -- Identify each business of which you or a member of your immediate family is a paid officer or paid director.

Name of Business Address of Business Position Held and
by Whom

RETURN TO ITEM 2

SCHEDULE B -- Report personal liability by checking each category. Report only debts in excess of \$5,000. Do not report debts to any government. Do not report loans secured by recorded liens on property at least equal in value to the loan.

Report contingent liabilities below and indicate which debts are contingent.

1. My personal debts are as follows:

Check one
appropriate \$5,001 to More than
categories \$50,000 \$50,000
Banks
Savings institutions
Other loan or finance companies
Insurance companies
Stock, commodity or other brokerage
companies

Other businesses:

(State principal business activity for each
creditor and its name.)

Individual creditors:

(State principal business or
occupation of each creditor and its name.)

2. The personal debts of the members of my immediate family are as follows:

Check one
appropriate \$5,001 to More than
categories \$50,000 \$50,000
Banks
Savings institutions
Other loan or finance companies
Insurance companies

Stock, commodity or other brokerage companies

Other businesses:

(State principal business activity for each creditor and its name.)

Individual creditors:

(State principal business or occupation of each creditor and its name.)

RETURN TO ITEM 3

SCHEDULE C -- "Securities" INCLUDES stocks, bonds, mutual funds, limited partnerships, and commodity futures contracts.

"Securities" EXCLUDES certificates of deposit, money market funds, annuity contracts, and insurance policies.

Identify each business or Virginia governmental entity in which you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$5,000. Name each issuer and type of security individually.

Do not list U.S. Bonds or other government securities not issued by the Commonwealth of Virginia or its authorities, agencies, or local governments. Do not list organizations that do not do business in this Commonwealth, but most major businesses conduct business in Virginia. Account for securities held in trust.

If no reportable securities, check here //.

RETURN TO ITEM 4

SCHEDULE D -- List each source from which you received during the past six months in your capacity as an officer or employee of your agency lodging, transportation, money, or any other thing of value with combined value exceeding \$100 (i) for your presentation of a single talk, participation in one meeting, or publication of a work or (ii) for your attendance at a meeting, conference, or event where your attendance at the meeting, conference, or event was designed to (a) educate you on issues relevant to your duties as an officer or employee of your agency or (b) enhance your knowledge and skills relative to your duties as an officer or employee of your agency. Any lodging, transportation, money, or other thing of value received by an officer or employee that does not satisfy the provisions of clause (i), (ii)(a), or (ii)(b) shall be listed as a gift on Schedule E.

List payments or reimbursements by an advisory or governmental agency only for meetings or travel outside the Commonwealth.

List a payment even if you donated it to charity.

Do not list information about a payment if you returned it within 60 days or if you received it from an employer already listed under Item 6 or from a source of income listed on Schedule F. If no payment must be listed, check here //.

Type of payment
(e.g., honoraria,
travel reimburse-
Payer Approximate Value Circumstances ment, etc.)

RETURN TO ITEM 5

SCHEDULE E -- List each business, governmental entity, or individual that, during the past six months, (i) furnished you or a member of your immediate family with any gift or entertainment at a single event, and the value received exceeded \$50 or (ii) furnished you or a member of your immediate family with gifts or entertainment in any combination and the total value received exceeded \$50, and for which you or the member of your immediate family neither paid nor rendered services in exchange. List each such gift or event. Do not list entertainment events unless the average value per person attending the event exceeded \$50. Do not list business entertainment related to the private profession or occupation of you or the member of your immediate family who received such business entertainment. Do not list gifts or other things of value given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list campaign contributions publicly reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2 of the Code of Virginia.

Name of Business, City or Exact
Name of Organization, or County Gift or
Recipient Individual and State Event Approximate
Value

RETURN TO ITEM 6

SCHEDULE F -- Complete this Schedule for each self-owned or family-owned business (including

rental property, a farm, or consulting work), partnership, or corporation in which you or a member of your immediate family, separately or together, own an interest having a value in excess of \$5,000.

If the enterprise is owned or operated under a trade, partnership, or corporate name, list that name; otherwise, merely explain the nature of the enterprise. If rental property is owned or operated under a trade, partnership, or corporate name, list the name only; otherwise, give the address of each property. Account for business interests held in trust.

Name of Business, Gross Income
Corporation,
Partnership, Nature of Enterprise \$50,001 More
Farm; Address of City or (farming, law, rental \$50,000 to than
County
Rental Property and State property, etc.) or less \$250,000
250,000

--

--

--

--

RETURN TO ITEM 8

SCHEDULE G-1 -- List the businesses you represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, for which you received total compensation during the past six months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by you.

Identify each business, the nature of the representation and the amount received by dollar category from each such business. You may state the type, rather than name, of the business if you are required by law not to reveal the name of the business represented by you.

Only STATE officers and employees should complete this Schedule.

Amount Received
Name Type Purpose
of of purpose of
Business - Business - of Agency -
nessness Represented - by \$1,001 \$10,001 \$50,001 \$100,001 \$250,001
senta-totototoand

tion\$10,000\$50,000\$100,000\$250,000over

If you have received \$250, 001 or more from a single business within the reporting period, indicate the amount received, rounded to the nearest \$10,000.

Amount Received:.

SCHEDULE G-2 -- List the businesses that have been represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, by persons who are your partners, associates or others with whom you have a close financial association and who received total compensation in excess of \$1,000 for such representation during the past six months, excluding representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by your partners, associates or others with whom you have a close financial association.

Identify such businesses by type and also name the state governmental agencies before which such person appeared on behalf of such businesses.

Only STATE officers and employees should complete this Schedule.

Type of businessName of state governmental agency

SCHEDULE G-3 -- Indicate below types of businesses that operate in Virginia to which services were furnished by you or persons with whom you have a close financial association pursuant to an agreement between you and such businesses, or between persons with whom you have a close financial association and such businesses and for which total compensation in excess of \$1,000 was received during the past six months. Services reported in this Schedule shall not include services involving the representation of businesses that are reported in Schedule G-1 or G-2.

Identify opposite each category of businesses listed below (i) the type of business, (ii) the type of service rendered and (iii) the value by dollar category of the compensation received for all businesses falling within each category.

Value of Compensation

CheckType

ifof

ser-ser-

vicesvice

wereren-
ren-dered
dered\$1, 001 \$10, 001 \$50, 001\$100, 001\$250, 001
totototoand
\$10,000\$50,000\$100,000\$250,000over
Electric utilities
Gas utilities
Telephone utilities
Water utilities
Cable television
companies
Interstate
transportation
companies
Intrastate
transportation
companies
Oil or gas retail
companies
Banks
Savings institutions
Loan or finance
companies
Manufacturing
companies(state
type of product,
e.g., textile,
furniture, etc.)
Mining companies
Life insurance
companies
Casualty insurance
companies
Other insurance
companies
Retail companies
Beer, wine or liquor
companies or
distributors
Trade associations
Professional
associations
Associations of
public employees or
officials
Counties, cities or
towns
Labor organizations

Other

RETURN TO ITEM 9

SCHEDULE H-1 -- List real estate other than your principal residence in which you or a member of your immediate family holds an interest, including a partnership interest, option, easement, or land contract, valued at more than \$5,000. Each parcel shall be listed individually.

 List each location Describe the type of real estate If the real estate is
 (state, and county you own in each owned or recorded in
 or city) where you location (business, recre-a name other than your
 own real estate. ational, apartment, com-own, list that name.
 mercial, open land, etc.).

SCHEDULE H-2 -- List real estate other than your principal residence in which you or a member of your immediate family holds an interest, including a partnership interest or option, easement, or land contract, valued at more than \$5,000. Each parcel shall be listed individually. Also list the names of any co-owners of such property, if applicable.

 List each location Describe the type If the real estate List the names
 (state, and county of real estate you is owned or rec-of any co-owners,
 or city) where own in each orded in a name if applicable.
 you own reallocation, other than your
 (business,
 estate recreational, own, list that
 apartment, com-name.
 mercial, open land,
 etc.).

 -

 -

 -

 -

SCHEDULE I -- List all contracts, whether pending or completed within the past six months, with a governmental agency for the sale or exchange of real estate in which you or a member of your immediate family holds an interest, including a corporate, partnership or trust interest, option, easement, or land contract, valued at more than \$10,000. List all contracts with a governmental agency for the lease of real estate in which you or a member of your immediate family holds such an interest valued at more than \$1,000. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership interest exceeds three percent of the total equity of the business. State officers and employees report contracts with state agencies. Local officers and employees report contracts with local agencies.

List your real estate interest and the person or entity, party to the contract including the type of entity, which is party to the contract. List each governmental agency which is party to the contract. State the annual income from the contract, and the amount, if any, of income you or any immediate family member derives from the contract. Describe any annual management role and the percentage ownership interest you or your immediate family member has in the real estate or entity.

1987, Sp. Sess., c. 1, § 2.1-639.15; 1988, c. 849; 1994, cc. 724, 733, 777, 793; 1995, c. 763; 1996, c. 77; 1997, cc. 577, 844; 1998, c. 732; 2001, c. 844; 2006, cc. 310, 779, 787, 892; 2008, c. 239; 2010, c. 670; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777.

§ 2.2-3117. (Effective until January 1, 2017) Disclosure form.
The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be substantially similar to the following. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.

STATEMENT OF ECONOMIC INTERESTS.

Name _____

Office or position held or sought _____

Address _____

Names of members of immediate family _____

DEFINITIONS AND EXPLANATORY MATERIAL.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Close financial association" means an association in which the person filing shares significant financial involvement with an individual and the filer would reasonably be expected to be aware of the individual's business activities and would have access to the necessary records either directly or through the individual. "Close financial association" does not mean an association based on (i) the receipt of retirement benefits or deferred compensation from a business by which the person filing this statement is no longer employed, or (ii) the receipt of compensation for work performed by the person filing as an independent contractor of a business that represents an entity before any state governmental agency when the person filing has had no communications with the state governmental agency.

"Contingent liability" means a liability that is not presently fixed or determined, but may become fixed or determined in the future with the occurrence of some certain event.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules; (xiii) travel related to an official meeting of the

Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or (xiv) gifts from relatives or personal friends. "Relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse. "Personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. "Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

TRUST. If you or your immediate family, separately or together, are the only beneficiaries of a trust, treat the trust's assets as if you own them directly. If you or your immediate family has a proportional interest in a trust, treat that proportion of the trust's assets as if you own them directly. For example, if you and your immediate family have a one-third interest in a trust, complete your Statement as if you own one-third of each of the trust's assets. If you or a member of your immediate family created a trust and can revoke it without the beneficiaries' consent, treat its assets as if you own them directly.

REPORT TO THE BEST OF INFORMATION AND BELIEF. Information required on this Statement must be provided on the basis of the best knowledge, information, and belief of the individual filing the Statement as of the date of this report unless otherwise stated.

COMPLETE ITEMS 1 THROUGH 10. REFER TO SCHEDULES ONLY IF DIRECTED.

You may attach additional explanatory information.

1. Offices and Directorships.

Are you or a member of your immediate family a paid officer or paid director of a business?
EITHER check NO // OR check YES // and complete Schedule A.

2. Personal Liabilities.

Do you or a member of your immediate family owe more than \$5,000 to any one creditor including contingent liabilities? (Exclude debts to any government and loans secured by recorded liens on property at least equal in value to the loan.)
EITHER check NO // OR check YES // and complete Schedule B.

3. Securities.

Do you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$5,000 invested in one business? Account for mutual funds, limited

partnerships and trusts.

EITHER check NO // OR check YES // and complete Schedule C.

4. Payments for Talks, Meetings, and Publications.

During the past six months did you receive in your capacity as an officer or employee of your agency lodging, transportation, money, or anything else of value with a combined value exceeding \$100 (i) for a single talk, meeting, or published work or (ii) for a meeting, conference, or event where your attendance at the meeting, conference, or event was designed to (a) educate you on issues relevant to your duties as an officer or employee of your agency or (b) enhance your knowledge and skills relative to your duties as an officer or employee of your agency?

EITHER check NO // OR check YES // and complete Schedule D.

5. Gifts.

During the past six months did a business, government, or individual other than a relative or personal friend (i) furnish you or a member of your immediate family with any gift or entertainment at a single event and the value received exceeded \$50 or (ii) furnish you or a member of your immediate family with gifts or entertainment in any combination and the total value received exceeded \$50, and for which you or the member of your immediate family neither paid nor rendered services in exchange? Account for entertainment events only if the average value per person attending the event exceeded \$50. Account for all business entertainment (except if related to the private profession or occupation of you or the member of your immediate family who received such business entertainment) even if unrelated to your official duties.

EITHER check NO // OR check YES // and complete Schedule E.

6. Salary and Wages.

List each employer that pays you or a member of your immediate family salary or wages in excess of \$5,000 annually. (Exclude state or local government or advisory agencies.)

If no reportable salary or wages, check here //.

7. Business Interests.

Do you or a member of your immediate family, separately or together, operate your own business, or own or control an interest in excess of \$5,000 in a business?

EITHER check NO // OR check YES // and complete Schedule F.

8. Payments for Representation and Other Services.

8A. Did you represent, excluding activity defined as lobbying in § 2.2-419, any businesses before any state governmental agencies, excluding courts or judges, for which you received total compensation during the past six months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-1.)

EITHER check NO // OR check YES // and complete Schedule G-1.

8B. Subject to the same exceptions as in 8A, did persons with whom you have a close financial

association (partners, associates or others) represent, excluding activity defined as lobbying in § 2.2-419, any businesses before any state governmental agency for which total compensation was received during the past six months in excess of \$1,000? (Officers and employees of local governmental and advisory agencies do NOT need to answer this question or complete Schedule G-2.)

EITHER check NO // OR check YES // and complete Schedule G-2.

8C. Did you or persons with whom you have a close financial association furnish services to businesses operating in Virginia pursuant to an agreement between you and such businesses, or between persons with whom you have a close financial association and such businesses for which total compensation in excess of \$1,000 was received during the past six months? Services reported under this provision shall not include services involving the representation of businesses that are reported under item 8A or 8B.

EITHER check NO // OR check YES // and complete Schedule G-3.

9. Real Estate.

9A. State Officers and Employees.

Do you or a member of your immediate family hold an interest, including a partnership interest, valued at more than \$5,000 in real property (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.

EITHER check NO // OR check YES // and complete Schedule H-1.

9B. Local Officers and Employees.

Do you or a member of your immediate family hold an interest, including a partnership interest, or option, easement, or land contract, valued at more than \$5,000 in real property (other than your principal residence) for which you have not already listed the full address on Schedule F? Account for real estate held in trust.

EITHER check NO // OR check YES // and complete Schedule H-2.

10. Real Estate Contracts with Governmental Agencies.

Do you or a member of your immediate family hold an interest valued at more than \$5,000 in real estate, including a corporate, partnership, or trust interest, option, easement, or land contract, which real estate is the subject of a contract, whether pending or completed within the past six months, with a governmental agency? If the real estate contract provides for the leasing of the property to a governmental agency, do you or a member of your immediate family hold an interest in the real estate valued at more than \$1,000? Account for all such contracts whether or not your interest is reported in Schedule F, H-1, or H-2. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership interest exceeds three percent of the total equity of the business.

EITHER check NO // OR check YES // and complete Schedule I.

Statements of Economic Interests are open for public inspection.

AFFIRMATION BY ALL FILERS.

I swear or affirm that the foregoing information is full, true and correct to the best of my knowledge.

Signature _____

(Return only if needed to complete Statement.)

SCHEDULES to STATEMENT OF ECONOMIC INTERESTS.

NAME _____

SCHEDULE A -- OFFICES AND DIRECTORSHIPS.

Identify each business of which you or a member of your immediate family is a paid officer or paid director.

a	Name of Business	Address of Business	Position Held and by Whom
b	_____ _____	_____ _____	_____ _____
c	_____ _____	_____ _____	_____ _____
d	_____ _____	_____ _____	_____ _____
e	_____ _____	_____ _____	_____ _____
f	RETURN TO ITEM 2		

SCHEDULE B -- PERSONAL LIABILITIES.

Report personal liability by checking each category. Report only debts in excess of \$5,000. Do not report debts to any government. Do not report loans secured by recorded liens on property at least equal in value to the loan.

Report contingent liabilities below and indicate which debts are contingent.

1. My personal debts are as follows:

a	Check one		
b	Check appropriate categories	\$5,001 to \$50,000	More than \$50,000
c	Banks	_____	_____
d	Savings institutions	_____	_____
e	Other loan or finance companies	_____	_____
f	Insurance companies	_____	_____

g Stock, commodity or other brokerage companies _____

h Other businesses:
 (State principal business activity for each creditor and its name.)

i _____

j _____

k Individual creditors:
 (State principal business or occupation of each creditor and its name.)

l _____

m _____

n _____

o _____

2. The personal debts of the members of my immediate family are as follows:

a		Check one	
b	Check appropriate categories	\$5,001 to \$50,000	More than \$50,000
c	Banks	_____	_____
d	Savings institutions	_____	_____
e	Other loan or finance companies	_____	_____
f	Insurance companies	_____	_____

g Stock, commodity or
other brokerage _____
companies _____

h Other businesses:

i (State principal
business activity for
each creditor and its
name.)

j _____

k _____

l Individual creditors:

m (State principal
business or occupation
of each creditor and its
name.)

n _____

o _____

p RETURN TO ITEM 3
SCHEDULE C -- SECURITIES.

"Securities" INCLUDES stocks, bonds, mutual funds, limited partnerships, and commodity futures contracts.

"Securities" EXCLUDES certificates of deposit, money market funds, annuity contracts, and insurance policies.

Identify each business or Virginia governmental entity in which you or a member of your immediate family, directly or indirectly, separately or together, own securities valued in excess of \$5,000. Name each issuer and type of security individually.

Do not list U.S. Bonds or other government securities not issued by the Commonwealth of Virginia or its authorities, agencies, or local governments. Do not list organizations that do not do business in this Commonwealth, but most major businesses conduct business in Virginia.

Account for securities held in trust.
 If no reportable securities, check here //.

a	Check one			
	b	c	d	e
Type of Security (stocks, bonds, mutual funds, etc.)				
	Name of Issuer			
c	_____	_____	_____	_____
d	_____	_____	_____	_____
e	_____	_____	_____	_____
f	_____	_____	_____	_____

g RETURN TO ITEM 4
SCHEDULE D -- PAYMENTS FOR TALKS, MEETINGS, AND PUBLICATIONS.

List each source from which you received during the past six months in your capacity as an officer or employee of your agency lodging, transportation, money, or any other thing of value with combined value exceeding \$100 (i) for your presentation of a single talk, participation in one meeting, or publication of a work or (ii) for your attendance at a meeting, conference, or event where your attendance at the meeting, conference, or event was designed to (a) educate you on issues relevant to your duties as an officer or employee of your agency or (b) enhance your knowledge and skills relative to your duties as an officer or employee of your agency. Any lodging, transportation, money, or other thing of value received by an officer or employee that does not satisfy the provisions of clause (i), (ii) (a), or (ii) (b) shall be listed as a gift on Schedule E.

List payments or reimbursements by an advisory or governmental agency only for meetings or travel outside the Commonwealth.

List a payment even if you donated it to charity.

Do not list information about a payment if you returned it within 60 days or if you received it from an employer already listed under Item 6 or from a source of income listed on Schedule F.

If no payment must be listed, check here //.

a	Payer	Approximate Value	Circumstances	Type of payment (e.g., honoraria, travel)
---	-------	-------------------	---------------	---

reimbursement,
etc.)

b _____

c _____

d _____

e _____

f RETURN TO ITEM 5

SCHEDULE E -- GIFTS.

List each business, governmental entity, or individual that, during the past six months, (i) furnished you or a member of your immediate family with any gift or entertainment at a single event, and the value received exceeded \$50 or (ii) furnished you or a member of your immediate family with gifts or entertainment in any combination and the total value received exceeded \$50, and for which you or the member of your immediate family neither paid nor rendered services in exchange. List each such gift or event. Do not list entertainment events unless the average value per person attending the event exceeded \$50. Do not list business entertainment related to the private profession or occupation of you or the member of your immediate family who received such business entertainment. Do not list gifts or other things of value given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list campaign contributions publicly reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2 of the Code of Virginia.

a	Name of Recipient	Name of Business, Organization, or Individual	City or County and State	Exact Gift or Event	Approximate Value
b	_____	_____	_____	_____	_____
	_____	_____	-	_____	_____
c	_____	_____	_____	_____	_____
	_____	_____	-	_____	_____
d	_____	_____	_____	_____	_____
	_____	_____	-	_____	_____
e	_____	_____	_____	_____	_____
	_____	_____	-	_____	_____

SCHEDULE F -- BUSINESS INTERESTS.

Complete this Schedule for each self-owned or family-owned business (including rental property, a farm, or consulting work), partnership, or corporation in which you or a member of your immediate family, separately or together, own an interest having a value in excess of \$5,000.

If the enterprise is owned or operated under a trade, partnership, or corporate name, list that name; otherwise, merely explain the nature of the enterprise. If rental property is owned or operated under a trade, partnership, or corporate name, list the name only; otherwise, give the address of each property. Account for business interests held in trust.

a	Name of Business, Corporation, Partnership, Farm; Address of Rental Property	City or County and State	Nature of Enterprise (farming, law, rental property, etc.)	Gross Income		
				\$50,000 or less	\$50,001 to \$250,000	More than \$250,000
b						
c						
d						
e						
f						

SCHEDULE G-1 -- PAYMENTS FOR REPRESENTATION BY YOU.

List the businesses you represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, for which you received total compensation during the past six months in excess of \$1,000, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by you.

Identify each business, the nature of the representation and the amount received by dollar category from each such business. You may state the type, rather than name, of the business if you are required by law not to reveal the name of the business represented by you.

Only STATE officers and employees should complete this Schedule.

a					Amount Received				
	Name of Business	Type of Business	Purpose of Representation	Name of Agency	\$1,001 to \$10,000	\$10,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	\$250,001 and over
b	_____	_____	_____	_____	_____	_____	_____	_____	_____
c	_____	-	_____	-	_____	_____	_____	_____	_____
d	_____	_____	_____	_____	_____	_____	_____	_____	_____
e	_____	-	_____	-	_____	_____	_____	_____	_____
f	_____	_____	_____	_____	_____	_____	_____	_____	_____

If you have received \$250,001 or more from a single business within the reporting period, indicate the amount received, rounded to the nearest \$10,000.

Amount Received: _____.

SCHEDULE G-2 -- PAYMENTS FOR REPRESENTATION BY ASSOCIATES.

List the businesses that have been represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, by persons who are your partners, associates or others with whom you have a close financial association and who received total compensation in excess of \$1,000 for such representation during the past six months, excluding representation consisting solely of the filing of mandatory papers and subsequent representation regarding the mandatory papers filed by your partners, associates or others with whom you have a close financial association.

Identify such businesses by type and also name the state governmental agencies before which such person appeared on behalf of such businesses.

Only STATE officers and employees should complete this Schedule.

a	Type of business	Name of state governmental agency
b	_____	_____
c	_____	_____
d	_____	_____

e

SCHEDULE G-3 -- PAYMENTS FOR OTHER SERVICES GENERALLY.

Indicate below types of businesses that operate in Virginia to which services were furnished by you or persons with whom you have a close financial association pursuant to an agreement between you and such businesses, or between persons with whom you have a close financial association and such businesses and for which total compensation in excess of \$1,000 was received during the past six months. Services reported in this Schedule shall not include services involving the representation of businesses that are reported in Schedule G-1 or G-2.

Identify opposite each category of businesses listed below (i) the type of business, (ii) the type of service rendered and (iii) the value by dollar category of the compensation received for all businesses falling within each category.

a	b	Check if services were rendered	Type of service rendered	Value of Compensation				
				\$1,001 to \$10,000	\$10,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	\$250,001 and over
c	Electric utilities	_____	_____	_____	_____	_____	_____	_____
d	Gas utilities	_____	_____	_____	_____	_____	_____	_____
e	Telephone utilities	_____	_____	_____	_____	_____	_____	_____
f	Water utilities	_____	_____	_____	_____	_____	_____	_____
g	Cable television companies	_____	_____	_____	_____	_____	_____	_____
h	Intrastate transportation companies	_____	_____	_____	_____	_____	_____	_____

i	Oil or gas retail companies						
j	Banks						
k	Savings institutions						
l	Loan or finance companies						
m	Manufact uring companies (state type of product, e.g., textile, furniture, etc.)						
n	Mining companies						
o	Life insurance companies						
p	Casualty insurance companies						
q	Other insurance companies						

r	Retail companies	_____	_____	_____	_____	_____	_____
s	Beer, wine or liquor companies or distributors	_____	_____	_____	_____	_____	_____
t	Trade associations	_____	_____	_____	_____	_____	_____
u	Professional associations	_____	_____	_____	_____	_____	_____
v	Associations of public employees or officials	_____	_____	_____	_____	_____	_____
w	Counties, cities or towns	_____	_____	_____	_____	_____	_____
x	Labor organizations	_____	_____	_____	_____	_____	_____
y	Other	_____	_____	_____	_____	_____	_____
z							

RETURN TO ITEM 9

SCHEDULE H-1 -- REAL ESTATE -- STATE OFFICERS AND EMPLOYEES.

List real estate other than your principal residence in which you or a member of your immediate family holds an interest, including a partnership interest, option, easement, or land contract, valued at more than \$5,000. Each parcel shall be listed individually.

a	List each location (state, and county or	Describe the type of real estate you own in	If the real estate is owned or recorded in a
---	---	--	---

	city) where you own real estate.	each location (business, recreational, apartment, commercial, open land, etc.).	name other than your own, list that name.
b	_____	_____	_____
	_____	_____	_____
c	_____	_____	_____
	_____	_____	_____
d	_____	_____	_____
	_____	_____	_____
e	_____	_____	_____
	_____	_____	_____
f	_____	_____	_____
	_____	_____	_____

SCHEDULE H-2 -- REAL ESTATE -- LOCAL OFFICERS AND EMPLOYEES.

List real estate other than your principal residence in which you or a member of your immediate family holds an interest, including a partnership interest or option, easement, or land contract, valued at more than \$5,000. Each parcel shall be listed individually. Also list the names of any co-owners of such property, if applicable.

	List each location (state, and county or city) where you own real estate.	Describe the type of real estate you own in each location (business, recreational, apartment, commercial, open land, etc.).	If the real estate is owned or recorded in a name other than your own, list that name.	List the names of any co-owners, if applicable.
a	_____	_____	_____	_____
b	_____	_____	_____	_____
	_____	_____	_____	_____
c	_____	_____	_____	_____
	_____	_____	_____	_____
d	_____	_____	_____	_____
	_____	_____	_____	_____
e	_____	_____	_____	_____
	_____	_____	_____	_____

f

SCHEDULE I -- REAL ESTATE CONTRACTS WITH GOVERNMENTAL AGENCIES.

List all contracts, whether pending or completed within the past six months, with a governmental agency for the sale or exchange of real estate in which you or a member of your immediate family holds an interest, including a corporate, partnership or trust interest, option, easement, or land contract, valued at more than \$10,000. List all contracts with a governmental agency for the lease of real estate in which you or a member of your immediate family holds such an interest valued at more than \$1,000. This requirement to disclose an interest in a lease does not apply to an interest derived through an ownership interest in a business unless the ownership interest exceeds three percent of the total equity of the business.

State officers and employees report contracts with state agencies.

Local officers and employees report contracts with local agencies.

a	List your real estate interest and the person or entity, including the type of entity, which is party to the contract. Describe any management role and the percentage ownership interest you or your immediate family member has in the real estate or entity.	List each governmental agency which is a party to the contract and indicate the county or city where the real estate is located.	State the annual income from the contract, and the amount, if any, of income you or any immediate family member derives annually from the contract.
b	_____ _____ _____	_____	_____ _____
c	_____ _____ _____	_____	_____ _____
d	_____ _____ _____	_____	_____ _____
e	_____ _____ _____	_____	_____ _____

f

1987, Sp. Sess., c. 1, § 2.1-639.15; 1988, c. 849; 1994, cc. 724, 733, 777, 793; 1995, c. 763; 1996, c. 77; 1997, cc. 577, 844; 1998, c. 732; 2001, c. 844; 2006, cc. 310, 779, 787, 892; 2008, c. 239; 2010, c. 670; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777.

§ 2.2-3117. (Effective January 1, 2017) Disclosure form.

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.

1987, Sp. Sess., c. 1, § 2.1-639.15; 1988, c. 849; 1994, cc. 724, 733, 777, 793; 1995, c. 763; 1996, c. 77; 1997, cc. 577, 844; 1998, c. 732; 2001, c. 844; 2006, cc. 310, 779, 787, 892; 2008, c. 239; 2010, c. 670; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3118. (Effective until January 1, 2017) Disclosure form; certain citizen members.

A. The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be substantially similar to the following. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.

DEFINITIONS AND EXPLANATORY MATERIAL.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Close financial association" means an association in which the person filing shares significant financial involvement with an individual and the filer would reasonably be expected to be aware of the individual's business activities and would have access to the necessary records either directly or through the individual. "Close financial association" does not mean an association based on (i) the receipt of retirement benefits or deferred compensation from a business by which the person filing this statement is no longer employed, or (ii) the receipt of compensation for work performed by the person filing as an independent contractor of a business that represents an entity before any state governmental agency when the person filing has no communications with the state governmental agency.

"Contingent liability" means a liability that is not presently fixed or determined, but may become fixed or determined in the future with the occurrence of some certain event.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the filer and who is a dependent of the filer.

"Personal interest" means, for the purposes of this form only, a personal and financial benefit or liability accruing to a filer or a member of his immediate family. Such interest shall exist by

reason of (i) ownership in real or personal property, tangible or intangible; (ii) ownership in a business; (iii) income from a business; or (iv) personal liability on behalf of a business; however, unless the ownership interest in a business exceeds three percent of the total equity of the business, or the liability on behalf of a business exceeds three percent of the total assets of the business, or the annual income, and/or property or use of such property, from the business exceeds \$10,000 or may reasonably be anticipated to exceed \$10,000, such interest shall not constitute a "personal interest."

Name.....☒

Office or position held or to be held

.....☒

Address.....☒

I. My personal interests and those of my immediate family are as follows:

Include all forms of personal interests held at the time of filing: real estate, stocks, bonds, equity interests in proprietorships and partnerships. You may exclude:

1. Deposits and interest bearing accounts in banks, savings institutions and other institutions accepting such deposits or accounts;
2. Interests in any business, other than a news medium, representing less than three percent of the total equity value of the business;
3. Liability on behalf of any business representing less than three percent of the total assets of such business; and
4. Income (other than from salary) less than \$10,000 annually from any business. You need not state the value of any interest. You must state the name or principal business activity of each business in which you have a personal interest.

A. My personal interests are:

1. Residence, address, or, if no address, location.....☒
2. Other real estate, address, or, if no address, location.....☒
3. Name or principal business activity of each business in which stock, bond or equity interest is held.....☒

B. The personal interests of my immediate family are:

1. Real estate, address or, if no address, location.....☒
2. Name or principal business activity of each business in which stock, bond or equity interest is held

II. OFFICES, DIRECTORSHIPS AND SALARIED EMPLOYMENTS

The paid offices, paid directorships and salaried employments which I hold or which members of my immediate family hold and the businesses from which I or members of my immediate family receive retirement benefits are as follows:

(You need not state any dollar amounts.)

A. My paid offices, paid directorships and salaried employments are:

 Position heldName of business

B. The paid offices, paid directorships and salaried employments of members of my immediate family are:

 Position heldName of business

III.A. The businesses I have represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, for which I have received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by name and name the state governmental agencies before which you appeared on behalf of such businesses.

 Name of businessName of governmental agency

B. The businesses that, to my knowledge, have been represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, by persons with whom I have a close financial association and who received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by type and name the state governmental agencies before which such person appeared on behalf of such businesses.

 Type of business Name of state governmental agency

C. All other businesses listed below that operate in Virginia to which services were furnished pursuant to an agreement between you and such businesses and for which total compensation in excess of \$1,000 was received during the preceding year:

Check each category of business to which services were furnished.

- Electric utilities
- Gas utilities
- Telephone utilities
- Water utilities
- Cable television companies
- Intrastate transportation companies
- Interstate transportation companies
- Oil or gas retail companies
- Banks
- Savings institutions
- Loan or finance companies
- Manufacturing companies (state type of product, e.g., textile, furniture, etc.)
- Mining companies
- Life insurance companies
- Casualty insurance companies
- Other insurance companies
- Retail companies
- Beer, wine or liquor companies or distributors
- Trade associations
- Professional associations
- Associations of public employees or officials
- Counties, cities or towns
- Labor organizations

IV. The persons, associations, or other sources other than my governmental agency from which I or a member of my immediate family received remuneration in excess of \$100 during the preceding year, in cash or otherwise, as honorariums or payment of expenses in connection with my attendance at any meeting or other function to which I was invited in my official capacity are as follows:

 Description Amount of remuneration
 Name of Source of occasion for each occasion

B. The provisions of Part III A and B of the disclosure form prescribed by this section shall not be applicable to officers and employees of local governmental and local advisory agencies.

C. Except for real estate located within the county, city or town in which the officer or employee serves or a county, city or town contiguous to the county, city or town in which the officer or employee serves, officers and employees of local governmental or advisory agencies shall not be required to disclose under Part I of the form any other interests in real estate.

1988, c. 849, § 2.1-639.15:1; 1996, c. 77; 2001, c. 844; 2006, c. 779; 2011, cc. 123, 177; 2014, cc. 792, 804; 2015, cc. 763, 777.

§ 2.2-3118. (Effective until January 1, 2017) Disclosure form; certain citizen members.

A. The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be substantially similar to the following. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.

DEFINITIONS AND EXPLANATORY MATERIAL.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Close financial association" means an association in which the person filing shares significant financial involvement with an individual and the filer would reasonably be expected to be aware of the individual's business activities and would have access to the necessary records either directly or through the individual.

"Close financial association" does not mean an association based on (i) the receipt of retirement benefits or deferred compensation from a business by which the person filing this statement is no longer employed, or (ii) the receipt of compensation for work performed by the person filing as an independent contractor of a business that represents an entity before any state governmental agency when the person filing has no communications with the state governmental agency.

"Contingent liability" means a liability that is not presently fixed or determined, but may become fixed or determined in the future with the occurrence of some certain event.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the filer and who is a dependent of the filer.

"Personal interest" means, for the purposes of this form only, a personal and financial benefit or liability accruing to a filer or a member of his immediate family. Such interest shall exist by reason of (i) ownership in real or personal property, tangible or intangible; (ii) ownership in a business; (iii) income from a business; or (iv) personal liability on behalf of a business; however, unless the ownership interest in a business exceeds three percent of the total equity of the business, or the liability on behalf of a business exceeds three percent of the total assets of the business, or the annual income, and/or property or use of such property, from the business exceeds \$10,000 or may reasonably be anticipated to exceed \$10,000, such interest shall not constitute a "personal interest."

Name _____

Office or position held or to be held

Address _____

I. FINANCIAL INTERESTS

My personal interests and those of my immediate family are as follows:

Include all forms of personal interests held at the time of filing: real estate, stocks, bonds, equity interests in proprietorships and partnerships. You may exclude:

1. Deposits and interest bearing accounts in banks, savings institutions and other institutions accepting such deposits or accounts;
2. Interests in any business, other than a news medium, representing less than three percent of the total equity value of the business;
3. Liability on behalf of any business representing less than three percent of the total assets of such business; and
4. Income (other than from salary) less than \$10,000 annually from any business. You need not state the value of any interest. You must state the name or principal business activity of each business in which you have a personal interest.

A. My personal interests are:

1. Residence, address, or, if no address, location

2. Other real estate, address, or, if no address, location

3. Name or principal business activity of each business in which stock, bond or equity interest is held

B. The personal interests of my immediate family are:

1. Real estate, address or, if no address, location

2. Name or principal business activity of each business in which stock, bond or equity interest is held

II. OFFICES, DIRECTORSHIPS AND SALARIED EMPLOYMENTS

The paid offices, paid directorships and salaried employments which I hold or which members of my immediate family hold and the businesses from which I or members of my immediate family receive retirement benefits are as follows:

(You need not state any dollar amounts.)

A. My paid offices, paid directorships and salaried employments are:

a	Position held	Name of business
b	_____	_____
	_____	_____
c	_____	_____
	_____	_____
d	_____	_____
	_____	_____

B. The paid offices, paid directorships and salaried employments of members of my immediate family are:

a	Position held	Name of business
b	_____	_____
	_____	_____
c	_____	_____
	_____	_____
d	_____	_____
	_____	_____

III. BUSINESSES TO WHICH SERVICES WERE FURNISHED

A. The businesses I have represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, for which I have received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by name and name the state governmental agencies before which you appeared on behalf of such businesses.

a	Name of business	Name of governmental agency
---	------------------	-----------------------------

b	_____	_____
	_____	_____
c	_____	_____
	_____	_____
d	_____	_____
	_____	_____

B. The businesses that, to my knowledge, have been represented, excluding activity defined as lobbying in § 2.2-419, before any state governmental agency, excluding any court or judge, by persons with whom I have a close financial association and who received total compensation in excess of \$1,000 during the preceding year, excluding compensation for other services to such businesses and representation consisting solely of the filing of mandatory papers, are as follows:

Identify businesses by type and name the state governmental agencies before which such person appeared on behalf of such businesses.

a	Type of business	Name of state governmental agency
b	_____	_____
	-	_____
c	_____	_____
	-	_____
d	_____	_____
	-	_____

C. All other businesses listed below that operate in Virginia to which services were furnished pursuant to an agreement between you and such businesses and for which total compensation in excess of \$1,000 was received during the preceding year:

Check each category of business to which services were furnished.

a	Electric utilities	_____
b	Gas utilities	_____
c	Telephone utilities	_____
d	Water utilities	_____
e	Cable television companies	_____
f	Intrastate transportation companies	_____
g	Interstate transportation companies	_____

- h Oil or gas retail companies _____
- i Banks _____
- j Savings institutions _____
- k Loan or finance companies _____
- l Manufacturing companies
(state type of product, e.g., textile, furniture, etc.) _____
- m Mining companies _____
- n Life insurance companies _____
- o Casualty insurance companies _____
- p Other insurance companies _____
- q Retail companies _____
- r Beer, wine or liquor companies
or distributors _____
- s Trade associations _____
- t Professional associations _____
- u Associations of public
employees or officials _____
- v Counties, cities or towns _____
- w Labor organizations _____

IV. COMPENSATION FOR EXPENSES

The persons, associations, or other sources other than my governmental agency from which I or a member of my immediate family received remuneration in excess of \$100 during the preceding year, in cash or otherwise, as honorariums or payment of expenses in connection with my attendance at any meeting or other function to which I was invited in my official capacity are as follows:

a	Name of Source	Description of occasion	Amount of remuneration for each occasion
b	_____	_____	_____
	_____	_____	_____

c	_____	_____	_____
	_____	_____	_____
d	_____	_____	_____
	_____	_____	_____

B. The provisions of Part III A and B of the disclosure form prescribed by this section shall not be applicable to officers and employees of local governmental and local advisory agencies.

C. Except for real estate located within the county, city or town in which the officer or employee serves or a county, city or town contiguous to the county, city or town in which the officer or employee serves, officers and employees of local governmental or advisory agencies shall not be required to disclose under Part I of the form any other interests in real estate.

1988, c. 849, § 2.1-639.15:1; 1996, c. 77;2001, c. 844;2006, c. 779;2011, cc. 123, 177;2014, cc. 792, 804;2015, cc. 763, 777.

§ 2.2-3118. (Effective January 1, 2017) Disclosure form; certain citizen members.

The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.

1988, c. 849, § 2.1-639.15:1; 1996, c. 77;2001, c. 844;2006, c. 779;2011, cc. 123, 177;2014, cc. 792, 804;2015, cc. 763, 777;2016, cc. 773, 774.

§ 2.2-3118.1. Special provisions for individuals serving in or seeking multiple positions or offices; reappointees.

A. The filing of a single current statement of economic interests by an individual required to file the form prescribed in § 2.2-3117 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual during a single reporting period. The filing of a single current financial disclosure statement by an individual required to file the form prescribed in § 2.2-3118 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual and requiring the filing of the § 2.2-3118 form during a single reporting period.

B. Any individual who has met the requirement for periodically filing a statement provided in § 2.2-3117 or 2.2-3118 shall not be required to file an additional statement upon such individual's reappointment to the same office or position for which he is required to file, provided such reappointment occurs within six months after filing a statement pursuant to § 2.2-3117 and within 12 months after filing a statement pursuant to § 2.2-3118.

2005, c. 397;2014, cc. 792, 804;2016, cc. 773, 774.

Article 6. School Boards and Employees of School Boards

§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by a school district located in Planning Districts 3, 11, 12, and 13 of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board provided (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

1987, Sp. Sess., c. 1, § 2.1-639.16; 1994, c. 758; 1995, c. 186; 1997, c. 84; 2001, c. 844; 2010, cc. 676, 759; 2011, c. 517.

Article 7. Penalties and Remedies

§ 2.2-3120. Knowing violation of chapter a misdemeanor.

Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102 through 2.2-3119) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a local governing body who knowingly violates subsection A of § 2.2-3112 or subsection D or F of § 2.2-3115 shall be guilty of a Class 3 misdemeanor. A knowing violation under this section is one in which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.17; 2001, c. 844; 2012, c. 429.

§ 2.2-3121. Advisory opinions.

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney General or the Virginia Conflict of Interest and Ethics Advisory Council made in response to his written request for such opinion and the opinion was made after a full disclosure of the facts regardless of whether such opinion is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or the Council made in response to his written request for such opinion and the opinion was made after a full disclosure of the facts regardless of whether such opinion is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion. The written opinion shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.18; 2001, c. 844; 2003, c. 694; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, c. 665.

§ 2.2-3122. Knowing violation of chapter constitutes malfeasance in office or employment.

Any person who knowingly violates any of the provisions of this chapter shall be guilty of malfeasance in office or employment. Upon conviction thereof, the judge or jury trying the case, in addition to any other fine or penalty provided by law, may order the forfeiture of such office or employment.

1987, Sp. Sess., c. 1, § 2.1-639.19; 2001, c. 844.

§ 2.2-3123. Invalidation of contract; rescission of sales.

A. Any contract made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be declared void and may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such contract. In cases in which the contract is invalidated, the contractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or services furnished prior to the date of receiving

notice that the contract has been voided. In cases of rescision of a contract of sale, any refund or restitution shall be made to the contracting or selling governmental agency.

B. Any purchase by an officer or employee made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such purchase.

1987, Sp. Sess., c. 1, § 2.1-639.20; 2001, c. 844.

§ 2.2-3124. Civil penalty from violation of this chapter.

A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an amount equal to the amount of money or thing of value received as a result of such violation. If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.

B. An officer or employee required to file the disclosure form prescribed by § 2.2-3117 who fails to file such form within the time period prescribed shall be assessed a civil penalty in an amount equal to \$250. The Council shall notify the Attorney General of any state officer's or employee's failure to file the required form and the Attorney General shall assess and collect the civil penalty. The clerk of the school board or the clerk of the governing body of the county, city, or town shall notify the attorney for the Commonwealth for the locality in which the officer or employee was elected or is employed of any local officer's or employee's failure to file the required form and the attorney for the Commonwealth shall assess and collect the civil penalty. The Council shall notify the Attorney General and the clerk shall notify the attorney for the Commonwealth within 30 days of the deadline for filing. All civil penalties collected pursuant to this subsection shall be deposited into the general fund and used exclusively to fund the Council.

1987, Sp. Sess., c. 1, § 2.1-639.21; 1994, cc. 727, 776; 2001, c. 844; 2012, cc. 283, 756; 2015, cc. 763, 777.

§ 2.2-3125. Limitation of actions.

The statute of limitations for the criminal prosecution of a person for violation of any provision of this chapter shall be one year from the time the Attorney General, if the violation is by a state officer or employee, or the attorney for the Commonwealth, if the violation is by a local officer or employee, has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first. Any prosecution for malfeasance in office shall be governed by the statute of limitations provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.22; 2001, c. 844.

§ 2.2-3126. Enforcement.

A. The provisions of this chapter relating to an officer or employee serving at the state level of government shall be enforced by the Attorney General.

In addition to any other powers and duties prescribed by law, the Attorney General shall have the following powers and duties within the area for which he is responsible under this section:

1. He shall advise the agencies of state government and officers and employees serving at the state level of government on appropriate procedures for complying with the requirements of this chapter. He may review any disclosure statements, without notice to the affected person, for the purpose of determining satisfactory compliance, and shall investigate matters that come to his attention reflecting possible violations of the provisions of this chapter by officers and employees serving at the state level of government;

2. If he determines that there is a reasonable basis to conclude that any officer or employee serving at the state level of government has knowingly violated any provision of this chapter, he shall designate an attorney for the Commonwealth who shall have complete and independent discretion in the prosecution of such officer or employee;

3. He shall render advisory opinions to any state officer or employee who seeks advice as to whether the facts in a particular case would constitute a violation of the provisions of this chapter. He shall determine which opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected.

Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee serving at the local level of government and, if the Attorney General designates such attorney for the Commonwealth, violations by an officer or employee serving at the state level of government. In the event the violation by an officer or employee serving at the local level of government involves more than one local jurisdiction, the Attorney General shall designate which of the attorneys for the Commonwealth of the involved local jurisdictions shall enforce the provisions of this chapter with regard to such violation.

Each attorney for the Commonwealth shall establish an appropriate written procedure for implementing the disclosure requirements of local officers and employees of his county, city or town, and for other political subdivisions, whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. The attorney for the Commonwealth shall provide a copy of this act to all local officers and employees in the jurisdiction served by such attorney who are required to file a disclosure statement pursuant to Article 5 (§ [2.2-3113](#) et seq.) of this chapter. Failure to receive a copy of the act shall not be a defense to such officers and employees if they are prosecuted for violations of the act.

Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a particular case would constitute a violation of the provisions of this chapter to the governing body and any local officer or employee in his jurisdiction and to political subdivisions other than a county, city or town, including regional political subdivisions whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. If the advisory opinion is written, then such written opinion shall be a public record and shall be released upon request. In case the opinion given by the attorney for the Commonwealth indicates that the facts would constitute a violation, the officer or employee affected thereby may request that the Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to

revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine which of his reviewing opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.23; 2001, c. 844; 2003, c. 694.

§ 2.2-3127. Venue.

Any prosecution for a violation involving an officer serving at the state level of government shall be brought in the Circuit Court of the City of Richmond. Any prosecution for a violation involving an employee serving at the state level of government shall be within the jurisdiction in which the employee has his principal place of state employment.

Any proceeding provided in this chapter shall be brought in a court of competent jurisdiction within the county or city in which the violation occurs if the violation involves an officer or employee serving at the local level of government.

1987, Sp. Sess., c. 1, § 2.1-639.24; 2001, c. 844.

Article 8. Orientation for State Filers

§ 2.2-3128. Semiannual orientation course.

Each state agency shall offer at least semiannually to each of its state filers an orientation course on this chapter, on ethics in public contracting pursuant to Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title, if applicable to the filer, and on any other applicable regulations that govern the official conduct of state officers and employees.

2004, cc. 134, 392.

§ 2.2-3129. Records of attendance.

Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to § 2.2-3128 for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with § 2.2-3704.

2004, cc. 134, 392.

§ 2.2-3130. Attendance requirements.

Except as set forth in § 2.2-3131, each state filer shall attend the orientation course required in § 2.2-3128, as follows:

1. For a state filer who holds a position with the agency on January 1, 2004, not later than December 31, 2004 and, thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2006.
2. For a person who becomes a state filer with the agency after January 1, 2004, within two months after he or she becomes a state filer and at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

2004, cc. 134, 392.

§ 2.2-3131. Exemptions.

A. The requirements of § 2.2-3130 shall not apply to state filers with a state agency who have taken an equivalent ethics orientation course through another state agency within the time periods set forth in subdivision 1 or 2 of § 2.2-3130, as applicable.

B. State agencies may jointly conduct and state filers from more than one state agency may jointly attend an orientation course required by § 2.2-3128, as long as the course content is relevant to the official duties of the attending state filers.

C. Before conducting each orientation course required by § 2.2-3128, state agencies shall consult with the Attorney General and the Virginia Conflict of Interest and Ethics Advisory Council regarding appropriate course content.

2004, cc. 134, 392;2014, cc. 792, 804.

Code of Virginia

Title 2.2. Administration of Government

Chapter 37. Virginia Freedom of Information Act

§ 2.2-3700. Short title; policy.

A. This chapter may be cited as "The Virginia Freedom of Information Act."

B. By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law. This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth.

All public bodies and their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested.

Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void.

1968, c. 479, § 2.1-340; 1976, c. 467, § 2.1-340.1; 1989, c. 358; 1990, c. 538; 1999, cc. [703](#), [726](#); 2001, c. [844](#); 2002, c. [393](#).

§ 2.2-3701. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means any audio or combined audio and visual communication method.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information" as used in the exclusions established by §§ [2.2-3705.1](#) through [2.2-3705.7](#), means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § [2.2-3708](#) or [2.2-3708.1](#), as a body or entity,

or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. Records that are not prepared for or used in the transaction of public business are not public records.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, whose members are appointed by the participating local governing bodies, and such unit includes two or more counties or cities.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

1968, c. 479, § 2.1-341; 1970, c. 456; 1974, c. 332; 1975, c. 307; 1977, c. 677; 1978, cc. 573, 826;

1979, cc. 369, 687; 1980, c. 754; 1984, c. 252; 1989, c. 358; 1990, c. 538; 1993, cc. 270, 720; 1994, cc. 845, 931; 1996, c. 609; 1997, c. 641; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393; 2003, c. 897; 2007, c. 945; 2008, cc. 233, 789; 2010, c. 706; 2011, c. 242; 2015, cc. 131, 195, 224; 2016, cc. 620, 716.

§ 2.2-3702. Notice of chapter.

Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.

1976, c. 467, § 2.1-341.1; 1999, cc. 703, 726; 2001, c. 844; 2002, c. 393.

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by such Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by such Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704 and (ii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information;
2. Petit juries and grand juries;
3. Family assessment and planning teams established pursuant to § 2.2-5207;
4. The Virginia State Crime Commission; and
5. The records required by law to be maintained by the clerks of the courts of record, as defined in § 1-212, and courts not of record, as defined in § 16.1-69.5. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

1999, cc. 703, 726, § 2.1-341.2; 2001, c. 844; 2003, cc. 989, 1018; 2004, cc. 398, 690; 2007, cc. 438, 548, 626.

§ 2.2-3703.1. Disclosure pursuant to court order or subpoena.

Nothing contained in this chapter shall have any bearing upon disclosures required to be made pursuant to any court order or subpoena. No discretionary exemption from mandatory disclosure shall be construed to make records covered by such discretionary exemption privileged under the rules of discovery, unless disclosure is otherwise prohibited by law.

2014, c. 319.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.
4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an

agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

1968, c. 479, § 2.1-342; 1973, c. 461; 1974, c. 332; 1975, cc. 307, 312; 1976, cc. 640, 709; 1977, c. 677; 1978, c. 810; 1979, cc. 682, 684, 686, 689; 1980, cc. 678, 754; 1981, cc. 456, 464, 466, 589; 1982, cc. 225, 449, 452, 560, 635; 1983, cc. 372, 462, 607; 1984, cc. 85, 395, 433, 513, 532; 1985, cc. 81, 155, 502, 618; 1986, cc. 273, 291, 383, 469, 592; 1987, cc. 401, 491, 581; 1988, cc. 39, 151, 395, 411, 891, 902; 1989, cc. 56, 358, 478; 1990, cc. 217, 538, 721, 819, 968; 1991, cc. 213, 561; 1992, cc. 40, 150, 167, 200, 203, 207, 593, 612; 1993, cc. 205, 270, 296, 537, 552, 638, 750, 883; 1994, cc. 485, 532, 606, 839, 853, 918; 1995, cc. 299, 362, 499, 562, 638, 722, 812, 837; 1996, cc. 168, 469, 589, 599, 783, 786, 794, 855, 862, 902, 905, 1001, 1046; 1997, cc. 198, 295, 439, 567, 636, 641, 777, 782, 785, 838, 861; 1998, cc. 427, 891; 1999, cc. 438, 703, 726; 2001, c. 844; 2002, cc. 715, 830; 2003, cc. 275, 981, 1021; 2007, c. 439; 2009, c. 626; 2010, c. 627; 2011, c. 604; 2016, cc. 620, 716.

§ 2.2-3704.01. Records containing both excluded and nonexcluded information; duty to redact.

No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

2016, cc. 620, 716.

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.

A. All state public bodies subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;
2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;
3. A general description, summary, list, or index of the types of public records maintained by such state public body;
4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;
5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law; and
6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."

B. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

2004, c. 730;2009, c. 626;2014, c. 421;2016, c. 748.

§ 2.2-3704.2. Public bodies to designate FOIA officer.

A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council.

2016, c. 748.

§ 2.2-3705. Repealed.

Repealed by Acts 2004, c. 690.

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other information protected by the attorney-client privilege.

3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.

4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no

event shall such tests be made available to the public later than six months after the administration of such tests.

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the public records of a public body. For the purpose of this subdivision, "vendor proprietary information software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease.

9. Information concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall authorize the withholding of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Information relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such information would adversely affect the bargaining position or negotiating strategy of the public body. Such information shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of information relating to such transactions shall be governed by the Virginia Public Procurement Act.

13. Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. However, access shall not be denied to the person who is the subject of the information. For the purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan companies or associations, and credit unions.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, §

2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690; 2010, c. 553; 2016, cc. 620, 716, 729.

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.
2. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

Information contained in engineering and construction drawings and plans that reveal critical structural components, security equipment and systems, ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, and other utility equipment and systems submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) if disclosure of such information would jeopardize the safety or security of any public or private commercial office, multifamily residential, or retail building or its occupants in the event of terrorism or other threat to public safety. In order for the information to be excluded from mandatory disclosure, the owner or lessee of such property, equipment, or system in writing shall (i) invoke the protections of this paragraph; (ii) identify the drawings, plans, or other materials to be protected; and (iii) state the reasons why protection is necessary.

Nothing in this subdivision shall authorize the withholding of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

3. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.
4. Information concerning the prevention or response to terrorist activity or cyber attacks, including (i) critical infrastructure information; (ii) vulnerability assessments, operational, procedural, transportation, and tactical planning or training manuals, and staff meeting minutes; (iii) engineering or architectural plans or drawings, or information derived from such plans or drawings; and (iv) information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an entity, facility, building, structure, information technology system, or software program if disclosure of such information would (a) reveal the location or operation of security equipment and systems, elevators, ventilation, fire protection, emergency, electrical, telecommunications or utility

equipment and systems of any public building, structure or information storage facility, or telecommunications or utility equipment or systems or (b) jeopardize the safety of any person.

The same categories of information concerning any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (1) invokes the protections of this subdivision, (2) identifies with specificity the information for which protection is sought, and (3) states with reasonable particularity why the protection of such information from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under this subdivision shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

Nothing in this subdivision shall be construed to authorize the withholding of information relating to the structural or environmental soundness of any building, nor shall it authorize the withholding of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131.

5. Information that would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

6. Information contained in engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes if disclosure of such information would (i) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols or (ii) jeopardize the security of any governmental facility, building, or structure or the safety of persons using such facility, building, or structure.

7. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to authorize the withholding of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.

8. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.

9. Subscriber data provided directly or indirectly by a telecommunications carrier to a public body

that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the telecommunications carrier to the public generally. Nothing in this subdivision shall authorize the withholding of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision, "subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier.

10. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.

Nothing in this subdivision shall authorize the withholding of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision, "subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier.

11. Information held by the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to authorize the withholding of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

12. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes

and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets. However, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

13. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, programming maintained by or utilized by STARS or any other similar local or regional public safety communications system; those engineering and construction drawings and plans that reveal critical structural components, interconnectivity, security equipment and systems, network monitoring, network operation center, master sites, ventilation systems, fire protection equipment, mandatory building emergency equipment, electrical systems, and other utility equipment and systems related to STARS or any other similar local or regional public safety communications system; and special event plans, operational plans, storm plans, or other pre-arranged programming, if disclosure of such information would (a) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols or (b) jeopardize the security of any governmental facility, building, or structure or the safety of any person.

14. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

15. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ [32.1-123](#) et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

16. (Effective until October 1, 2016) Records received by the Department of Criminal Justice Services pursuant to §§ [9.1-184](#), [22.1-79.4](#), and [22.1-279.8](#) or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § [23-9.2:10](#) or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

16. (Effective October 1, 2016) Records received by the Department of Criminal Justice Services pursuant to §§ [9.1-184](#), [22.1-79.4](#), and [22.1-279.8](#) or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § [23.1-805](#) or by a private nonprofit institution of higher education, to the extent such records reveal security plans,

walk-through checklists, or vulnerability and threat assessment components.

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § 2.1-342.01; 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § 2.2-3705; 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, cc. [398](#), [482](#), [690](#), [770](#); 2005, c. [410](#); 2008, c. [721](#); 2009, c. [418](#); 2010, c. [672](#); 2011, cc. [111](#), [536](#); 2012, cc. [617](#), [803](#), [835](#); 2013, c. [600](#); 2015, c. [183](#); 2016, cc. [554](#), [620](#), [716](#), [717](#).

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. (Effective until July 1, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

1. (Effective July 1, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § [54.1-108](#).

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ [32.1-323](#) et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ [2.2-3900](#) et seq.) or under any local ordinance adopted in accordance with the authority specified in § [2.2-524](#), or adopted pursuant to § [15.2-965](#), or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. Information contained in inactive reports shall be

disclosed in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. Information furnished in confidence to the Department of Human Resource Management with respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of the parties involved or other persons supplying information.

9. The names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

10. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

11. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees

responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

12. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

13. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 605, 690, 766; 2005, c. 601; 2006, cc. 25, 95; 2008, cc. 387, 668, 689, 758; 2009, cc. 237, 326, 340; 2011, cc. 798, 871; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 572, 690, 717, 723; 2014, cc. 225, 414, 609, 788; 2015, cc. 38, 730; 2016, cc. 272, 620, 716.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this

section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Awards Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. (Effective until October 1, 2016) Personal information, as defined in § [2.2-3801](#), provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ [23-38.75](#) et seq.) of Title 23. However, information in a statistical or other form that does not identify individuals or provide

personal information shall be disclosed and may be published by the Board. Individuals shall be provided access to their own personal information.

6. (Effective October 1, 2016) Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. However, information in a statistical or other form that does not identify individuals or provide personal information shall be disclosed and may be published by the Board. Individuals shall be provided access to their own personal information.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. Nothing in this subdivision, however, shall be construed to authorize the withholding of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or (ii) the terms and conditions of such grants or contracts.

8. (Effective until October 1, 2016) Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23-9.2:10 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

8. (Effective October 1, 2016) Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § 2.1-342.01; 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § 2.2-3705; 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, c. [690](#); 2006, c. [518](#); 2008, cc. [561](#), [665](#); 2010, cc. [456](#), [524](#); 2014, c. [313](#); 2016, cc. [554](#), [620](#), [716](#).

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § [32.1-127.1:03](#).

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § [20-124.6](#). In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § [16.1-338](#) or [54.1-2969](#), the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ [51.5-122](#), [51.5-141](#), and [63.2-104](#).

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information

regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. Information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2;(ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3;or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

10. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

11. Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.

12. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

13. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ [32.1-137.4](#) and [32.1-137.5](#), including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

14. Information and statistical registries required to be kept confidential pursuant to §§ [63.2-102](#) and [63.2-104](#).

15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ [54.1-2519](#) et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § [38.2-5002.2](#).

17. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ [32.1-48.05](#) et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to authorize the withholding of statistical summaries, abstracts, or other information in aggregate form.

18. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § [63.2-600](#).

19. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § [8.01-581.17](#).

1999, cc. [485](#), [518](#), [703](#), [726](#), [793](#), [849](#), [852](#), [867](#), [868](#), [881](#), § 2.1-342.01; 2000, cc. [66](#), [237](#), [382](#), [400](#), [430](#), [583](#), [589](#), [592](#), [594](#), [618](#), [632](#), [657](#), [720](#), [932](#), [933](#), [947](#), [1006](#), [1064](#); 2001, cc. [288](#), [518](#), [844](#), § 2.2-3705; 2002, cc. [87](#), [155](#), [242](#), [393](#), [478](#), [481](#), [499](#), [522](#), [571](#), [572](#), [633](#), [655](#), [715](#), [798](#), [830](#); 2003, cc. [274](#), [307](#), [327](#), [332](#), [358](#), [704](#), [801](#), [884](#), [891](#), [893](#), [897](#), [968](#); 2004, cc. [65](#), [666](#), [690](#), [773](#), [1014](#), [1021](#); 2005, cc. [181](#), [227](#), [716](#); 2008, c. [539](#); 2009, cc. [472](#), [813](#), [840](#); 2011, cc. [110](#), [175](#), [535](#); 2012, cc. [476](#), [479](#), [507](#), [803](#), [835](#); 2015, cc. [22](#), [108](#), [127](#); 2016, cc. [620](#), [716](#).

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § [2.2-3704.01](#).

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § [62.1-132.4](#) or [62.1-134.1](#).

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ [15.2-4900](#) et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to

businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the

financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. (Effective until October 1, 2016) Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

17. (Effective October 1, 2016) Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or

research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or
- b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. (Effective until October 1, 2016) Records submitted as a grant or loan application, or accompanying a grant or loan application, for an award from the Virginia Research Investment Fund pursuant to Chapter 28 (§ 23-304 et seq.) of Title 23, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released,

published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

28. (Effective October 1, 2016) Records submitted as a grant or loan application, or accompanying a grant or loan application, for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 593, 690; 2005, cc. 258, 411; 2006, cc. 73, 76, 467, 831, 921, 936; 2006, Sp. Sess. I, c. 1; 2007, cc. 374, 693; 2008, cc. 71, 102, 266, 387, 633, 689, 736, 743; 2009, cc. 246, 311, 325, 765, 810, 869; 2010, cc. 310, 808; 2011, cc. 541, 781, 798, 871; 2012, cc. 693, 709; 2013, cc. 54, 482, 574; 2015, cc. 696, 697; 2016, cc. 620, 716, 724, 725, 775.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor; the Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and Assistant to the Governor for Intergovernmental Affairs and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize

structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. (Effective until October 1, 2016) Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

12. (Effective October 1, 2016) Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

14. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

15. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the

Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

16. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to authorize the withholding of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

21. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager

numbers, or operating schedule of an individual participant in the program.

22. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to authorize the withholding of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

23. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

24. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. (Effective until October 1, 2016) Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

- a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and
- b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

- (1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the

requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. (Effective October 1, 2016) Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

- a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and
- b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

- (1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

26. Information held by the Department of Corrections made confidential by § 53.1-233.

27. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

29. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's

license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to authorize the withholding of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to the transaction of public business. However, no information that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

31. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

32. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

33. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

34. (Effective July 1, 2018) Information held by the Virginia Alcoholic Beverage Control Authority that contains (i) information of a proprietary nature gathered by or in the possession of the Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), of any private entity; (iii) financial information of a private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; (iv) contract cost estimates prepared for the (a) confidential use in awarding contracts for construction or (b) purchase of goods or services; or (v) the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority.

In order for the information identified in clauses (i), (ii), or (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect such information of the private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

35. Information reflecting the substance of meetings in which individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, cc. 426, 690, 832; 2005, cc. 165, 508; 2007, cc. 406, 652, 660, 737, 739; 2008, cc. 16, 739; 2009, cc. 223, 827, 845; 2010, c. 300; 2011, cc. 827, 867; 2012, c. 726; 2013, cc. 199, 481, 554, 574; 2014, cc. 225, 808; 2015, cc. 38, 137, 549, 730; 2016, cc. 550, 620, 716, 729.

§ 2.2-3705.8. Limitation on record exclusions.

A. Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of this title shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees.

The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

B. Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.

1999, cc. 485, 518, 703, 726, 793, 849, 852, 867, 868, 881, § 2.1-342.01; 2000, cc. 66, 237, 382, 400, 430, 583, 589, 592, 594, 618, 632, 657, 720, 932, 933, 947, 1006, 1064; 2001, cc. 288, 518, 844, § 2.2-3705; 2002, cc. 87, 155, 242, 393, 478, 481, 499, 522, 571, 572, 633, 655, 715, 798, 830; 2003, cc. 274, 307, 327, 332, 358, 704, 801, 884, 891, 893, 897, 968; 2004, c. 690.

§ 2.2-3706. Disclosure of criminal records; limitations.

A. All public bodies engaged in criminal law-enforcement activities shall provide requested records in accordance with this chapter as follows:

1. Records required to be released:

a. Criminal incident information relating to felony offenses, which shall include:

(1) A general description of the criminal activity reported;

- (2) The date the alleged crime was committed;
- (3) The general location where the alleged crime was committed;
- (4) The identity of the investigating officer or other point of contact; and
- (5) A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision a.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision a shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

- b. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation; and
- c. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest;

2. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

- a. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information subject to release in accordance with subdivision 1 a;
- b. (Effective until October 1, 2016) Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23;
- b. (Effective October 1, 2016) Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;
- c. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;
- d. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

e. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

f. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

g. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

h. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

i. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

j. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

k. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913; and

3. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

B. Noncriminal records. Those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision A 2 i of this section and subdivision 1 of § 2.2-3705.1, as applicable.

C. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

D. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

1999, cc. 703, 726, § 2.1-342.2; 2000, c. 227; 2001, c. 844; 2002, cc. 393, 715, 769, 830; 2004, cc. 685, 735; 2006, cc. 857, 914; 2007, c. 133; 2010, c. 627; 2011, cc. 798, 871; 2013, c. 695; 2016, cc. 184, 546.

§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708, 2.2-3708.1 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

C. Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case of a public body that has no clerk, in the office of the chief administrator. All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on their websites and on the electronic calendar maintained by the Virginia Information Technologies Agency commonly known as the Commonwealth Calendar. Publication of meeting notices by electronic means by other public bodies shall be encouraged. The notice shall be posted at least three working days prior to the meeting. Notices for meetings of state public bodies on which there is at least one member appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

D. Notice, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously with the notice provided members of the public body conducting the meeting.

E. Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

F. At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body.

G. The notice provisions of this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.

H. Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

I. Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii)

legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities and towns, except where the membership of any such commission, committee or subcommittee includes a majority of the governing body of the county, city or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (i) the date, time, and location of the meeting; (ii) the members of the public body recorded as present and absent; and (iii) a summary of the discussion on matters proposed, deliberated or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with § 2.2-3708, minutes of state public bodies shall include (a) the identity of the members of the public body at each remote location identified in the notice who participated in the meeting through electronic communications means, (b) the identity of the members of the public body who were physically assembled at the primary or central meeting location, and (c) the identity of the members of the public body who were not present at the locations identified in clauses (a) and (b), but who monitored such meeting through electronic communications means.

1968, c. 479, § 2.1-343; 1973, c. 461; 1976, c. 467; 1977, c. 677; 1982, c. 333; 1989, c. 358; 1990, c. 538; 1993, c. 720; 1995, c. 562; 1999, cc. 696, 703, 726; 2000, c. 227; 2001, c. 844; 2004, cc. 730, 768; 2005, c. 352; 2007, c. 300; 2009, c. 628; 2010, c. 309; 2015, c. 131.

§ 2.2-3707.01. Meetings of the General Assembly.

A. Except as provided in subsection B, public access to any meeting of the General Assembly or a portion thereof shall be governed by rules established by the Joint Rules Committee and approved by a majority vote of each house at the next regular session of the General Assembly. At least 60 days before the adoption of such rules, the Joint Rules Committee shall (i) hold regional public hearings on such proposed rules and (ii) provide a copy of such proposed rules to the Virginia Freedom of Information Advisory Council.

B. Floor sessions of either house of the General Assembly; meetings, including work sessions, of any standing or interim study committee of the General Assembly; meetings, including work sessions, of any subcommittee of such standing or interim study committee; and joint committees of conference of the General Assembly; or a quorum of any such committees or subcommittees, shall be open and governed by this chapter.

C. Meetings of the respective political party caucuses of either house of the General Assembly, including meetings conducted by telephonic or other electronic communication means, without regard to (i) whether the General Assembly is in or out of regular or special session or (ii) whether such caucuses invite staff or guests to participate in their deliberations, shall not be deemed meetings for the purposes of this chapter.

D. No regular, special, or reconvened session of the General Assembly held pursuant to Article IV, Section 6 of the Constitution of Virginia shall be conducted using electronic communication means pursuant § 2.2-3708.

2004, c. 768; 2005, c. 352.

§ 2.2-3707.1. Posting of minutes for state boards and commissions.

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to the provisions of this chapter shall post minutes of their meetings on such body's website, if any, and on the electronic calendar maintained by the Virginia Information Technologies Agency commonly known as the Commonwealth Calendar. Draft minutes of meetings shall be posted as soon as possible but no later than ten working days after the conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of final approval of the minutes.

2002, cc. 580, 618;2006, cc. 474, 595;2007, c. 300.

§ 2.2-3708. Electronic communication meetings; applicability; physical quorum required; exceptions; notice; report.

A. Except as expressly provided in subsection G of this section or § 2.2-3708.1, no local governing body, school board, or any authority, board, bureau, commission, district or agency of local government, any committee thereof, or any entity created by a local governing body, school board, or any local authority, board, or commission shall conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. Except as provided in subsection G or H of this section or subsection D of § 2.2-3707.01, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location.

If an authorized public body holds an electronic meeting pursuant to this section, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

C. Notice of any meetings held pursuant to this section shall be provided at least three working days in advance of the date scheduled for the meeting. The notice shall include the date, time, place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a telephone number that may be used at remote locations to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting to the remote locations. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

D. Agenda packets and, unless exempt, all materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-

call fashion and included in the minutes.

E. Three working days' notice shall not be required for meetings authorized under this section held in accordance with subsection G or that are continued to address an emergency or to conclude the agenda of the meeting for which proper notice has been given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior to adjournment. Public bodies conducting emergency meetings through electronic communication means shall comply with the provisions of subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the minutes.

F. Any authorized public body that meets by electronic communication means shall make a written report of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science by December 15 of each year:

1. The total number of electronic communication meetings held that year;
2. The dates and purposes of the meetings;
3. A copy of the agenda for the meeting;
4. The number of sites for each meeting;
5. The types of electronic communication means by which the meetings were held;
6. The number of participants, including members of the public, at each meeting location;
7. The identity of the members of the public body recorded as absent and those recorded as present at each meeting location;
8. A summary of any public comment received about the electronic communication meetings; and
9. A written summary of the public body's experience using electronic communication meetings, including its logistical and technical experience.

In addition, any authorized public body shall make available to the public at any meeting conducted in accordance with this section a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § [30-179](#).

G. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § [44-146.17](#), provided (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subsection shall (a) give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided members of the public body conducting the meeting; (b) make arrangements for public access to such meeting; and (c) otherwise comply with the provisions of this section. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

H. [Expired].

1984, c. 252, § 2.1-343.1; 1989, c. 358; 1991, c. 473; 1992, c. 153; 1993, c. 270; 1995, c. 278; 1996, c. 289; 1999, cc. 703, 726; 2001, c. 844; 2003, cc. 981, 1021; 2005, c. 352; 2007, cc. 512, 945; 2008, cc. 233, 789; 2013, c. 694.

§ 2.2-3708.1. Participation in meetings in event of emergency or personal matter; certain disabilities; distance from meeting location for certain public bodies.

A. A member of a public body may participate in a meeting governed by this chapter through electronic communication means from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. If, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that such member is unable to attend the meeting due to an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter, and the public body holding the meeting records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

Such participation by the member shall be limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is fewer;

2. If a member of a public body notifies the chair of the public body that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes; or

3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting and the public body holding the meeting records in its minutes the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

B. Participation by a member of a public body as authorized under subsection A shall be only under the following conditions:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at the primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

2007, c. 945;2013, cc. 119, 694;2014, cc. 492, 524.

§ 2.2-3709. Expired.

Expired.

§ 2.2-3710. Transaction of public business other than by votes at meetings prohibited.

A. Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly provided by this chapter, no public body shall vote by telephone or other electronic communication means.

B. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit (i) separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the transaction of public business, whether such contact is done in person, by telephone or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in this chapter or (ii) the House of Delegates or the Senate of Virginia from adopting rules relating to the casting of votes by members of standing committees. Nothing in this subsection shall operate to exclude any public record from the provisions of this chapter.

1987, c. 71, § 2.1-343.2; 1999, cc. 703, 726;2000, c. 932;2001, cc. 710, 844;2002, c. 491.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely

affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.
8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.
9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.
10. Discussion or consideration of honorary degrees or special awards.
11. Discussion or consideration of tests, examinations, or other information excluded from this chapter pursuant to subdivision 4 of § [2.2-3705.1](#).
12. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.
13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement

or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § [2.2-3705.5](#).

16. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § [58.1-4007](#) regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § [2.2-3705.3](#) and subdivision 11 of § [2.2-3705.7](#).

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § [2.2-3705.2](#), where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. (Effective until October 1, 2016) Discussion by the Board of the Virginia Retirement System, acting pursuant to § [51.1-124.30](#), or of any local retirement system, acting pursuant to § [51.1-803](#), or of the Rector and Visitors of the University of Virginia, acting pursuant to § [23-76.1](#), or by the Board of the Virginia College Savings Plan, acting pursuant to § [23-38.80](#), regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value

of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

20. (Effective October 1, 2016) Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising

activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees. This exclusion shall also apply when the foregoing discussions occur at a meeting of the Virginia Commonwealth University Board of Visitors.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. (Effective until October 1, 2016) Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

25. (Effective October 1, 2016) Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.
32. [Expired.]
33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).
34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.
35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.
36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.
37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.
38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.
39. (Effective until October 1, 2016) Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.
39. (Effective October 1, 2016) Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.
40. Discussion or consideration of information excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.
41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.
43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.
44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.
45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.
46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.
47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.
48. (Effective until October 1, 2016) Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Chapter 28 (§ 23-304 et seq.) of Title 23.
48. (Effective October 1, 2016) Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.
49. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.
- B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.
- C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.
- D. Nothing in this section shall be construed to prevent the holding of conferences between two

or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1968, c. 479, § 2.1-344; 1970, c. 456; 1973, c. 461; 1974, c. 332; 1976, cc. 467, 709; 1979, cc. 369, 684; 1980, cc. 221, 475, 476, 754; 1981, cc. 35, 471; 1982, cc. 497, 516; 1984, cc. 473, 513; 1985, c. 277; 1988, c. 891; 1989, cc. 56, 358, 478; 1990, cc. 435, 538; 1991, c. 708; 1992, c. 444; 1993, cc. 270, 499; 1995, c. 499; 1996, cc. 855, 862, 902, 905, 1046; 1997, cc. 439, 641, 785, 861; 1999, cc. 485, 518, 703, 726, 849, 867, 868; 2000, cc. 382, 400, 720, 1064; 2001, cc. 231, 844; 2002, cc. 87, 393, 455, 478, 499, 655, 715, 830; 2003, cc. 274, 291, 332, 618, 703; 2004, cc. 398, 690, 770; 2005, cc. 258, 411, 568; 2006, cc. 430, 499, 518, 560; 2007, cc. 133, 374, 566, 739; 2008, cc. 626, 633, 668, 721, 743; 2009, cc. 223, 325, 472, 765, 810, 827, 845; 2010, cc. 310, 630, 808; 2011, cc. 89, 111, 147, 536, 541, 816, 874; 2012, cc. 476, 507, 803, 835; 2013, cc. 571, 580, 695; 2014, c. 225; 2015, cc. 27, 38, 108, 169, 182, 549, 730; 2016, cc. 544, 620, 716, 724, 725, 775, 778, 779.

§ 2.2-3712. Closed meetings procedures; certification of proceedings.

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirements provided in § 2.2-3707 or subsection A of § 2.2-3711. The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within 15 days thereafter.

C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the

requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of this chapter.

F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

G. A member of a public body shall be permitted to attend a closed meeting held by any committee or subcommittee of that public body, or a closed meeting of any entity, however designated, created to perform the delegated functions of or to advise that public body. Such member shall in all cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity of the member of the parent public body who attended the closed meeting.

H. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by § 2.2-3707.

I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall not be subject to mandatory public disclosure.

1989, c. 358, § 2.1-344.1; 1999, cc. 703, 726; 2001, c. 844; 2012, c. 428.

§ 2.2-3713. Proceedings for enforcement of chapter.

A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause. Such petition may be brought in the name of the person notwithstanding that a request for public records was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed as follows:

1. In a case involving a local public body, to the general district court or circuit court of the county or city from which the public body has been elected or appointed to serve and in which such rights and privileges were so denied;
2. In a case involving a regional public body, to the general district or circuit court of the county or city where the principal business office of such body is located; and
3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the state government, including a public institution of higher education, or a standing or other committee of the General Assembly, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. In any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of law or Rule of the Supreme Court of Virginia to the contrary.

C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be heard within seven days of the date when the same is made, provided the party against whom the petition is brought has received a copy of the petition at least three working days prior to filing. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.

D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorneys' fees from the public body if the petitioner substantially prevails on the merits of the case, unless special circumstances would make an award unjust. In making this determination, a court may consider, among other things, the reliance of a public body on an opinion of the Attorney General or a decision of a court that substantially supports the public body's position.

E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter.

F. Failure by any person to request and receive notice of the time and place of meetings as provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred by this chapter.

1968, c. 479, § 2.1-346; 1976, c. 709; 1978, c. 826; 1989, c. 358; 1990, c. 217; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2007, c. 560; 2009, c. 634; 2010, c. 299; 2011, cc. 133, 783; 2016, cc. 620, 716.

§ 2.2-3714. Violations and penalties.

In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.8, 2.2-3706, 2.2-3707, 2.2-3708, 2.2-3708.1, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

1976, c. 467, § 2.1-346.1; 1978, c. 826; 1984, c. 252; 1989, c. 358; 1996, c. 578; 1999, cc. 703, 726; 2001, c. 844; 2003, c. 319; 2004, c. 690; 2008, cc. 233, 789; 2011, c. 327.

Code of Virginia

Title 42.1. Libraries

Chapter 7. Virginia Public Records Act

§ 42.1-76. Legislative intent; title of chapter.

The General Assembly intends by this chapter to establish a single body of law applicable to all public officers and employees on the subject of public records management and preservation and to ensure that the procedures used to manage and preserve public records will be uniform throughout the Commonwealth.

This chapter may be cited as the Virginia Public Records Act.

1976, c. 746.

§ 42.1-76.1. Notice of Chapter.

Any person elected, reelected, appointed, or reappointed to the governing body of any agency subject to this chapter shall (i) be furnished by the agency or public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment, or reappointment and (ii) read and become familiar with the provisions of this chapter.

2006, c. 60.

§ 42.1-77. Definitions.

As used in this chapter:

"Agency" means all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival quality" means a quality of reproduction consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, and the National Institute of Standards and Technology.

"Archival record" means a public record of continuing and enduring value useful to the citizens of the Commonwealth and necessary to the administrative functions of public agencies in the conduct of services and activities mandated by law that is identified on a Library of Virginia approved records retention and disposition schedule as having sufficient informational value to be permanently maintained by the Commonwealth.

"Archives" means the program administered by The Library of Virginia for the preservation of archival records.

"Board" means the State Library Board.

"Conversion" means the act of moving electronic records to a different format, especially data from an obsolete format to a current format.

"Custodian" means the public official in charge of an office having public records.

"Disaster plan" means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

"Electronic record" means a public record whose creation, storage, and access require the use of an automated system or device. Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is a public record.

"Essential public record" means records that are required for recovery and reconstruction of any agency to enable it to resume its core operations and functions and to protect the rights and interests of persons.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"Lifecycle" means the creation, use, maintenance, and disposition of a public record.

"Metadata" means data describing the context, content, and structure of records and their management through time.

"Migration" means the act of moving electronic records from one information system or medium to another to ensure continued access to the records while maintaining the records' authenticity, integrity, reliability, and usability.

"Original record" means the first generation of the information and is the preferred version of a record. Archival records should to the maximum extent possible be original records.

"Preservation" means the processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

"Private record" means a record that does not relate to or affect the carrying out of the constitutional, statutory, or other official ceremonial duties of a public official, including the correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or communicated in the course of transacting public business.

"Public official" means all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the state government, and all other officers, heads, presidents or chairmen of boards, commissions, departments, and agencies of the state government or its political subdivisions.

"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.

For purposes of this chapter, "public record" shall not include nonrecord materials, meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications.

"Records retention and disposition schedule" means a Library of Virginia-approved timetable stating the required retention period and disposition action of a records series. The administrative, fiscal, historical, and legal value of a public record shall be considered in appraising its appropriate retention schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

1. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency.
2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document and verify financial authorizations, obligations, and transactions.
3. "Historical value": Records shall be deemed of historical value if they contain unique information, regardless of age, that provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.
4. "Legal value": Records shall be deemed of legal value if they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1987, c. 217; 1990, c. 778; 1994, cc. [390](#), [955](#); 1998, cc. [427](#), [470](#); 2005, c. [787](#); 2006, c. [60](#).

§ 42.1-78. Confidentiality safeguarded.

Any records made confidential by law shall be so treated. Records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia which are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court. All records deposited in the archives that are not made confidential by law shall be open to public access.

1976, c. 746; 1979, c. 110; 1990, c. 778; 1994, c. [64](#); 2006, c. [60](#).

§ 42.1-79. Records management function vested in The Library of Virginia.

A. The archival and records management function shall be vested in The Library of Virginia. The Library of Virginia shall be the official custodian and trustee for the Commonwealth of all public records of whatever kind, and regardless of physical form or characteristics, that are transferred to it from any agency. As the Commonwealth's official repository of public records, The Library of Virginia shall assume ownership and administrative control of such records on behalf of the Commonwealth. The Library of Virginia shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody, but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by The Library of Virginia.

B. The Librarian of Virginia shall name a State Archivist who shall perform such functions as the Librarian of Virginia assigns.

C. Whenever legislation affecting public records management and preservation is under consideration, The Library of Virginia shall review the proposal and advise the General Assembly on the effects of its proposed implementation.

1976, c. 746; 1986, c. 565; 1990, c. 778; 1994, c. [64](#); 1998, c. [427](#); 2005, c. [787](#); 2006, c. [60](#).

§ 42.1-79.1. Repealed.

Repealed by Acts 2005, c. [787](#), cl. 2.

§§ 42.1-80, 42.1-81. Repealed.

Repealed by Acts 2003, c. 177.

§ 42.1-82. Duties and powers of Library Board.

A. The State Library Board shall:

1. Issue regulations concerning procedures for the disposal, physical destruction or other disposition of public records containing social security numbers. The procedures shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or undecipherable by any means.

2. Issue regulations and guidelines designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by agencies. Such regulations shall mandate procedures for records management and include recommendations for the creation, retention, disposal, or other disposition of public records.

B. The State Library Board may establish advisory committees composed of persons with expertise in the matters under consideration to assist the Library Board in developing regulations and guidelines.

1976, c. 746; 1977, c. 501; 1981, c. 637; 1990, c. 778; 1994, cc. 64, 955; 2003, cc. 914, 918; 2005, c. 787; 2006, c. 60.

§ 42.1-83. Repealed.

Repealed by Acts 2006, c. 60, cl. 2.

§ 42.1-84. Repealed.

Repealed by Acts 2005, c. 787, cl. 2.

§ 42.1-85. Records Management Program; agencies to cooperate; agencies to designate records officer.

A. The Library of Virginia shall administer a records management program for the application of efficient and economical methods for managing the lifecycle of public records consistent with regulations and guidelines promulgated by the State Library Board, including operation of a records center or centers. The Library of Virginia shall establish procedures and techniques for the effective management of public records, make continuing surveys of records and records keeping practices, and recommend improvements in current records management practices, including the use of space, equipment, software, and supplies employed in creating, maintaining, and servicing records.

B. Any agency with public records shall cooperate with The Library of Virginia in conducting surveys. Each agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of such agency. The agency shall be responsible for ensuring that its public records are preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration. Any public official who converts or migrates an electronic record shall ensure that it is an accurate copy of the original record. The converted or migrated record shall have the force of the original.

C. Each state agency and political subdivision of this Commonwealth shall designate as many as appropriate, but at least one, records officer to serve as a liaison to The Library of Virginia for the purposes of implementing and overseeing a records management program, and coordinating legal disposition, including destruction, of obsolete records. Designation of state agency records officers shall be by the respective agency head. Designation of a records officer for political subdivisions shall be by the governing body or chief administrative official of the political subdivision. Each entity responsible for designating a records officer shall provide The Library of Virginia with the name and contact information of the designated records officer, and shall ensure that such information is updated in a timely manner in the event of any changes.

D. The Library of Virginia shall develop and make available training and education opportunities concerning the requirements of and compliance with this chapter for records officers in the Commonwealth.

1976, c. 746; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2006, c. 60.

§ 42.1-86. Essential public records; security recovery copies; disaster plans.

A. In cooperation with the head of each agency, The Library of Virginia shall establish and maintain a program for the selection and preservation of essential public records. The program shall provide for preserving, classifying, arranging, and indexing essential public records so that such records are made available to the public. The program shall provide for making recovery copies or designate as recovery copies existing copies of such essential public records.

B. Recovery copies shall meet quality standards established by The Library of Virginia and shall be made by a process that accurately reproduces the record and forms a durable medium. A recovery copy may also be made by creating a paper or electronic copy of an original electronic record. Recovery copies shall have the same force and effect for all purposes as the original record and shall be as admissible in evidence as the original record whether the original record is in existence or not. Recovery copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor.

C. The Library of Virginia shall develop a plan to ensure preservation of public records in the event of disaster or emergency as defined in § 44-146.16. This plan shall be coordinated with the Department of Emergency Management and copies shall be distributed to all agency heads. The plan shall be reviewed and updated at least once every five years. The personnel of the Library shall be responsible for coordinating emergency recovery operations when public records are affected. Each agency shall ensure that a plan for the protection and recovery of public records is included in its comprehensive disaster plan.

1976, c. 746; 1980, c. 365; 1990, c. 778; 1994, c. 64; 1998, c. 427; 2005, c. 787; 2006, c. 60.

§ 42.1-86.1. Disposition of public records.

A. No agency shall sell or give away public records. No agency shall destroy or discard a public record unless (i) the record appears on a records retention and disposition schedule approved pursuant to § 42.1-82 and the record's retention period has expired; (ii) a certificate of records destruction, as designated by the Librarian of Virginia, has been properly completed and approved by the agency's designated records officer; and (iii) there is no litigation, audit, investigation, request for records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or renegotiation of the relevant records retention and disposition schedule pending at the expiration of the retention period for the applicable records series. After a record is

destroyed or discarded, the agency shall forward the original certificate of records destruction to The Library of Virginia.

B. No agency shall destroy any public record created before 1912 without first offering it to The Library of Virginia.

C. Each agency shall ensure that records created after July 1, 2006 and authorized to be destroyed or discarded in accordance with subsection A, are destroyed or discarded in a timely manner in accordance with the provisions of this chapter; provided, however, such records that contain identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, shall be destroyed within six months of the expiration of the records retention period.

1990, c. 778; 1998, c. 427; 2005, c. 787; 2006, cc. 60, 909.

§ 42.1-87. Archival public records.

A. Custodians of archival public records shall keep them in fire-resistant, environmentally controlled, physically secure rooms designed to ensure proper preservation and in such arrangement as to be easily accessible. Current public records should be kept in the buildings in which they are ordinarily used. It shall be the duty of each agency to consult with The Library of Virginia to determine the best manner in which to store long-term or archival electronic records. In entering into a contract with a third-party storage provider for the storage of public records, an agency shall require the third-party to cooperate with The Library of Virginia in complying with rules and regulations promulgated by the Board.

B. Public records deemed unnecessary for the transaction of the business of any state agency, yet deemed to be of archival value, may be transferred with the consent of the Librarian of Virginia to the custody of the Library of Virginia.

C. Public records deemed unnecessary for the transaction of the business of any county, city, or town, yet deemed to be of archival value, shall be stored either in The Library of Virginia or in the locality, at the decision of the local officials responsible for maintaining public records. Archival public records shall be returned to the locality upon the written request of the local officials responsible for maintaining local public records. Microfilm shall be stored in The Library of Virginia but the use thereof shall be subject to the control of the local officials responsible for maintaining local public records.

D. Record books deemed archival should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever the public records of any public official are in need of repair, restoration or rebinding, a judge of the court of record or the head of such agency or political subdivision of the Commonwealth may authorize that the records in need of repair be removed from the building or office in which such records are ordinarily kept, for the length of time necessary to repair, restore or rebind them, provided such restoration and rebinding preserves the records without loss or damage to them. Before any restoration or repair work is initiated, a treatment proposal from the contractor shall be submitted and reviewed in consultation with The Library of Virginia. Any public official who causes a record book to be copied shall attest it and shall certify an oath that it is an accurate copy of the original book. The copy shall then have the force of the original.

E. Nothing in this chapter shall be construed to divest agency heads of the authority to determine the nature and form of the records required in the administration of their several departments or

to compel the removal of records deemed necessary by them in the performance of their statutory duty.

1976, c. 746; 1994, cc. [64](#), [955](#); 2005, c. [787](#); 2006, c. [60](#).

§ 42.1-88. Custodians to deliver all records at expiration of term; penalty for noncompliance.

Any custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver to his successor, or, if there be none, to The Library of Virginia, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for a period of ten days after a request is made in writing by the successor or Librarian of Virginia to deliver the public records as herein required shall be guilty of a Class 3 misdemeanor.

1976, c. 746; 1994, c. [64](#); 1998, c. [427](#).

§ 42.1-89. Petition and court order for return of public records not in authorized possession.

The Librarian of Virginia or his designated representative such as the State Archivist or any public official who is the custodian of public records in the possession of a person or agency not authorized by the custodian or by law to possess such public records shall petition the circuit court in the city or county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such records. The court shall order such public records be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the plaintiff shall request that the court enforce such order through its contempt power and procedures.

1975, c. 180; 1976, c. 746; 1998, c. [427](#).

§ 42.1-90. Seizure of public records not in authorized possession.

A. At any time after the filing of the petition set out in § [42.1-89](#) or contemporaneous with such filing, the person seeking the return of the public records may by ex parte petition request the judge or the court in which the action was filed to issue an order directed at the sheriff or other proper officer, as the case may be, commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth.

B. The judge aforesaid shall issue an order of seizure upon receipt of an affidavit from the petitioner which alleges that the material at issue may be sold, secreted, removed out of this Commonwealth or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if permitted to remain out of the petitioner's possession.

C. The aforementioned order of seizure shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner.

1975, c. 180; 1976, c. 746.

§ 42.1-90.1. Auditing.

The Librarian may, in his discretion, conduct an audit of the records management practices of any agency. Any agency subject to the audit shall cooperate and provide the Library with any

records or assistance that it requests. The Librarian shall compile a written summary of the findings of the audit and any actions necessary to bring the agency into compliance with this chapter. The summary shall be a public record, and shall be made available to the agency subject to the audit, the Governor, and the chairmen of the House and Senate Committees on General Laws and the House Appropriations and Senate Finance Committees of the General Assembly.

2006, c. 60.

§ 42.1-91. Repealed.

Repealed by Acts 2006, c. 60, cl. 2.

Clarke County Board of Supervisors



Berryville Voting District
J. Michael Hobert – Chair
(540) 955-4141

Millwood Voting District
John R. Staelin
(540) 837-1903

White Post Voting District
Bev McKay
(540) 837-1331

Buckmarsh Voting District
David S. Weiss – Vice Chair
(540) 955-2151

Russell Voting District
Barbara J. Byrd
(540) 955-1215

County Administrator
David L. Ash
(540) 955-5175

Memorandum of Understanding (MOU) Between The Town of Berryville and Clarke County Regarding Economic Development and Tourism

WHEREAS, the Town of Berryville and Clarke County over the past four decades have worked cooperatively to promote a unique and highly successful land use philosophy that focuses growth and development within the Town while preserving the County's natural, historical, and agricultural resources; and

WHEREAS, the County's small land area, close proximity to four surrounding urban growth areas, and limited access to public water and sewer capacity make the sharing of Economic Development resources a necessity; and

WHEREAS, the future of economic development – including business, retail, industry, agriculture, and Tourism – in Clarke County is dependent upon effective collaboration and cooperation between the Town and County;

AND WHEREAS, the Town and the County recognize that combining resources and creating unified points of contact for Economic Development and Tourism will enable our communities to more efficiently address the needs of new and existing businesses, streamline regulations and regulatory processes, and more effectively market our unique assets.

NOW THEREFORE, BE IT RESOLVED THAT the Town of Berryville and Clarke County agree to work cooperatively to implement the following action items:

1. **Establish Joint Management of Economic Development and Tourism.** The Town and County shall jointly manage the Economic Development and Tourism efforts in Clarke County and the Town of Berryville on an ongoing basis.
2. **Establish Single Points of Contact for Economic Development and Tourism.** Both the Town and County agree that it would be best if the business community dealt with single points of contact for Economic Development and Tourism.
3. **Create a Joint Committee for Economic Development and Tourism.** The Town and County shall create a four member Committee ("Joint Committee") to supervise Economic Development and Tourism efforts. The Committee shall consist of the Town Manager or designee, the County Administrator, a Town Council Member and a County Supervisor. Initially, the Joint Committee will

www.clarkecounty.gov

101 Chalmers Court, Suite B
Berryville, VA 22611

Telephone: [540] 955-5175

This institution is an equal opportunity provider and employer.

meet monthly but may change that schedule as the Committee deems appropriate. The Joint Committee is empowered to choose its own leaders but it is suggested that the Chair alternate between the two elected officials. The Joint Committee shall be appointed by the Town and County within 30 days of adoption of this MOU.

4. **Hire an Economic Development Director.** The County will hire an Economic Development Director with input from the Joint Committee. Initially this may be a part-time position. The County will create a job description and provide it to the Joint Committee for review and input into its development. This Economic Development Director will report to County Administrator but will also consult with the Joint Committee. Unless the County can find someone with all the needed skills it is unlikely the Director will supervise many efforts in the area of Tourism. The Director shall staff the Industrial Development Authority (IDA) and the Economic Development Advisory Committee (EDAC), and shall incorporate the work product of these groups into the overall Town-County economic development strategy. The selection process shall begin within 60 days of the adoption of this MOU with the goal of having the Director begin work in Spring 2015.
5. **Conduct Joint Review of Economic Development and Tourism Funding.** For FY16 and beyond both the County and Town agree to conduct an ongoing joint review of Economic Development/Tourism funding during their annual budget process. The County Administrator and Town Manager or designee shall be responsible for organizing this review in conjunction with County and Town finance committees and the Joint Administrative Services Director. Such review shall begin in the 4th quarter of the 2014 calendar year in conjunction with the development of the FY2015-2016 budgets. The Joint Committee shall coordinate any budgetary requests with the Town's and County's annual budget processes. As the County Administrator and Town Manager serve on the Joint Committee it is expected that they will be able to represent the desires of the Committee.
6. **Budgetary Control and Impact on Tax Revenues.** The Joint Committee will do its best to understand how Economic Development and Tourism affect the tax revenues of the Town and County so that proposals can be made to equitably divide costs. However, both the Town and County reserve the right to control their own Economic Development and Tourism budgets.
7. **Identify and Mitigate Real and Perceived Barriers to Economic Development.** One of the first duties of the Joint Committee shall be to determine the best way to add to the past information gathering activities of the Town and the Economic Development Strategic Planning Subcommittee by soliciting additional input from the business community as to the real and perceived barriers to Economic Development. A workplan to obtain this input and develop strategies to mitigate these real and perceived barriers shall be developed and initiated by the Joint Committee within 60 days of the Economic Development Director's start date.
8. **Joint Regulatory Review by Planning Directors.** The Town and County shall charge their Planning Directors to use the data collected above as well as their Director's own knowledge to complete a joint regulatory review and offer suggestions back to the governing bodies of changes that could be made to make both the Town and County more business friendly. This effort shall be scheduled in conjunction with the workplan set forth in Item #7 above.
9. **Publicize the Regulatory Review Recommendations and Their Implementation.** The final report of the regulatory review outlined in Item #8 shall be publicized within 60 days of acceptance by the

governing bodies, and the resultant changes shall be publicized as the report's recommendations are implemented.

10. **Establish Technical Guidance/Support for Tourism Efforts.** The Joint Committee shall decide whether the County and Town's Tourism effort should be guided by a staff member, consultant, or a designated group. The selected entity will report to either the Town Manager or County Administrator and will receive guidance from the Joint Committee. The Joint Committee may wish to request proposals from consultants and groups in order to help evaluate the different options for this item. The initial goals of the Tourism effort shall be the creation of a single Tourism website and the development of ways to cross-promote Tourism at existing events. The Joint Committee shall make this decision within 120 days of the adoption of this MOU.
11. **Creation and Management of Joint Economic Development and Tourism Websites and Associated Social Media.**
 - A. **Develop and Manage Joint Economic Development Website.** The Town and the County shall have a single internet presence for Economic Development to include a website and associated social media. Creation of a single internet presence shall be the Economic Development Director's top priority project. The initial steps of this effort shall begin immediately following the adoption of this MOU with a targeted delivery date of the combined internet presence within 4-6 months of the Economic Development Director's start date. The Economic Development Director shall be responsible for keeping the website and associated social media up to date with oversight by the Joint Committee.
 - B. **Develop and Manage Joint Tourism Website.** The Town and the County shall have a single internet presence for Tourism to include a website and associated social media. Creation of a single internet presence shall be evaluated by the Joint Committee and a recommended work plan shall be provided by the Committee within three (3) months of the Committee's initial meeting.
12. **Identify New Revenue Sources for Economic Development and Tourism.** There shall be ongoing, coordinated efforts to explore new revenue sources for Economic Development and Tourism to benefit both the Town and County. This effort shall begin in the near term with pursuing the Virginia Tourism Corporation Marketing Leverage Grant or other tourism-related grants, and evaluation of raising the County's transient occupancy tax (TOT)¹ to 5% through General Assembly action to allow earmarking of funds in excess of 2% for Tourism-related efforts, and establishing a TOT for the Town. This effort will also include evaluating the County's potential use of the business professional and occupational license (BPOL) tax. Longer term efforts shall be an ongoing responsibility of the Economic Development Director and part of the joint annual evaluation of the Town and County economic development budgets.

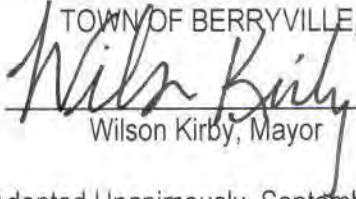
¹ Transient Occupancy Tax is a tax paid by visitors and is collected by operators of hotels, motels, boarding houses, and other lodging places which can accommodate four or more persons at one time as well as travel campgrounds that offer guest rooms or other accommodations rented out for continuous occupancy for fewer than 30 consecutive days. This tax is authorized by 58.1-3819 of the Code of Virginia and is codified under Article XVII of the Code of Clarke County.

13. **Develop Business Retention Strategies.** The Joint Committee shall work with the Economic Development Director and possibly a consultant to create business retention strategies. Work on this item shall begin within 60 days of the completion of the regulatory review/streamlining report outlined in Items #7 and #8.
14. **Foster Economic Development Relationships.** The Town and County shall work jointly on establishing partnerships with developers, landowners, building owners, and other stakeholders to facilitate new development and redevelopment of properties. This is an ongoing responsibility that shall be undertaken by the Economic Development Director with processes established to enable potential projects or issues to be brought to the governing bodies after review by the Joint Committee for discussion by the aforementioned stakeholders.
15. **Develop Incentive Programs to Attract New Businesses and Retain Existing Businesses.** The Town and County shall jointly develop incentive programs to attract new businesses and to help existing businesses grow and expand. This item requires Economic Development technical expertise and shall be assigned to the Economic Development Director. Creation of a report of potential incentive program options for consideration by the Town and County shall be completed within one year of the hire date of the Economic Development Director.
16. **Joint Development of Agricultural Marketing Strategies.** The Town and County shall jointly develop agricultural marketing strategies to benefit agricultural/ agribusiness entities in the County and agricultural retail and Tourism resources (e.g., Farmers Market, farm-to-table, farm supply business) in the Town. This item requires marketing technical expertise and shall be assigned to lead points of contact for Economic Development and Tourism. Creation of a Marketing Strategies Report shall be created for consideration by the Town and County. This Report shall be completed within one year of the adoption date of this MOU.
17. **Regional Tourism Marketing and Promotion.** The Town and County shall support regional cooperation in marketing/promoting tourism. This item requires tourism/marketing technical expertise and shall be assigned to lead points of contact for Tourism. Existing staff shall continue to be actively involved in current regional efforts to market Town and County Tourism efforts.
18. **Support Efforts to Increase Accommodation Capacity.** Development of increased accommodation capacity shall be supported by the Town and County. In the near term, Town and County staffs, with guidance from the Joint Committee, shall determine whether there are joint measures that could be undertaken to secure a hotel in the Town. As an ongoing project, the Joint Committee and/or the Economic Development Director and Tourism lead points of contact shall work to identify and promote all sources of accommodations including hotels, bed and breakfasts, and country inns.
19. **Foster Tourism Relationships.** The Town and County shall work to establish relationships with stakeholders to facilitate growth of the Tourism industry. This is an ongoing responsibility that shall be undertaken by the Tourism lead points of contact with processes established to enable issues to be brought to the governing bodies for discussion by the aforementioned stakeholders.


The aforementioned action items are summarized by priority in Attachment A, Timeline of Action Items, to this MOU.

BE IT FURTHER RESOLVED THAT it is expected that this Memorandum of Understanding will be modified as the Town and County learn from their experiences. This MOU shall renew automatically on July 1, 2015 and annually on July 1 thereafter, however either the Town or the County may choose to request the opportunity to review or modify this MOU with provision of 60 days of notice to the other party. Either party may cancel this MOU with provision of written notice to the other party no later than May 1 of each year.

WITNESS the following signatures and seals:

TOWN OF BERRYVILLE, VIRGINIA
By  (SEAL)
Wilson Kirby, Mayor

Adopted Unanimously September 9, 2014

COUNTY OF CLARKE, VIRGINIA
By  (SEAL)
J. Michael Hobert, Chair

Adopted Unanimously September 16, 2014

ATTACHMENT A TIMELINE OF ACTION ITEMS

Prioritized Items (Initial Year)

- **Within thirty (30) days of the adoption date of this MOU (October 16, 2014)** Create a Joint Committee for Economic Development and Tourism (Item #3)
- **Within sixty (60) days of the adoption date of this MOU (November 16, 2014)** Create a job description and recruit for the position of Economic Development Director with the goal of hiring a part or full-time Director by Spring 2015. (Item #4)
- **Within 120 days of the adoption date of this MOU (January 16, 2015)** -- The Joint Committee shall complete a review of Town and County funding of the economic development effort and make recommendations to the Finance Committees of the Town and County, in conjunction with the annual budget process, for integrated response to funding needs. (Items #5 and #6)
- **Within 120 days of the adoption date of this MOU (January 16, 2015)** – The Joint Committee shall recommend a work plan to identify technical guidance/support for tourism efforts and for development of the Joint Tourism website (Item #10 and Item #11B)
- **Within ten (10) months of the adoption date of this MOU (July 16, 2015)** – Identify and Mitigate Real and Perceived Barriers to Economic Development – develop and initiate workplan (Item #7); Joint Regulatory Review by Planning Directors – develop and initiate workplan (Item #8)
- **Within one (1) year of the adoption date of this MOU (September 16, 2015)** – Joint Development of Agricultural Marketing Strategies report (Item #16)

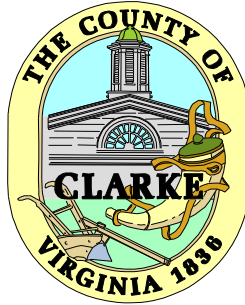
Prioritized Items (Beyond Initial Year)

- **Within 12 to 14 months of the adoption date of this MOU (September/November 2015)** – Targeted Delivery of Joint Economic Development Website (Item #11A)
- **Within sixty (60) days of completion of regulatory report outlined in Items #7 and #8 (late 2015/early 2016)** – Begin work on developing business retention strategies (Item #13)
- **Within one (1) year of the hire date of the Economic Development Director (mid 2016)** – Report on Incentive Programs to Attract New Businesses and Retain Existing Businesses (Item #15)

Ongoing Items

- Establish Joint Management of Economic Development and Tourism (Item #1)
- Establish Single Points of Contact for Economic Development and Tourism (Item #2)

- Conduct Joint Review of Economic Development and Tourism Funding (Item #5) – In conjunction with annual budget processes
- Budgetary Control and Impact on Tax Revenues (Item #6)
- Publicize the Regulatory Review Recommendations and Their Implementation (Item #9)
- Identify New Revenue Sources for Economic Development (Item #12) – In conjunction with annual budget processes
- Foster Economic Development Relationships (Item #14)
- Develop recommendations for Regional Tourism Marketing and Promotion (Item #17)
- Support Efforts to Increase Accommodation Capacity (Item #18)
- Foster Tourism Relationships (Item #19)



Economic Development Strategic Plan For Clarke County, Virginia

An Implementing Component of the 2013 Comprehensive Plan



Adopted by the Board of Supervisors on October 21, 2014

ACKNOWLEDGEMENTS

CLARKE COUNTY PLANNING COMMISSION

George L. Ohrstrom, II, Chair (Russell Election District)
Anne Caldwell, Vice Chair (Millwood Election District)
Tom McFillen (Berryville Election District)
Frank Lee (Berryville Election District)
Chip Steinmetz (Berryville Election District)
Scott Kreider (Buckmarsh Election District)
Douglas Kruhm (Buckmarsh Election District)
Jon Turkel (Millwood Election District)
Cliff Nelson (Russell Election District)
Clay Brumback (White Post Election District)
Robina Bouffault (White Post Election District)
Randy Buckley (White Post Election District)
John Staelin (Board of Supervisors representative)

CLARKE COUNTY BOARD OF SUPERVISORS

J. Michael Hobert, Chair (Berryville Election District)
David Weiss, Vice-Chair (Buckmarsh Election District)
John Staelin (Millwood Election District)
Barbara Byrd (Russell Election District)
Beverly B. McKay (White Post Election District)

STRATEGIC PLAN SUBCOMMITTEE

John Milleson (Economic Development Advisory Committee)
Bryan Conrad (Economic Development Advisory Committee)
Robina Bouffault (Planning Commission)
Tom McFillen (Planning Commission)
John Staelin (Planning Commission/Board of Supervisors)
Christy Dunkle (Town of Berryville Staff)

CLARKE COUNTY PLANNING DEPARTMENT

Brandon Stidham, Planning Director
Jesse Russell, Zoning Administrator
Alison Teetor, Natural Resource Planner
Debbie Bean, Administrative Assistant

Clarke County Planning Department
101 Chalmers Court, Suite B, Berryville, VA 22611
540-955-5132

Consulting Services provided by Herd Planning & Design, Ltd. with S. Patz & Associates, Inc.

**Economic Development Strategic Plan
For Clarke County, Virginia**

An Implementing Component of the 2013 Comprehensive Plan

Adopted by the Board of Supervisors on October 21, 2014

Contents	page
I. Executive Summary	5
II. Introduction/Background	
Summary of purpose, process, and relation to comprehensive plan.....	12
III. Analysis - Current Conditions, Market Analysis, and Public Input	16
Summary of Technical Memoranda #1 and #2	
IV. Goals, Strategies and Actions	20
Mission	20
Vision	20
Goals and Strategies	21
Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development	21
Strategy 1. Expand Overall Planning and Economic Development Efforts	
Strategy 2. Increase Direct Revenues to Fund Economic Development	
Goal B. Retain, Attract, and Develop Compatible and Innovative Industry ...	32
Strategy 1. Promote Compatible Industrial Development	
Strategy 2. Initiate Long-Term Development Opportunities	
Goal C. Increase the Vitality of Agriculture and Tourism	40
Strategy 1. Promote Agricultural Development and Innovation	
Strategy 2. Promote Tourism Development	
V. Action Plan	47
Action matrix with schedule, responsibilities, and estimated budgets	
VI. Appendices	
Appendix 1: Technical Memorandum #1 (Summary of Public Input)	61
Appendix 2: Technical Memorandum #2 (Issues and Opportunities)	83
Appendix 3: Appendix to Technical Memorandum #2 (Market Data and Analysis)...	121



photo by Herd Planning & Design



photo by Herd Planning & Design

I. Executive Summary

Overview

Strategic Plans are specific and *action-oriented*, and thus tend to have a short-term horizon, whereas the Comprehensive Plan (required by the Virginia Code) is general in nature and takes a long-term view of the future.

This strategic plan for economic development in Clarke County will become an “implementing component” of the 2013 Comprehensive Plan (along with other such components such as the transportation plan, the water resources plan, etc.) Objective 10 of the 2013 Comprehensive Plan sets forth the policies that guide the development of the Economic Development Strategic Plan’s recommendations. The actions for economic development must support and draw guidance from the County’s overall growth management policies for rural land conservation and other key goals set forth in the Comprehensive Plan and relevant component plans.

The County is in a challenging yet opportune location, situated in the Shenandoah Valley of Northern Virginia between the larger and more rapidly growing counties of Loudoun, Frederick, and Jefferson, West Virginia to the north. This makes it a “rural jewel” surrounded by those intensively developing areas. While the County’s small population and employment base can present constraints on economic development, because of its good location, they can also present opportunities. Its proximity to a very large and expanding regional market of population and businesses offers the attraction of a high quality, rural life style with relatively low land costs.

These qualities are the purpose and basis for the County’s overall land use philosophy which might be best expressed in the forward to the Comprehensive Plan: “...to *protect and enhance attributes that contribute to the rural and agricultural character of the County, while it accommodates additional people and businesses primarily in the designated growth areas.*”

Guiding Principles

Based on the County’s long-standing land use philosophy and the policies of its Comprehensive Plan, the following principles serve as guidance for this Strategic Plan.

The Economic Development Strategy must:

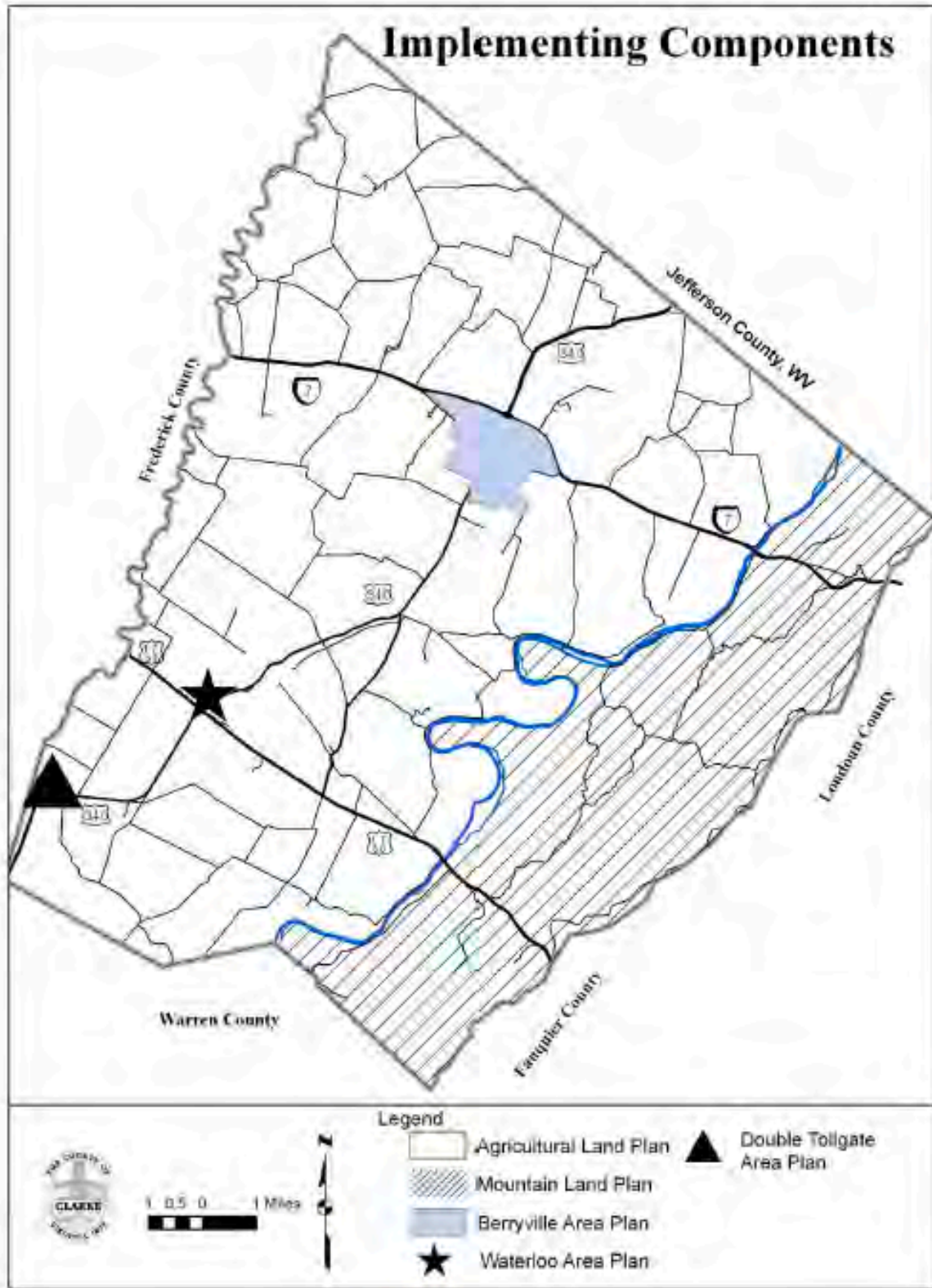
- **Support the County’s Comprehensive Plan** and desired future land use pattern of concentrated population within a largely rural environment. The County must avoid compromising its overall growth management philosophy by taking advantage of the natural and historic resources in ways that help preserve them while enhancing their economic value.
- **Grow the tax base** as the primary objective, with a secondary objective to increase economic activity through the expansion of business transactions and/or by adding new jobs, particularly if the jobs are filled by the existing labor force or in-commuters.
- **Build on past and current successes** in business development.
- **Target short-term as well as long-term** economic prospects.

- **Foster close cooperation between the County and the Town of Berryville**, as the two jurisdictions form a unified local economy.
- **Set and memorialize clear priorities and responsibilities** to allow the County and Town to best use limited resources, take best advantage of the community's key attributes, and focus on the most important and practical actions for early success.

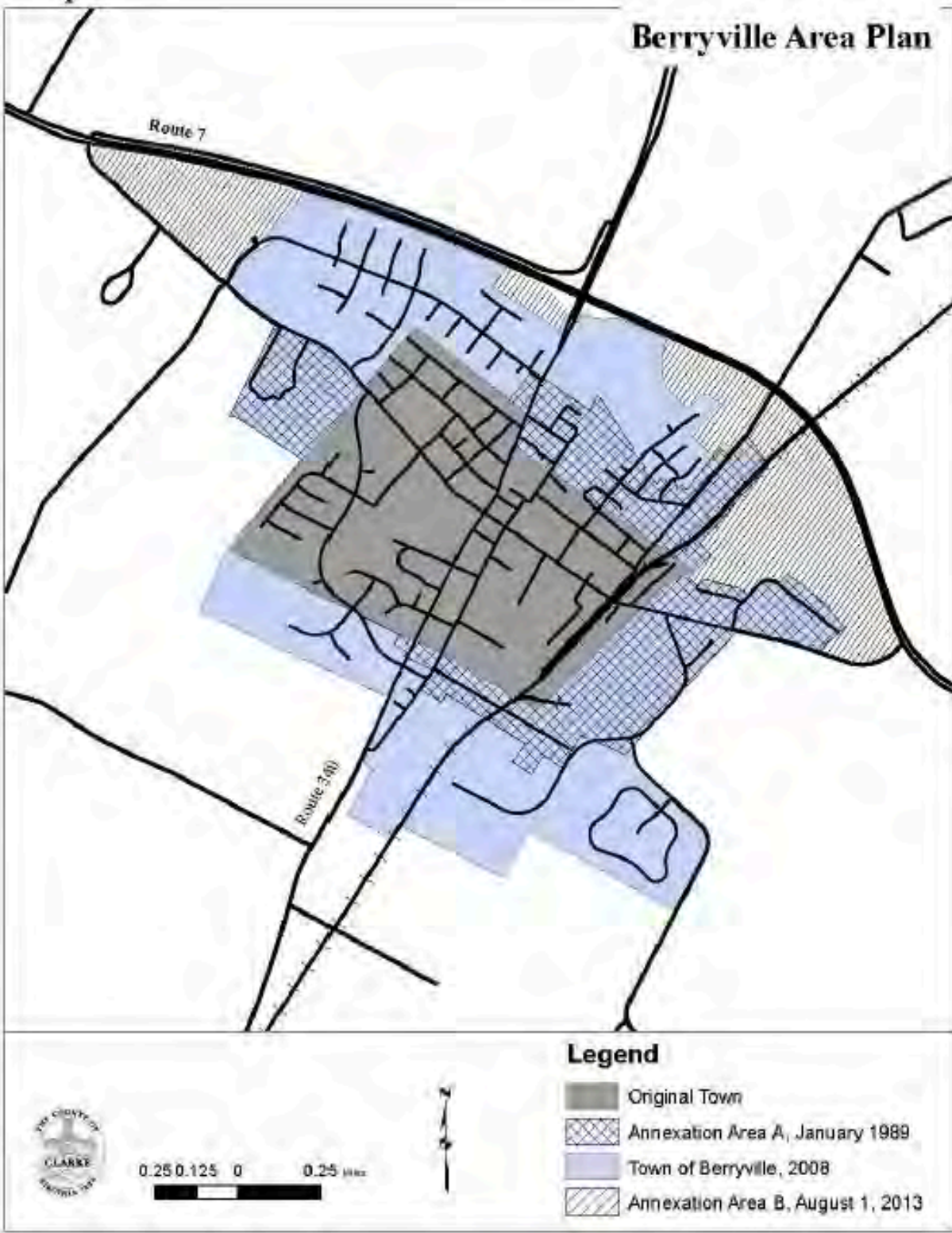
Summary of Major Initiatives for Action

The research, data analysis, and public input conducted during this planning effort produced a package of goals, strategies, and actions that provide a work plan for the County to follow in the coming few years. These can be summarized as a set of four major initiatives. All of the specific strategies and actions that are detailed later in this plan support these overarching initiatives.

- 1. Foster close collaboration between the County and Town of Berryville** through a formally documented provision for shared authority and shared investments in economic development leadership.
- 2. Expand the technical capacity of local government** to provide leadership and support for economic development, particularly to:
 - Retain, expand, and recruit *compatible industry*
 - Promote *tourism*
 - Foster growth and vitality of the *agricultural industry*
- 3. Upgrade the local economic development website** to improve e-marketing capability – this is a growing demand, expectation, and opportunity in today's economic development efforts.
- 4. Improve the readiness of key industrial sites** by making strategic investments through public/private partnerships in order to attract and develop new businesses.



Implementing Components of the Clarke County Comprehensive Plan



Berryville Area Plan

Summary of Goals, Strategies and *Top Priority* Actions

Based upon those guiding principles, this plan has three main goals and each goal has two key strategies. Each strategy has several actions to implement it. The *top priority* actions for the next three years (FY 2015 through FY 2017) are shown within the framework of goals and strategies, below.

Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy 1: Expand Overall Planning and Economic Development Efforts

- Action A.1. Clarify role of economic development in County's general growth management strategy
- Action A.2. Remove real and perceived barriers to desirable economic development
- Action A.3. Establish a formal economic development program in coordination with Town of Berryville
- Action A.4. Upgrade web-based marketing, branding, and promotion

Strategy 2: Increase Direct Revenues to Fund Economic Development

- Action A.5. Examine cost/benefit of increasing TOT (Transient Occupancy Tax) and establishing BPOL (Business Professional and Occupational License)



Downtown Berryville

photo by Herd Planning & Design

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry

Strategy 1: Promote Compatible Light Industrial Development

Action B.1. Implement business retention strategies

Action B.2. Partner with industrial landowners and the Town

(Note: Action B.3 - Pursue Tax Increment Financing (TIF) is under Longer Term Priorities)

Strategy 2: Initiate Long-Term Development Opportunities

Action B.4. Continue to collaborate with the Town of Boyce.

Action B.5. Support Efforts to Expand Retail and Office Space.



Clarke County Business Park

photo courtesy of S. Patz & Assoc.

Goal C. Increase the Vitality of Agriculture and Tourism

Strategy 1: Foster Growth and Vitality of the Agricultural Industry [*coordinate with Agricultural Land Plan*]

Action C.1. Promote information and understanding of local agriculture

Action C.2. Promote activities that support local agriculture

Strategy 2: Promote Tourism Development [*coordinate with Tourism Strategic Plan*]

Action C.3. Improve regional cooperation and coordination in marketing and promotion

Action C.4. Establish/Revive Tourism Advisory Committee

Action C.5. Promote Development of Increased Accommodation Capacity



photo by Herd Planning & Design

II. Introduction/Background

Summary of the Purpose and Process of this Plan

Clarke County's strategic plan for economic development will become an "implementing component" of the Comprehensive Plan (along with other components such as the transportation plan, the water resources plan, etc.)

The County wants economic development strategies and actions that will:

- help diversify its tax base without undermining the County's rural, agricultural character.
- support its strong and venerable growth management program, and
- not unduly increase the cost of providing public services.

The economic development strategy must support the County's other Comprehensive Plan components and balance the fundamental goal of land preservation with the important need for economic vitality and a healthy business tax base.

An important issue is that job growth tends to cause population growth. This can add economic and social vitality to the community, yet can conflict with the goal of preserving agricultural and open-space resources, unless employment growth occurs in locations, amounts, and sectors that are consistent with the overall vision. Thus, it is important for the County and the Town of Berryville to coordinate their actions, since their economies are largely unified. This became very clear during the analysis phase of this planning effort, which began as a County-centered project with input from the Town, but has yielded the understanding that joint implementation by both jurisdictions is critical to success. Actions for enhancing coordination are identified in this plan, including a new opportunity with regard to the draft Tourism Strategic Plan, which is currently being prepared at the Town's initiative.

Challenges to overcome include a limited amount of land that features the highest level of readiness that would allow for immediate occupancy by new or expanding businesses of the type needed for tax revenue generation (refer to the seven "levels of readiness" described in the Appendix), and strong competition from surrounding jurisdictions - the Winchester marketplace in particular - for most non-residential land uses.

The technical work to develop the plan has included

- identification of methods for expanding local business.
- analysis of regional economic factors and Clarke County's competitive position.
- analysis of constraints to economic growth and how to overcome them.
- analysis of the fiscal impact of new growth.
- identification of short-term and long-term strategies and actions for economic development; and
- identification of options for the magnitude, locations, and types of economic growth in light of costs and benefits.

Project Work Plan

The County's lead economic development consultant, Herd Planning and Design, worked in conjunction with County planning and economic development staff to develop a project work plan for the creation of the Strategic Plan. The work plan included five major tasks.

Task 1 - Initial Public Input Meeting (February 2013)

Task 2 - Evaluate County's Economic Development Issues, Needs & Opportunities (Spring 2013)

(Included interviews and "round tables" with business owners, field survey of key growth areas, regional analysis of economic factors, and best practices research)

Task 3 - Evaluate Comprehensive Plan components in relation to Economic Development (Summer/Fall 2013)

Task 4 - Prepare Economic Development Strategies for Implementing Component Plans (Winter 2013)

Task 5 - Develop Draft Economic Development Strategic Plan as a New Component (April 2014)

An Economic Development Strategic Plan subcommittee was appointed in November 2013 to serve as the work group for Plan Development (Tasks 4 and 5). This subcommittee consisted of members of the County Planning Commission, Economic Development Advisory Committee, and Town of Berryville and County Staffs.

Relationship to the Comprehensive Plan

As noted above, the Strategic Plan is a component of the County's Comprehensive Plan and is driven by the policies and objectives for Economic Development. The strategic plan is more "project-oriented" but its strategic actions should be consistent with and support the policies of the Comprehensive Plan, as shown below.

Objective 10 – Economic Development (from Comprehensive Plan)

Encourage economic growth that is compatible with the County's environmental quality, rural character, and residential neighborhoods, and that provides a healthy balance between revenues from residential and agricultural uses, and those from commercial and industrial uses.

Policies

1. Establish and maintain an Economic Development Strategic Plan as a component plan to implement this Objective and its policies.
2. Direct the location of compatible businesses to designated growth areas and existing commercial centers as allowed by the adopted plans for those areas.
3. Encourage new or expanded businesses that have minimal impact on the County's sensitive environment and that do not adversely impact surrounding properties with excessive noise, odor, or light pollution.

4. Ordinances and policies should be implemented to ensure high-quality design and construction of new and redeveloped businesses. This shall include context-sensitive landscaping that makes use of native plants, xeriscaping, and use of gray water for irrigation where possible. Maintenance of landscaping and site plan features should be enforced by the County throughout the lifespan of the business.
5. Promote types of economic development that are consistent with the County's existing uses and character, including but not limited to the following.
 - a. Tourism and the land uses that would benefit from it.
 - b. Agricultural businesses.
 - c. Agriculturally related businesses.
 - d. Equine businesses and related services.
 - e. Compatible light industrial uses in designated locations.
6. Protect and enhance the environmental resources of the County, recognizing that they can serve as an attraction to business and industry.
7. Encourage the attraction of business activities that complement or that work in conjunction with existing industrial and commercial activities in the County, particularly active farming and forestry operations.
8. Ensure that new commercial development occurs according to the following provisions.
 - a. Does not impede traffic flow on roads and/or overload intersections.
 - b. Prevents strip development by integrating new development with existing development through the use of reverse frontage, consolidated or shared access points, shared parking and/or drive aisles, internal circulation networks, and interparcel access; and ensures that land use ordinances provide flexibility to facilitate clustered development patterns.
 - c. Ensures that access to and impacts on the transportation network are safe and do not degrade efficiency.
 - d. Meets all applicable zoning- and building-code regulations and all standards for water, sewage disposal, and waste disposal needs.
 - e. Does not have a negative impact on adjacent property values.
9. Evaluation of adaptive reuse projects, and projects to redevelop existing agricultural, commercial, and light industrial uses shall include the following elements in addition to the criteria set forth in Policy 8 above for new development projects.
 - a. Whether the project is in general accord with the Comprehensive Plan.
 - b. Whether the resultant structures, parking, lighting, landscaping, stormwater management, onsite well and septic systems, property ingress/egress, and other site elements would be in full compliance with County land use ordinances and State regulations.
 - c. The degree to which the project mitigates an existing public safety concern.
 - d. The degree to which the project mitigates any new impact to the existing character of the area including but not limited to noise, odor, intensity, or aesthetics.

- e. In the case of a conditional rezoning application, the degree that the applicant's proffer package addresses all existing and potential site impacts to surrounding properties.
 - f. Consistency with prior land use decisions involving similar cases.
10. Support a vigorous agricultural development program in the County that emphasizes promotion of Clarke County agricultural products, encourages cooperation with individual agricultural interests within the County and advocacy agencies, and establishes liaisons with counties in the area that have similar development programs.
 11. Seek and consider additional fiscal tools by which the County may enhance its tax base.
 12. Promote the retention, attraction, and expansion of businesses and industries that support the land use goals of the County, in particular, businesses that generate a relatively high level of local tax revenue in relation to the number of jobs, create minimal impact on public services, and are compatible with the County's agricultural and natural resources.

As the Comprehensive Plan and related component plans are periodically updated, any material changes should be reconciled with updates to this Economic Development Strategic Plan.

III. Analysis – Current Conditions, Market Analysis, and Public Input

(Summary of content of Technical Memo #1 [public input] and Technical Memo #2 [Analysis of Issues, Needs, and Opportunities] which are Appendices to this Plan, under separate cover)

Initial Input

Initial input on economic development strategies was obtained from a public meeting and key stakeholder “round table” sessions conducted from February through April 2013, and via several individual interviews with business owners and property owners in the County, including the Berryville area. A full report on the results of this input is included in Technical Memorandum #1 of the consultant’s work, located in the Appendix to this plan.

Summary highlights of this input include the following:

- The business community is fully aware of the challenges that officials face in expanding the County’s economic base. Their input focused on small scale or short-term solutions, such as the need for an anchor store at Waterloo and the need to upgrade the level of service at the Food Lion, as well as larger or longer-term solutions such as providing sewer service to the Double Toll Gate area, changing the perception that the County doesn’t want business growth, and coordinating the marketing of tourist events and attractions. While the public and business community fully embrace the traditional goals of the County, there is the underlying recognition of the need for more tax revenue and economic activity.
- There is great support for the value of current growth trends and the agricultural and equine base of the County, but little focus on the outdated industrial properties in the town, and their prospects for redevelopment or adaptive reuse.
- It appears that the Clarke County community believes that Berryville’s retail and office space markets will remain modest in size. However, there is recognition that stability could be improved with various upgrades such as providing sites that meet modern market demands for parking and size of office spaces, providing some smaller housing units that meet a broad demographic spectrum, etc. (note that perceptions about lack of parking in historic downtown areas often conflict with the actual supply of parking).
- There is broad appreciation of the positive natural and cultural aspects of the County as a special place within the region, including the desire that economic development should not overwhelm the County’s traditional character and quality of life.

Strengths and Weaknesses

Further evaluation of the strengths and weaknesses of the local community for supporting economic development, combined with local input yielded the following highlights.

The County has some highly valuable economic assets, particularly its:

- Open space resources, historic resources, and scenic quality.
- Good highway infrastructure.
- Regional proximity to a large population and work force.
- Adequate total supply of residential and industrial zoned land.
- Located within the primary service area of Foreign Trade Zone #137.
- Competitive tax rates and relatively low land costs compared to most adjacent localities.
- Improved proximity to Metro Rail – “Silver Line” to reach Reston in 2014 and to Dulles by 2020.

It also has some fundamental disadvantages to conventional economic development, including:

- Small resident population and gradual growth of economic base. (The county has had slow and steady population growth relative to its neighbors – see Comprehensive Plan Tables 5 and 6).
- Distance to I-81, the one interstate highway serving the western part of Northern Virginia (not relevant for counties to the east).
- Competition from adjacent jurisdictions, particularly the Winchester-Frederick area.
- Few “Occupancy Ready” or “Shovel Ready” industrial sites.
- Relatively high availability fees for public sewer and water service.
- Lack of (or costliness) of public utilities in some areas designated for future development.
- Limited number of locations where development is being promoted.
- Limited County staff resources to support economic development activities.

A review of the literature for rural economic development practices shows several trends:

- Efforts to expand, recruit and develop industrial uses that fit local resources and markets.
- Efforts to strengthen downtown business districts.
- Efforts to use local natural and historic assets to support tourism businesses, “home grown” businesses, and attract “creative class” workers.

All of these strategies are underpinned by four tenets for rethinking economic development in the modern economy:

- *Innovation* is the key to driving growth and prosperity in today’s global economy.
- *Investments* of capital are required to put innovations to use.
- *Preservation* of valuable natural assets provides a foundation for the new rural economy.
- *Connections* of dense networks among individuals, organizations, and communities provide the social infrastructure to expand the local rural economy.

Six major economic sectors were examined in order to assess the market for their future prospects, and to develop specific strategies and actions. Findings are summarized below.

Light Industrial – Despite strong competition from surrounding counties, this sector offers the strongest prospects for the greatest tax base and economic growth in the short term, especially for light manufacturing/assembly, distribution/warehouse space, and local business services. These are uses that do not have heavy traffic or environmental impacts. The County has good proximity to regional markets and labor force, and relatively low real estate costs. Thus it can attract warehouse, light manufacturing and local service businesses that might otherwise locate in western Loudoun County or Frederick County.

Retail – This sector is relatively stable but is constrained by regional competition and the County’s limited population growth. Some opportunities exist to capture some of the retail expenditures that are “leaking” from the local economy, particularly with upgraded buildings and continued enhancement of downtown Berryville.

Office – This sector has generally similar constraints and opportunities as the retail sector, as well as the need for office spaces larger than 1,800 square feet (the current average size of available spaces).

Agriculture – Despite the ongoing challenges from changing markets and technologies, this sector has good potential for sustainability through new market opportunities within the region, and greater linkage to tourism activities. The County’s land use policies have created a generally stable land base for agriculture, and the growing regional population and changing food markets also create opportunities for niche products, including equine-related businesses, higher-intensity crops, etc.

Tourism – The outstanding natural and historic resources in the County and the surrounding region provide good long-term potential for tourism, particularly with ties to agriculture and outdoor recreation. However, expansion of the tourist industry should not be considered a “quick fix” or a strong potential for large increases in the tax base.

Housing – Well-planned housing can be an economic asset, but additional housing must be of a type, quantity, density, and location that are consistent with the County’s overall goals for growth management, agriculture, environmental conservation, and fiscal well being. Promotion of a diverse, walkable, and well-connected housing stock, located in and around the towns, will tend to attract a sustainable demographic mix of older and younger people, which will help maintain a balanced economy.

Existing Businesses and Potential Target Businesses

The County is in a good position to attract the kinds of businesses that it has attracted to date to its business park. These are generally local and regional business services that benefit from the good proximity to the regional population, low land costs, and a good local labor force. These businesses are detailed in the Appendix and include well-drilling, cabinet making, equipment repair, millwork, warehousing, and general contracting, as examples. These are the kinds of businesses that offer the best prospects for near term economic growth in Clarke County, because they serve the regional market, benefit from the low land costs, and offer the opportunity for the County to capture businesses that might otherwise locate in western Loudoun County or

Frederick County. Some kinds of light industrial uses also have potential for Clarke County, such as light manufacturing and assembly, as well as regional warehouse/distribution uses. However, as noted in the analysis, regional competition for these uses is strong, and other locations, particularly the Winchester-Frederick area, have several competitive advantages. Thus, sites in Clarke County will generally rely on their central regional location and low land costs.

The agriculture and tourism sectors reflect the greatest inherent strengths of the County and best support its overall growth management philosophy. They offer strong long-term growth potential due to the trends and regional dynamics cited in the analysis, but these sectors would not be expected to be as important in terms of expanding the tax base. Expansion of these two sectors would also be expected to be gradual.

Strategic Action Framework

The analysis and input yielded the following four major themes and provided the basis for specific strategies and actions, which were then re-organized into a detailed Action Plan.

Leadership, Vision, and Policy

- Refine and Clarify Economic Development Policies, Programs, and Priorities (implement policies that promote an “open for business” image)
- Expand County Economic Development technical capacity for leadership- including marketing and tourism capabilities
- Continue and enhance the working relationship between the County and the Town of Berryville regarding all economic development efforts

Communications and Marketing

- Enhance working relationships with agencies, institutions, groups, and businesses
- Expand targeted economic development promotional efforts - web presence (including social media and other web-based tools), media relations, tours and visitations, partner organizations

Business Resource Development - Retention and Attraction

- Work with key landowners to improve site readiness
- Provide incentives for location, expansion, and retention
- Streamline and fine tune zoning regulations and permitting processes
- Promote public and private investment to improve resources, information, facilities/utilities/access, financing
- Explore Tax Increment Financing (TIF) for key areas

Agriculture and Tourism Infrastructure and Activities

- Coordinate efforts of tourist-related activities and resources, including cross-promotion
- Promote key resources – trail, river, historic sites, etc.
- Expand the number of economically productive special events— birding, hiking, competitions, festivals, etc.
- Foster development of rural tourist business enterprises with suitable regulations
- Promote high value-added agri-business, equine industry, and related activities

IV. Goals, Strategies, and Actions

Introduction

The following outline of proposed goals, strategies, and actions reflects the research, analysis, and public input carried out to date for this planning effort, including initial input from the Economic Development Advisory Committee, the County Planning Commission and the Economic Development Subcommittee of the Planning Commission.

The plan begins with a mission statement and a vision of the County's economic future, both derived from the Comprehensive Plan (the County's overall planning policy guide). Following that are three major goals, each with two strategies for achieving that goal. Under each strategy is a set of specific "action steps" which the County intends to take to implement the strategy. Most actions also have detailed "sub-actions" to show more specifically the work that is required to carry them out. Finally, all of the actions are presented in a "matrix" that compares the timing, cost, and priority of each one.

Mission

Objective #10 from the Comprehensive Plan sets forth the County's mission for economic development, which is to:

Encourage economic growth that is compatible with the County's environmental quality, rural character, and residential neighborhoods, and that provides a healthy balance between revenues from residential and agricultural uses, and those from commercial and industrial uses.

Vision

Part of Policy #5 under Objective #10 from the Comprehensive Plan expresses the County's vision for its economy, which is to achieve:

A balanced economy and a strong tax base that supports the county's growth management policies: a compact land use pattern, efficient delivery of public services, and the conservation of agricultural and natural resources. Economic sectors to be promoted include but are not limited to tourism, agriculture, agriculture-related businesses, equine businesses and related services, and compatible light industrial uses in designated locations.

Goals and Strategies

Goal A: Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy 1: Expand Overall Planning and Economic Development Efforts

Action A.1. Clarify the Role of Economic Development in the County's General Growth Management Strategy

Description. The County wishes to maintain its long-standing and venerable growth management strategy aimed at *preserving rural and environmental resources* and focusing *growth in well-defined, planned areas*, particularly the Berryville area. This is a sound approach, and the County's economic development strategy must be implemented within this larger planning framework.

However, the County also needs to effectively generate desirable economic development and to put forth that message among existing and potential businesses that support the County planning goals. No fundamental changes to the underlying planning philosophy are needed, yet the strategies of this plan will help clarify how the County will pursue economic growth, and the kinds of economic growth it will pursue.

Action Steps: Maintain a clear and consistent posture toward development and preservation, in accord with the goals and strategies of the updated Comprehensive Plan and the new Economic Development Strategic Plan. Ensure that all provisions support and do not undermine the broader County growth management strategy while also generating adequate growth in the County's tax base.

Schedule: FY 2015.

Responsibility: Board of Supervisors and County Staff

Estimated Cost: (within current budget for staff work plans)

Action A.2. Remove Real and Perceived Barriers to Desirable Economic Development

Strong land conservation policies can sometimes be mistaken or misunderstood as being non-supportive of business development. Since Clarke County has been effective in its land conservation efforts, it is especially important for it to avoid substantive or perceived barriers to compatible economic development activities and investments.

Consistent with this Strategy #1 above, the County should ensure that it has a receptive and supportive policy climate for compatible economic development projects that are consistent with its Comprehensive Planning goals, but also sufficient to improve its tax base. While the County needs to be prudent in its invitation to development, it also needs to be seen as being "business-friendly" or "open for business" (two common ways of expressing this idea) for projects that are consistent with its planning goals. This issue

involves both substance and perception. This also calls for close coordination and shared effort between the County and Town of Berryville so that they positively reinforce each other's efforts (*see Action A.3, following*).

For example, to make clear that the County welcomes appropriate business development, the County can increase its promotion of compatible and sustainable business growth through enhanced marketing efforts, business support functions, and financial partnerships with businesses to improve site readiness.

In no way should such efforts undermine the County's long-term conservation ethic – in fact, being known for welcoming compatible economic development should ultimately enhance the County's reputation as a prudent steward of its land resources, and thus have a positive long-term economic effect.

Action Steps:

- (1) Formally announce and promote the new and refined strategies and actions that are contained in the Economic Development Strategic Plan.

Sub-steps:

- (a) Issue a press release upon adoption of the new economic development strategic plan.
- (b) Put the announcement of the new plan on the Board of Supervisors and Planning Commission meeting agendas for recognition.
- (c) Have County officials attend meetings with local civic groups and business organizations to present and promote the Strategic Plan during the months following adoption.

Schedule: FY 2015.

Responsibility: Board of Supervisors and County Staff

Estimated Cost (within current budget for staff work plans)

- (2) Promote ongoing awareness and understanding of the new economic development strategies among all County personnel and through all County communications, including the web site, public meetings, etc.

This is an ongoing assignment for all County officials and personnel, who should be knowledgeable about the plan and how it affects their mission, and their roles and responsibilities in implementing it.

Schedule: FY 2015.

Responsibility: Board of Supervisors and County Staff

Estimated Cost: (within current budget for staff work plans)

- (3) Decide how and whether to clarify that the County is pro-economic development, but only for the types of activities it wants.

Like most places, the County has a “brand”, even if it is somewhat informal. In its promotional efforts, the County can shape this brand to reinforce its planning goals, include promoting the county as a great place for those who want a rural lifestyle oriented toward small town quality of life and outdoor activities, which will help to attract creative young people, and high income seniors.

Sub-steps:

- (a) *See Actions A.3 and A.4:* Enhance the County’s website to serve as a strong marketing tool for economic development. Retain an expert e-marketing firm to rebuild the economic development portion of the website or create a separate linked site. Consider retaining such firm to run the website and/or to train County staff to do so.
- (b) *See Actions A.3 and C.3:* Explore the potential of sharing costs with neighboring jurisdictions and regional organizations, and possible tie-ins to the tourism marketing efforts.

Schedule: FY 2015.
Responsibility: Board of Supervisors and County Staff
Estimated Cost: (within current budget for staff work plans)

- (4) Use the new economic development strategies as guidelines for all interactions between the County and businesses.

Schedule: FY 2015.
Responsibility: Board of Supervisors and County Staff
Estimated Cost: (within current budget for staff work plans)

Priority subject to funding decisions:

- (5) Revise/streamline zoning and permitting regulations as needed. Review regulations that could affect business attraction and retention; review event-permitting processes (county with town)

It is important that the regulatory climate - as well as the specific ordinance requirements - are effective at conserving the rural land resources while also supporting desirable economic development. This is a difficult but necessary balance to strike due to the inherent conflicts between effective regulation, and promotion of new development. Close coordination between the County and the Town of Berryville on such matters is essential.

Sub-steps:

- (a) Evaluate the zoning and subdivision ordinances to identify any regulatory and procedural provisions that have the potential to unduly restrict or encumber

compatible economic development activities, including review of current use lists of by-right and special uses, and the speed and complexity of the County's (and Town of Berryville's) review processes.

- (b) If any potential problems are identified, create and evaluate potential alternative provisions that would strike a better balance of County goals, and refine these alternatives so that they can be adopted as amendments to the current regulations.
- (c) Work closely with the Town of Berryville to ensure that the County and Town regulations are coordinated to achieve mutually desired policy outcomes, e.g. development in and around the Town in the annexation area and revitalization of the downtown.

Schedule: FY 2015.
Responsibility: Planning Director
Estimated Cost: Within current budget, depending on existing priority assignments; approximately \$20,000 value.

- (6) Inventory all existing businesses in County and Towns; categorize by type, location, revenue; include names and contact data. [to be conducted after the economic development capacity is expanded through Action A.3 below]

Schedule: FY 2015.
Responsibility: Board of Supervisors and County and Town Staff, in conjunction with Berryville Main Street
Estimated Cost: \$5,000 to initiate; ongoing updates part of expanded economic development staff budget.



photo by Herd Planning & Design

Action A.3. Establish a formal economic development program in coordination with the Town of Berryville

The County is doing a good job in light of the relatively limited resources it has available to support economic development initiatives. Its current economic development staff is essentially one person whose duties are divided between zoning administration and economic development. Devoting a full-time equivalent position (“F. T. E.”) to the economic development functions would allow the County to better support the policies and programs currently underway as well as the new ones identified in this plan. An increase in staff resources is particularly important in light of the competitive environment among rural localities in the region, and at the state and national levels.

Businesses look to local governments for leadership in promoting economic development, including providing information, coordinating activities, maintaining a sound regulatory environment, and making investments in public services and infrastructure. Having a more robust local staff capacity would help the County (and its Towns) fulfill these expectations and compete more effectively with other localities.

An important element of both the substance and perception of positive economic development efforts is collaboration with the County’s many partners. The County has a long history of successful partnerships, particularly with the Towns of Berryville and Boyce, for example. Yet such collaboration can still be enhanced and broadened, all to the good. Strengthening and formalizing ties to neighboring communities, as well as to the local business sectors, will help the County promote good will, creativity, and efficient use of resources.

While the County and Town have a long and successful history of working together on planning initiatives, the level of collaboration could be further strengthened in order to gain additional economies of scale. The benefits of coordination and cooperation between these two local governments cannot be underestimated. Coordinated efforts allow the two small jurisdictions to gain economies of scale in pursuing shared goals, thereby making the most efficient use of public funds, and reducing redundancy and conflict. Close cooperation also sends a positive signal to the business community that the two jurisdictions are working together in harmony and reinforcing each other’s capabilities. This strengthens the confidence that businesses have in local government policy and management.

Currently, the two jurisdictions collaborate extensively at both the policy-making level (elected and appointed officials), and at the staff level (professional employees):

- The Berryville Area Development Authority (BADA) serves as the planning commission for the annexation area surrounding the Town. It includes an equal number of representatives from both the Town and County. The Economic Development Advisory Committee (EDAC) advises the Board of Supervisors and staff concerning economic development. Four members are appointed by the Board, and one representative of the Town also serves on the Committee.
- The County Industrial Development Authority (IDA) is a County entity that issues bonds, buys and sells property and other activities as set forth in the Code of Virginia for such authorities.

- The County and Town staffs for planning and economic development work very closely together.

Further collaborative and cost sharing efforts could include sharing staff duties in designing and maintaining the economic development website, working together to share staff capacity for new and expanded economic development functions, and sharing duties and responsibilities for industrial development programs, among others.

Together, the County and Town can also strengthen their mutual collaboration with regional agencies such as the Northern Shenandoah Valley Regional Commission (NSVRC) and the Small Business Development Center (SBDC), in economic development activities through work with regional agency representatives and neighboring jurisdictions, including Virginia counties such as Warren, Fauquier, Frederick, and Loudoun, as well as Jefferson County, West Virginia. Coordination on tourism promotion is an obvious possibility, as well as joint promotion of commercial and industrial sites. Following initial communications, a more formal, ongoing effort could be established to ensure continued collaboration.

Action Steps:

- (1) Form a joint County-Town committee that would explore partnering and cost-sharing strategies for tourism and economic development.
 - Inventory and assess economic development activities currently done collaboratively by County and Town staffs. Identify opportunities for reducing redundancy.
 - Explore a more formal integration of economic development functions so as to make the “boundary” between County and Town functions as “seamless” as possible. A Memorandum of Understanding (MOU) would memorialize such agreements.
- (2) Identify the professional capacity needed to fulfill the enhancements to the economic development program. Most of the duties and activities are either currently underway, are identified in this plan, or are standard practice in local economic development offices. Duties typically include:
 - Working with property owners to determine issues and opportunities for their sites and how to upgrade site suitability
 - Actively seeking to attract new businesses and assisting existing businesses with expansion efforts and other growth activities.
 - Maintaining on-going communications with the local community regarding economic development issues and activities, and serving as a key liaison to local government agencies for the business community.
 - Collecting, analyzing, and disseminating data about local economic development markets, resources, etc.
 - Evaluating existing economic development resources including infrastructure, site availability and readiness, market demand, etc.
 - Conducting marketing and promotional efforts for the local economic initiatives.
 - Serving as point of contact and liaison to public and private sector partners and sister agencies; and

- Providing staff support to the Industrial Development Authority, Economic Development Advisory Committee and Clarke County Tourism Alliance (if it is resurrected in fulfillment of Action C.4).

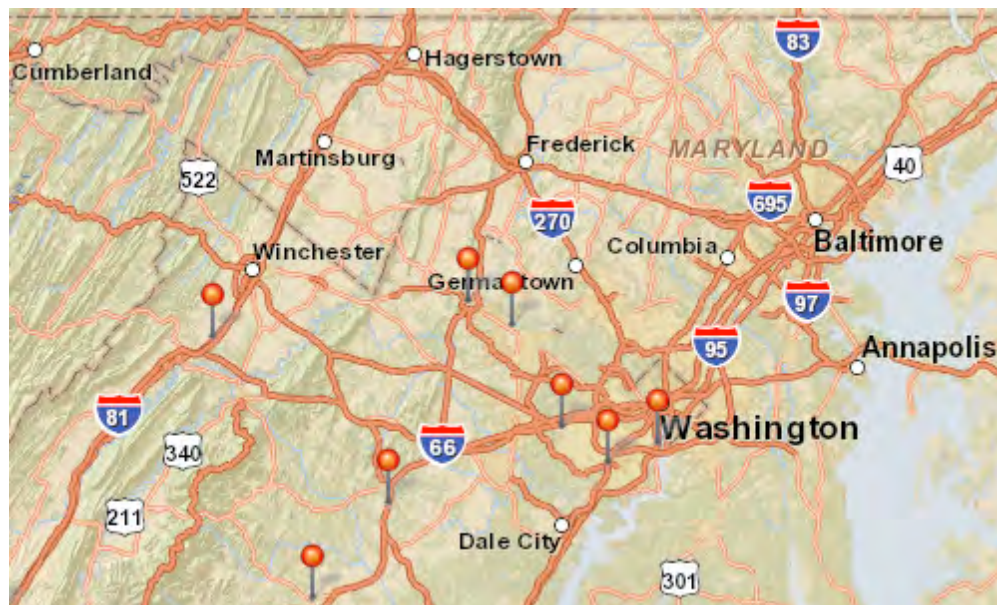
Identify what roles County staff should fulfill and what roles, if any, consultants or contractors should fulfill, particularly in the early set-up stages.

- (3) Identify how the additional capacity fits into the current organizational structure, including the relationship between County and Town economic development activities, and how the County and Town might be able to share the costs and benefits of enhanced economic development functions.
- (4) Create (or update) job and/or program descriptions and retain the appropriate professional assistance. Choose the priority for allocating resources between business retention and development and tourism coordination.

Schedule: Calendar 2014.

Responsibility: Board of Supervisors, Town Council, with County Administrator and Town Manager

Estimated Cost: Current Budget



Small Business Development Centers

source: Virginia Economic Development Partnership

Priority subject to funding decisions:

- (5) Allocate funding and retain appropriate professional staff.

Schedule: FY 2015.

Responsibility: Board of Supervisors, Town Council, with County Administrator and Town Manager

Estimated Cost: Annually \$100,000 to \$200,000 total for a full-time position plus administrative support. Part-time at \$65,000 to \$100,000. Dependent on the level of salary and program support. Consider phasing in over a two to three year period.

Action A.4. Upgrade web-based marketing, branding, and promotion, partly in coordination with neighboring jurisdictions (including West Virginia), and including greater use of social media technology.

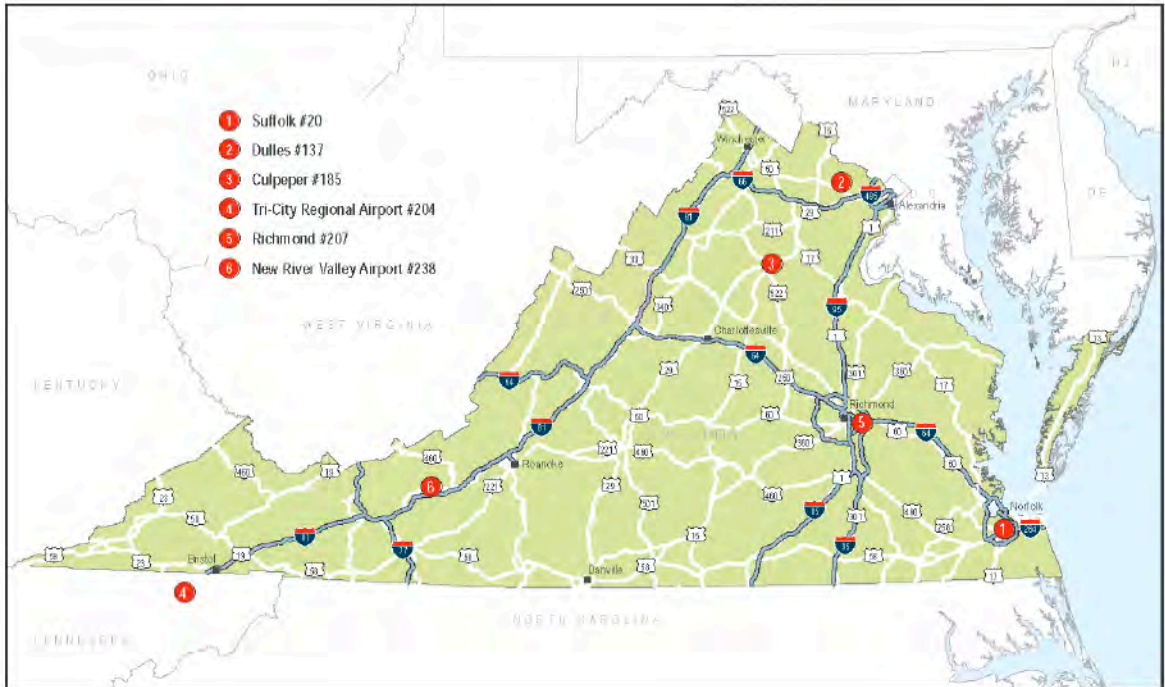
Marketing Objectives include:

- Strengthen the “brand” identity for Clarke County and Town of Berryville Economic Development (*the County and Town are mentioned together here because of the close interaction between them, particularly with regard to industrial development opportunities. The two jurisdictions would maintain the distinction of their different key attributes – rural vs. urban – but can benefit from a shared or “paired” identity as a great place to live and work within the larger region.*)
- Establish a marketing system that reflects and supports the short-term and long-term County planning vision and goals.
- Increase awareness of Clarke County’s benefits and assets.
- Promote the idea that the County is an outstanding place to do business, live and visit, particularly for the target population and business sectors.
- Highlight the new Comprehensive Plan and the Economic Development Strategic Plan with a particular emphasis on the goals of compatible economic development.

Marketable benefits of Clarke County and the Town of Berryville include:

- *Affordable* – industrial, agricultural, and residential property
- *Lifestyle* – a rural and small town lifestyle in the midst of a vibrant, populous region
- *Conservation* – a strong conservation ethic for natural and historic resources as the basis of the economic and social fabric of the community
- *Proximity* – located between Dulles Airport and I-81 (within the “hole of the donut” of a huge regional population), and within Foreign Trade Zone #137, and Port of Virginia Development Zone.

These benefits add up to “*affordable proximity*” for those seeking to locate or expand business enterprises in the County.



Foreign Trade Zones

source: Virginia Economic Development Partnership



Port of Virginia Development Zone

source: Virginia Economic Development Partnership

Action Steps:

- (1) Develop and implement a new marketing system to promote the County's (and Town's) economic development message, including new or enhanced website.

Sub-steps:

- (a) Create marketing plan – branding strategy, marketing system with logo, style guide, etc. for County economic development that would help strengthen the association of Clarke County's key brand features in the minds of target audiences.

Schedule: FY 2015.
Responsibility: Economic Development Director.
Estimated Cost: \$5,000 to \$10,000

- (b) Work with web designer to create an Economic Development website design and preliminary cost estimate – minimal upgrade

Schedule: Calendar 2014.
Responsibility: County and Town staff (in conjunction with any new economic development or tourism entities)
Estimated Cost: \$4,000 to \$8,000 for design and \$150/month for hosting and maintenance

- c) Retain expert assistance to design, implement and maintain a more robust website, including optimize search engine visibility, enhance social media marketing thru Facebook, Twitter, and blogs, coordinate joint efforts with all regional partners, create a media kit for distribution.

Evaluate whether this should be a separate site linked to the County's existing website, or a page within the existing site. Logical integration or linkage with the Town would be helpful. Additional components such as video elements (such as news segments, interviews, case studies, or testimonials), social media tools, maps of resources and key sites, etc., could be incorporated. This could include creating and maintaining a Resource Profile of key information about the County as well as contacts that existing and prospective businesses need.

Efforts could include a new hard-copy promotional/informational product for print media – a color brochure and presentation folder to give to prospects; Optimize search engine visibility; Enhance social media marketing through Facebook, Twitter, and blogs; Coordinate joint efforts with all regional partners.

Schedule: FY 2015 and ongoing.
Responsibility: Economic Development Director
Estimated Cost: \$20,000+ and \$150 to \$250 per month for hosting and maintenance.

- (2) Attend selected, occasional conferences and trade shows. This is a mid-term priority action and would focus limited resources on events with best prospect for beneficial return.

Schedule: FY 2016 and ongoing.
Responsibility: Economic Development Director
Estimated Cost: \$2,000 to \$5,000+ each for attending; \$5,000 to \$10,000+ each for exhibiting

Strategy 2. Increase Direct Revenues to Fund Economic Development

Action A.5. Examine cost/benefit of increasing Transient Occupancy Tax (TOT) and establishing Business & Professional Occupational Licensing (BPOL)

The TOT increase would require General Assembly approval. Funds from these sources would be earmarked for economic development.

Schedule: FY 2015.
Responsibility: Board of Supervisors, Town Council, with County Administrator and Town Manager
Estimated Cost: Current Budget

Longer-Term Priority (Post 2016)

Strategy 3. Promote Suitable Housing Development

Action A.6 Ensure that Comprehensive Plans and Zoning and Subdivision Ordinances of County and Towns allow and encourage diverse, walkable, connected, accessible, human-scale development patterns.

Appropriate housing development can enhance the County's overall economic vitality (and in some cases the tax base as well), if the new housing supports a balance of demographic sectors, and is located in conformance with the Comprehensive Plan. The Comprehensive Plans of the County and Town should provide clear policy guidance for achieving a well-planned and balanced mix of housing types in and around the Town of Berryville. The zoning regulations of both the County and Town should be updated as needed to allow and encourage these forms of development.

Schedule: FY 2016-17.
Responsibility: County and Town Planning Directors
Estimated Cost: Current Budget – \$20,000 +/- value.

Goal B: Retain, Attract, and Develop Compatible and Innovative Industry

Strategy 1. Promote Compatible Industrial Development

Action B.1. Implement Business Retention Strategies

A foundational component of every sound economic development program is to retain existing businesses, especially those that are compatible with the long-term vision of the local economy.

Schedule: FY 2015-16.

Responsibility: Economic Development Director

Estimated Cost (for each step shown below): Current Budget (subsumed in future Economic Development budget plus approximately \$3,000 annual value from other county departments for their involvement.) Each step shown would be roughly a \$3,000 equivalent value annually.

Action Steps:

- (1) Maintain and enhance the working relationships between the County and Town governments, business enterprises, business groups and organizations, real estate professionals, developers, and other stakeholders who are engaged in local and regional economic development, through the future economic development staff and the other collaboration actions identified in this plan.
- (2) Establish a formal visitation or survey program that allows the County and Towns to collect, organize and assess input from key businesses in each economic sector, in order to monitor the local economic development climate.
- (3) Assist local businesses (and prospects) on an as-needed basis by providing information and contacts with government (local, state, federal) and private sources of business assistance.
- (4) Establish a “strike team” of key County and Town officials and staff to respond to prospect visits, incentive requests, and retention issues. The strike team should develop and stay current on protocols for handling such matters with little or no notice.



Photos S. Patz & Assoc.



Clarke County Business Park

Action B.2. Partner with industrial landowners, users, and developers and the Town of Berryville to develop currently or potentially available industrial land

The County can work together with the Town to identify additional incentives that can be offered to potential industrial developers and users.

The County can work with property owners (and the Town where applicable) to:

- Encourage restoration of neglected buildings (remove if needed), improve the readiness of available land.
- Encourage adaptive use of existing structures (within County and Town).
- Plan for future sites and facilitate the necessary permit approvals as appropriate.
- Provide incentives – funding assistance with facility relocation and utility fees, worker recruitment/training, micro loans, building demolition and/or rehab, etc.

Schedule: FY 2015/16 (Step #6 below can begin in 2014)

Responsibility: Economic Development Director with Town

Estimated Cost: Generally within Economic Development Budget or \$3-5,000 equivalent value (except Step #4 below which involves investment related to infrastructure and site readiness upgrades).

Action Steps:

- (1) Organize, consolidate and update information about available and potential sites; maintain this database; make it easily available through the web. Work with property owners, the Town and Main Street to establish list of potential commercial, business and industrial properties for lease or sale. Place list on economic development website, and advise realtors.

- (2) Evaluate and rank all existing and potential sites in terms of current level of readiness for development.
- (3) Identify specific actions needed to upgrade the level of readiness for each site.
- (4) Identify what incentives the County and Town might provide, including funding, loans, infrastructure assistance, permits, etc. Such incentives would be in conjunction with actions by the owners to provide the maximum amount of leverage of local government assistance, and could involve increased funding for the County's Industrial Development Authority.
- (5) Establish a list of types of businesses desired in the County and which are feasible to attract or develop, and contact appropriate businesses to determine interest.
- (6) Report on success of above actions to Board of Supervisors, Town Council, and Planning Commissions.

Calendar 2014/15 and ongoing.

Action B.3. Pursue Tax Increment Financing (TIF) (*Longer Term Priority*)

TIF districts are permitted under § 58.1-3245.2 of the Code of Virginia. The legislation essentially permits the County to adopt an ordinance that designates a development project area in which physical improvements are made to increase the value of the real estate. The real estate tax revenues attributable to the increase in value from the original assessed value are paid into a special fund to pay the debt on bonds issued to finance the cost of the physical improvements within the project area.

Action Steps:

- (1) Evaluate the feasibility and suitability for a TIF if new public infrastructure will benefit a site
 - (a) Identify the area or areas for the TIF district designation (Note – this may involve collaborating with the Town of Berryville. It may also involve determining whether a joint, inter-jurisdictional TIF is possible. This may also involve determining whether special consulting assistance is necessary for this strategy).
 - (b) Allocate funding to support the actions necessary to establish a TIF.
 - (c) Conduct feasibility studies to determine whether development or redevelopment could take place within an acceptable timeframe without the assistance that would be provided by the TIF district.
 - (d) Prepare a forecast of the costs and revenues for the project.
 - (e) Analyze the long-term economic benefit to the local economy for the term of the TIF district, including the total impact of TIF districts on the tax base.

- (f) Prepare a maintenance plan for the TIF district's projects, including ongoing and future capital costs, revenue sources, and any risk sharing between the County and any third party of private sector partners, including backup for project revenue, ongoing maintenance, project reporting and monitoring, etc.
- (2) If the evaluation affirms feasibility, implement the TIF.
- (a) Prepare a development or redevelopment plan that includes detailed performance measures, steps for monitoring and evaluating the plan, and outlining future benefits and burdens under alternative economic scenarios.
 - (b) Affirm viability of any third-party or private sector partners.
 - (c) Obtain input from all parties involved, including the public.
 - (d) Periodically evaluate the performance of the TIF district.

Schedule: FY 2016-17

Responsibility: Economic Development Director with Board of Supervisors (and Town as appropriate)

Estimated Cost: TBD

Strategy 2. Initiate Long-Term Development Opportunities

Action B.4. Continue to collaborate with the Town of Boyce.

The Town of Boyce has potential for additional residential development, and to a lesser degree, new commercial development. Although it also has relatively good regional access via Routes 50 and 340, it may have some potential for incremental commercial growth to serve commuting traffic on Route 340. Substantial commercial or industrial expansion opportunities will likely be limited due to the proximity to the Waterloo Business Growth Area.

Continue to work in close collaboration with the Town to ensure that planning policies and regulations for the Town and surrounding area continue to reflect the goals and policies of the Town's and County's Comprehensive Plans.

Schedule: Ongoing.

Responsibility: Board of Supervisors, Planning Director.

Estimated Cost: Current Budget.

Action B.5. Support Efforts to Expand Retail and Office Space.

Notwithstanding the longer term potential for commercial development in the Double Tollgate and Waterloo areas, the best prospect for both short and long-term expansion that is also consistent and supportive of broad County goals is to intensify the Berryville Area, including downtown Berryville, in a manner consistent with the Town's plans, the Berryville Area Plan, and the historic character of the Town.

A master plan for land use, urban design, and streetscape improvements would provide a framework for improving the competitive posture of the Berryville Area - especially

downtown - in attracting retail and office development and redevelopment, as well as appropriate housing to reinforce the retail and office uses.

Action Steps:

- (1) Urban Design: Support the efforts of the Town of Berryville in promoting the long-term physical improvement of the downtown area. The level of support would be dependent on the specific provisions contained in any agreement between the County and Town for coordinated economic development efforts.
- (2) Information: Support the efforts of the Town of Berryville to establish or upgrade the process for collecting, updating and disseminating physical and market data for the downtown area. Such efforts might include studying and monitoring available space, occupancy rates, parking supply and access, etc. The initial information piece might be an evaluation of downtown parking supply and accessibility, including wayfinding needs.

Schedule: Calendar 2014 and ongoing
Responsibility: Planning Directors of County and Town
Estimated Cost: Step 1 would be within the Current Budget plus up to \$75,000 for a streetscape plan (assume to be allocated in out-years); Step 2 would be within the Current Budget and/or subsumed within the future Economic Development budget.

Action B.6. Pursue Partnerships to Provide Public Water and Sewer to the Double Toll Gate Area. (*Longer Term Priority*)

Note: Step #7 below “Review and revise the Area Plan...” could be a nearer term priority in conjunction with ongoing County planning staff work program.

This area is situated on Route 340/522, an important highway connecting the Berryville, Front Royal and Winchester areas. There is landowner interest for commercial development in this area, but the County would have to partner with landowners – and possibly other government agencies – to provide public water and sewer to the area. An advantage to Clarke County for development in the Double Toll Gate area is its location at the western edge of the County where any increases in land use intensity and traffic generation from economic development will have a relatively small impact on most Clarke County residents. To increase the likelihood of economic development in this area, the County needs to take a leadership role.



photo by Herd Planning & Design

Action Steps:

- (1) Update and affirm the prospects and feasibility of the various options available for providing utilities to the area, including options for the source, design, ownership, financing, and timing for utilities.
- (2) Continually monitor, on a regular, ongoing basis, the status of these options and be prepared to help facilitate public and/or private sector initiatives for providing utility service to this area, including the potential for public investment. Monitoring should include the market environment, including growth triggers from Warren and Frederick counties, and any expansions or changes in water and sewer plans or policies in those counties.
- (3) Review and revise the Area Plan to ensure that it reflects the current goals and policies of the new Comprehensive Plan.
- (4) Review the Zoning Ordinance and Zoning Map, and the Subdivision Ordinance to ensure that the regulations reflect and support the County’s policies for this area.

Schedule: FY 2017+
Responsibility: Board of Supervisors; Planning Director
Estimated Cost: TBD

Action B.7. Continue to promote well-designed commercial development in the Waterloo Area. (Longer Term Priority)

Note: Step #1 below “Review and revise the Area Plan...” could be a nearer term priority in conjunction with ongoing County planning staff work program.

The Waterloo area has some potential for additional highway commercial development, although it is not as competitive for light industrial as areas in and around Berryville. However, given the area’s good regional access via Rt. 50, the County can and should continue to promote well-designed and well-accessed commercial development here. There is currently no clear need to expand the planned size or capacity of the area.

Action Steps:

- (1) Review and revise the Waterloo Area Plan to ensure that it reflects the current goals and policies of the new Comprehensive Plan.
- (2) Review the Zoning Ordinance and Zoning Map, and the Subdivision Ordinance to ensure that the regulations reflect and support the County’s policies for this area, with particular attention to signage, interparcel access, and pedestrian circulation.

Schedule: FY 2017+
Responsibility: Board of Supervisors; Planning Director
Estimated Cost: TBD



photo by Herd Planning & Design

Action B.8. Promote Rural Economic Innovation (including compatible home-based businesses) (*Longer Term Priority*)

Given its resources and location, the County has excellent potential to expand its rural economy in the long-term. An important method for such expansion is through innovation, which includes a wide range of topics such as new markets for goods and services, new kinds of goods and services, new kinds of business operations and procedures, new locational opportunities for businesses, and new marketing techniques. Home-based and farm-based locations offer special opportunities for Clarke County due to the quality of life in its rural area. Aspects of these have been included in some of the preceding strategies for specific economic sectors.

Over the course of time, a variety of new businesses and economic sectors will likely emerge within Clarke County, as demographic, technological, and economic change continues in and around the region.

Examples of potential prospects could include:

- “*E-commerce*” and *telework* offer multiple business opportunities, from enabling professionals to work from a rural home to creating new e-commerce businesses

that can link to global markets. High quality broadband infrastructure is critical. Thus, the County should monitor changes in local broadband service to determine the existing and future need, and if there are policies, actions, or investments the County could take to meet that need.

- “*Ecosystem services*” such as habitat and watershed protection, in part through collaboration with environmental groups and agricultural and recreational businesses that see the value of working landscapes as a way to conserve and enhance the natural environmental resources.
- *Regional food systems* where larger stores are buying local products. The growing interest in local fresh food supports this strategy, as well as the County’s proximity to a large and relatively high-income metropolitan population.
- *Sustainable agricultural systems* based on substituting internal inputs, including labor and management, for externally purchased ones.
- *Alternative energy* through wind farms, solar farms, and other alternative energy generators (subject to mitigation or avoidance of any environmental issues that would conflict with tourism and other planning goals).

A broad, long-term approach to innovation depends on seven key strategies:

1. *Provide critical information* needed by businesses.
Information on economic and demographic trends are especially valuable for the County to promulgate, as well as information on connections and linkages, as described in #3 below.
2. *Maintain and continually improve the high quality of life*, and a local culture that embraces creativity, growth and change in the local business sectors. This includes promoting “place-based” development that capitalizes on the County’s and Town’s special characteristics, including the traditional, historic downtown, other historic buildings and sites, scenic rural landscapes, and the “small-town” rural social and cultural environment of the County. This can be done through appropriate planning, zoning, and urban design policies and regulations as cited herein, as well as through prudent investments in utilities and communications infrastructure, information, and marketing.
3. *Enhance connections* between businesses and the people and organizations that can help them prosper through sharing information with business associations, universities, service providers, etc.
4. *Cultivate talent and creativity* by fostering an environment that supports individuals and firms who use art or design in their products and services, as well as fostering a community spirit and culture that values innovation and creativity within the business community and local economy.

5. *Use local resources* as the basis for innovation and growth. Local products and processes, local talent, and the local quality of life can all provide the identity and “brand” that will further distinguish Clarke County from other areas.
6. *Promote the enhancement of broadband access.* High speed internet service is widespread in Berryville (including some public Wi-Fi), and a fiber line runs along Rt. 7, but most of the rural areas rely on wireless service; identify how the County might be able to promote the enhancement of broadband access and quality countywide (study similar to hotel and equine). Constantly changing technologies and business models presents a challenge for the County to address this issue. However, good broadband service will be increasingly important in all sectors of the future economy.
7. *Foster the further development of home-based and farm-based businesses* by evaluating and modifying the zoning regulations as needed to ensure a proper balance between land use compatibility and efficient review and approval processing. For example, by expanding the number of defined types of home-based businesses, the standards and permit processes can be properly tailored to the level of intensity of the business, thereby creating the most efficient and effective level of regulation.

Schedule: FY 2017+
Responsibility: Economic Development Director; Planning Director
Estimated Cost: TBD

Goal C. Increase the Vitality of Agriculture and Tourism

[Note: Draft Berryville Clarke County Tourism Plan Objective 7 – “Foster growth and development of new tourism sectors including agribusiness, tourism, promotion of local artists and musicians” is embedded in this Goal C, which includes these other sectors.]

Strategy 1. Foster Growth and Vitality of the Agricultural Industry

The County currently provides some assistance and information to the local farm community as well as relying on state organizations such as the Virginia Cooperative Extension, the Virginia Department of Agriculture and Consumer Services, and the Virginia Farm Bureau.

While the County could enhance its involvement and support for local agricultural businesses through the establishment of a County office of Agricultural Development, as some other neighboring counties have done, such a separate local government office is probably premature for Clarke County at this time in terms of assigning a full-time staff member. Yet some of the work done by these offices could be included in the work plan for an enhanced County Economic Development program. Any such efforts should be done in coordination with future updates to the Agricultural Land Plan.

Each of the strategies below is something that the County staff is currently doing but with very limited capacity. If professional capacity is expanded, these activities could be part of that.



Clarke County Farmer's Market

Action C.1. Promote information and understanding of the local agricultural industry.

In conjunction with enhancement of the County’s website for all economic development components. As the County expands and broadens its programmatic support for the local farm industry, the website can reflect and reinforce those efforts by providing data and information, links to other resources, and other networking tools, etc. Specific content will depend on how the website emerges in relation to expansion of agricultural development efforts.

Schedule: FY 2015 and ongoing.
Responsibility: Economic Development Director.
Estimated Cost: (Subsumed in future Economic Development Budget)

Action C.2. Promote activities that support local agriculture, including farm tours, “buy local” initiatives, “pick-your-own” enterprises, Farmers Markets, Community Supported Agriculture (CSAs), etc., in conjunction with enhancement of the County’s website for all economic development components. The website is an ideal tool for informing and promoting the full range of activities, both within the County, as well as among its regional and state partners.

Schedule: FY 2015 and ongoing.
Responsibility: Economic Development Director.
Estimated Cost: (Subsumed in future Economic Development Budget)



photo by Herd Planning & Design



photo by Herd Planning & Design

Strategy 2 Promote Tourism Development *[coordinate with Tourism Strategic Plan]*

Action C.3. Improve regional cooperation and coordination in marketing and promotion.

[Matches up with draft BVCC Tourism Plan:

- *Objective 1 – Increase local awareness of tourism assets in Berryville and Clarke County*
- *Objective 2 – Increase collaboration of all organizations, businesses, and local government and*
- *Objective 3 – Enhance Tourism Marketing and Promotional Efforts].*

This action would include intensive local coordination among tourist businesses and improvement of web-marketing and website/social media. The enhancement of the County's web presence is a major, essential project for economic development, and is broader than just tourism (as referenced in Strategy A.1.d - Upgrade web-based marketing, branding, and promotion).

However, the tourism sector could be a focal point of early web-based initiatives because it is consumer-oriented sector and the County has natural partners within Clarke County and throughout the region and state with which to share costs and benefits.

Action Steps:

- (1) Create a Tourism Organization and Marketing Plan. The plan would be a joint effort of the County and the Town of Berryville and would incorporate many of the initiatives contained in the Tourism Strategic Plan.
- (2) Identify all current and potential tourism partners and stakeholders internally and externally to the County (both public and private sector).
- (3) Determine how staff support is provided – separate tourism office, or County's economic development office.
- (4) Secure an economic development/tourism coordinator to oversee implementation, marketing and development. Share cost: County, Town & Alliance (or equivalent entity) [Target 2.2 from BV CC Tourism Plan]

Schedule: Calendar 2014 and ongoing (except step #4 below which is expected to be FY 2015).

Responsibility: Steps 1 and 2 above - Economic Development Director with the Town; Steps 3 and 4 above – Board of Supervisors and Town Council.

Estimated Cost: (Subsumed in future Economic Development Budget)



photo by Brandon Stidham

Action C.4. Establish/Revive “Tourism Advisory Committee” *[and/or resurrect Clarke County Tourism Alliance (CCTA)] [coordinate with Tourism Strategic Plan [Objective 5 from BVCC Tourism Plan] and Increase local awareness of tourism assets in Berryville and Clarke County [BVCC Objective 1]*

[Note: All tourism strategies should be coordinated with the Town of Berryville, especially regarding the effort to recruit new, independent lodging, restaurants, and unique shopping opportunities.]

Other key objectives from draft BVCC Tourism Plan:

- *Objective 4* – Develop a viable workforce for tourism-based businesses through education program for tourism services.
- *Objective 6* – Improve Community infrastructure to compliment tourism development efforts.

Schedule: Calendar 2014-15

Responsibility: Board of Supervisors, County Administrator, Town Council

Estimated Cost: (Subsumed in future Economic Development Budget)



va.water.usgs.gov



photo by Herd Planning & Design

Action C.5. Promote Development of Increased Accommodation Capacity

The action would be a joint effort of the County and the Town of Berryville and would be done in conjunction with current efforts by the Town and through future implementation of the Tourism Strategic Plan.

Schedule: Calendar 2014-15
Responsibility: Board of Supervisors, County Administrator, Town Council
Estimated Cost: (Subsumed in future Economic Development Budget)

Strategy 3. Promote Equine Development (Longer Term Priority)

Action C.6 Conduct a detailed study of the equine industry

This would include identifying the barriers and opportunities for expanding, and steps to pursue (similar to the Town’s recent hotel market study). The purpose is to identify to identify the short and long term potential for the industry and the most practical steps and priorities for achieving the potential.

Action Steps:

- (1) Identify the scope of the study and funding resources.
- (2) Issue an RFP for the work.
- (3) Retain the firm to conduct the study.
- (4) Assess, promulgate, and implement the findings.

Schedule: FY 2017+
Responsibility: Economic Development Director
Estimated Cost: TBD

Action C.7 Strengthen businesses in the local equestrian industry

Develop a county or regional website devoted to the industry, offering up to date information on hay pricing, horse shows, and other business trends. (This could be in conjunction with the overall effort to upgrade the County’s website for economic development marketing and tourism). Any such efforts should build on the success of the existing Equine Alliance and be an outgrowth or enhancement of that group. Businesses in the industry include stables and breeders, but also support businesses such as farriers, saddle-makers/marketers, and specialty construction companies.

Schedule: FY 2017+
Responsibility: Economic Development Director
Estimated Cost: TBD



pinterest.com



clarkecounty.gov

Conclusion

Clarke County faces strong competition from its neighboring jurisdictions, but it has many favorable attributes for expanding its tax base and economy in concert with its overarching goal of preserving open space resources and rural character. Such growth will depend on effective marketing of its economic and cultural assets, collaborative efforts with the Town of Berryville, as well as neighboring jurisdictions, and working closely with landowners to improve site availability and readiness for industrial and business service uses. The action steps in this plan layout a work plan for the next several years that will help move the County forward in achieving its goals.



berryvillebusiness.com

IV. Action Plan

Guiding Principles:

- **Support the County's Comprehensive Plan** for concentrated population within a largely rural environment.
- **Grow the tax base** as the primary objective, with a secondary objective to increase economic activity and adding new jobs.
- **Build on past and current successes** in business development.
- **Target short-term as well as long-term** economic prospects.
- **Foster close cooperation between the County and the Town of Berryville.**
- **Set and memorialize clear priorities and responsibilities.**

Major Initiatives for Action:

1. **Foster close collaboration between the County and Town of Berryville** through shared authority and investments.
2. **Expand the technical capacity of local government** to lead and support for economic development, particularly to:
 - Retain, expand, and recruit *compatible industry*
 - Promote *tourism*
 - Foster growth and vitality of the *agricultural industry*
3. **Upgrade the local economic development website** to improve e-marketing capability.
4. **Improve the readiness of key industrial sites** through public/private partnerships.

Organization of the Action Plan:

- **Immediate and short term priorities** based on urgency, importance, or prospect for quick success, including those that require minimal, if any, additional costs and those that are very important and also reasonably feasible in terms of cost or level of effort.
- **Remaining priorities** are those that require greater cost/effort and/or have greater uncertainty and/or have less urgency.

Consolidated List of Top Priorities (Calendar 2014 through FY 2017)

Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy 1: Expand Overall Planning and Economic Development Efforts

- Action A.1. Clarify role of economic development in County's general growth management strategy
- Action A.2. Remove real and perceived barriers to desirable economic development
- Action A.3. Establish a formal economic development program in coordination with Town of Berryville
- Action A.4. Upgrade web-based marketing, branding, and promotion

Strategy 2: Increase Direct Revenues to Fund Economic Development

- Action A.5. Examine cost/benefit of increasing Transient Occupancy Tax (TOT) and establishing Business Professional and Occupational License (BPOL)

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry

Strategy 1: Promote Compatible Industrial Development

- Action B.1. Implement business retention strategies
- Action B.2. Partner with industrial landowners and the Town
- (Action B.3. Pursue Tax Increment Financing (TIF) is under Longer Term Priorities)

Strategy 2: Initiate Long-Term Development Opportunities

- Action B.4. Continue to collaborate with the Town of Boyce.
- Action B.5. Support Efforts to Expand Retail and Office Space.
- (Note: Portions of Action B.6 and B.7 could be added as nearer term priorities – see note under longer-term priorities below)

Goal C. Increase the Vitality of Agriculture and Tourism

Strategy 1: Foster Growth and Vitality of the Agricultural Industry [*coordinate with Agricultural Land Plan*]

- Action C.1. Promote information and understanding of local agriculture
- Action C.2. Promote activities that support local agriculture

Strategy 2: Promote Tourism Development [*coordinate with Tourism Strategic Plan*]

- Action C.3. Improve regional cooperation and coordination in marketing and promotion

- Action C.4. Establish/Revive a Tourism Advisory Committee
- Action C.5. Promote Development of Increased Accommodation Capacity

Longer Term Priorities (FY 2018 and Beyond)

Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy 3. Promote Suitable Housing Development

- Action A.6. Ensure that Comprehensive Plans and Zoning and Subdivision Ordinances of County and Town allow and encourage diverse, walkable, well-connected, accessible, human-scale patterns of development.

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry

Strategy 1. Promote Compatible Industrial Development

- Action B.3. Pursue Tax Increment Financing (TIF)

Strategy 2. Pursue Long-Term Development Opportunities

- Action B.6. Pursue Partnerships to Provide Public Water and Sewer to the Double Toll Gate Area. (*Note: Review of DTG Area Plan could be a nearer term priority in conjunction with ongoing County planning staff work program*).
- Action B.7. Continue to promote well-designed commercial development in the Waterloo Area. (*Note: Review of Waterloo Area Plan could be a nearer term priority in conjunction with ongoing County planning staff work program*).
- Action B.8. Promote Rural Economic Innovation

Goal C. Increase the Vitality of Agriculture and Tourism

Strategy 3. Promote Equine Development

- Action C.6. Conduct a detailed study of the equine industry
- Action C.7. Strengthen businesses in the local equestrian industry

Action Plan Matrix

Notes:

- Costs shown are rough estimates that depend on multiple variables.
- Costs listed as “current budget” means they would be part of existing staff work plans; in some cases an equivalent value is shown if task was outsourced or if staff time was re-allocated from other existing tasks.
- Costs are generally amounts that the proposed task would add to current County budget (some would be one-time costs, others are recurring as noted).
- Cross-references are to economic development objectives and policies in the County Comprehensive Plan.

Goal A: Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy 1 Expand Overall Planning and Economic Development Efforts				
Action A.1 Clarify the Role of Economic Development in the County’s General Growth Management Strategy	Comp. Plan - Objective 10 – Policies 1, 2	FY 2015	Board of Supervisors (BOS); County Staff	Current Budget
Action A.2 Remove Real and Perceived Barriers to Desirable Economic Development	Comp Plan - Obj 10 – Pols. 1, 2, 5, 7, 12	FY 2015		Current Budget
(1) Formally announce and promote the new Economic Development Strategic Plan.		FY 2015	BOS, County Staff	Current Budget
(2) Promote ongoing awareness and understanding of the new strategies among all County personnel & the public.		FY 2015	BOS, County Staff	Current Budget
(3) Decide how & whether to clarify that County is pro-economic develop. (only for preferred types of activities).		FY 2015	BOS, County Staff	Current Budget
(4) Use the new economic development strategies as guidelines for all interactions between County & businesses.		FY 2015 and ongoing	BOS, County Staff	Current Budget

Priority subject to funding decisions:

(5) Revise/streamline zoning & permitting regulations as needed. Review for business retention; Review event-permitting processes (county with town).	Comp Plan - Objective 10 - Policy 12	FY 2015-16	Planning Director	Current Budget / \$20K value
(6) Inventory existing businesses in county & towns by type, location, revenue; include names & contact data. [after economic development capacity is expanded]	CP - Objective 10 - Policy 12	FY 2015 (depending on funding)	BOS, County and Town Staff	Current Budget / \$5K value to initiate; Maintenance part of Econ Dev. budget

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Action A.3 Establish a formal economic development program in coordination with Town of Berryville	Comp Plan - Objective 10 – Policies 1, 2			
(1) Form a joint County-Town committee that would explore partnering and cost-sharing strategies for tourism and economic development. Inventory & assess economic development activities currently done collaboratively by County & Town staffs. Identify opportunities for reducing redundancy. Explore a more formal integration of economic development functions so as to make the “boundary” between County and Town functions as “seamless” as possible. A Memorandum of Understanding would memorialize such agreements.		Calendar 2014 ASAP	BOS, Town Council, w/ County Administrator & Town Manager	Current Budget/ \$5K value
(2) Identify the professional capacity needed to fulfill the enhancements to the economic development program, including what roles staff should fulfill and what roles, if any, consultants should fulfill.		Calendar 2014	BOS, Town Council, w/ County Administrator & Town Manager	Current Budget
(3) Identify how the additional capacity fits into the current organizational structure, including the relationship between County and Town.		Calendar 2014	BOS, Town Council, w/ County Admin & Town Mgr	Current Budget
(4) Create (or update) job and/or program descriptions – Choose the priority for allocating resources between business retention and development and tourism coordination.		Calendar 2014	BOS, Town Council, w/ County Admin & Town Mgr	Current Budget

Priority subject to funding decisions:

(5) Allocate funding and retain appropriate professional staff.		FY 2015	BOS, Town Council, w/ Co Adm & Town Mgr	FT: \$100K - \$200K PT: \$65K - \$100K annual cost - depends on salary & program support; consider phasing in
---	--	---------	---	---

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Action A.4 Upgrade web-based marketing, branding, and promotion	Comp Plan - Objective 10 - Policies 1, 5, 12			
(1) Develop and implement a new marketing system to promote County's [& Town's] economic development message, including new or enhanced website.				
(a) Create marketing plan – branding strategy, marketing system with logo, style guide, etc.		FY 2015	Econ Dev. Director	\$5K to10K
(b) Work with web designer to create an Economic Development/Tourism website design and preliminary cost estimate – minimal upgrade		Calendar 2014	County and Town staff	\$4K to 8K for design and \$150/month hosting/maintenance
(c) Retain expert assistance to design, implement and maintain a more robust website, including optimize search engine visibility, enhance social media marketing thru Facebook, Twitter, & blogs, coordinate joint efforts with all regional partners; create a media kit for distribution.		FY 2015 and ongoing	Econ Dev. Director	\$20K+ and \$150-\$250/month hosting/maintenance
(2) Attend <i>selected, occasional</i> conferences & trade shows.		FY 2016 and ongoing	Econ Dev Director	\$2K to \$5K+ each for attending; \$5K to \$10K+ each for exhibiting
Strategy 2. Increase Direct Revenues to Fund Economic Development				
Action 5. Examine cost/benefit of increasing Transient Occupancy Tax (TOT) and establishing Business & Professional Occupational Licensing (BPOL) (TOT increase requires General Assembly approval) (Earmark all new funds for economic development)	Comp Plan - Objective 10 – Policy 1, 11	FY 2015	BOS, County Administrator and Town Council and Manager	Current Budget

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy 1. Promote Compatible Industrial Development				
Action B.1 Implement Business Retention Strategies				
	Comp Plan - Obj 10 - Policies 2, 5, 12			
(1) Maintain and enhance working relationships between County & Town governments, businesses, business groups ...& other stakeholders ...thru economic development staff & collaborations identified in this plan.		FY 2015	Econ Dev Director	Current Budget (subsumed in future Econ Dev Budget)
(2) Establish formal visitation program for County and Towns to collect, organize and assess input from key businesses in each economic sector, in order to monitor the local economic development climate.		FY 2015/16	Econ Dev Director	Current Budget / (subsumed in future Econ Dev Budget plus \$3K annual value from other county depts.)
(3) Assist local businesses & prospects on as-needed basis by providing information & contacts w/ local, state, & fed. governments & private sources of business assistance.		FY 2016	Econ Dev Director	Current Budget / (subsumed in future Econ Dev Budget plus \$3K annual value from other county depts.)
(4) Establish a "strike team" of key County & Town officials to respond to prospect visits, incentive requests, and retention issues. Strike team should develop protocols for handling such matters with little or no notice.		FY 2016	Econ Dev Director with BOS & Town	Current Budget / (subsumed in future Econ Dev Budget plus \$3K annual value from other county depts.)
Action B.2 Partner with industrial landowners, users, and developers and the Town of Berryville to develop currently or potentially available industrial land				
	Comp Plan - Objective 10 - Policies 2, 5, 9, 12			
(1) Organize, consolidate and update information about available & potential sites; maintain this database; make it easily available thru web. Work with property owners & Town to establish list of potential commercial, business & industrial properties for lease or sale. Place list on economic development website; advise realtors.		FY 2015	Econ Dev Director w/ Town	Current Budget / (subsumed in future Econ Dev Budget or \$3K annual value)
(2) Evaluate and rank all existing and potential sites in terms of current level of readiness for development.		FY 2015/16	Econ Dev Director w/ Town	Current Budget / \$5K value

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
(3) Identify the specific actions needed to upgrade the level of readiness for each site.		FY 2015/16	Econ Dev Director w/ Town	Current Budget / \$3K value
(4) Identify what incentives the County and Town might provide, including funding, loans, infrastructure assistance, permits, etc. Such incentives would be in conjunction with actions by the owners to provide the maximum amount of leverage of local government assistance, and could involve increased funding for the County's Industrial Development Authority.		FY 2015/16	Econ Dev Director w/ Town	Actual funding assistance would be allocated after priorities are identified
(5) Establish a list of types of businesses desired in the County and which are feasible to attract or develop, and contact appropriate businesses to determine interest.		FY 2015/16	Econ Dev Director w/ Town	Current Budget
(6) Report on success of above actions to Board of Supervisors, Town Council, and Planning Commissions.		Calendar 2014/15 and ongoing	Econ Dev Director w/ Town	Current Budget
<i>(Action B.3 Pursue a Tax Increment Financing (TIF) Plan – see Longer Term Actions below)</i>				
Strategy 2. Initiate Long-Term Development Opportunities				
Action B.4 Continue to collaborate w/ Town of Boyce		Ongoing	BOS, Planng Dir	Current Budget
Action B.5 Support Efforts to Expand Retail and Office Space	Comp Plan – Obj. 10 – Policies 2, 8, 12			
(1) Urban Design: Support efforts of Town of Berryville in promoting long-term physical improvement of downtown area.		Calendar 2014 and ongoing	Planning Directors of County and Town	Current Budget
(2) Information: Support efforts of Town of Berryville to establish or upgrade the process for collecting, updating and disseminating physical & market data for the downtown area.		Calendar 2014 and ongoing	Planning Directors of County and Town	Current Budget / (subsumed in future Econ Dev Budget)
Action B.6 Pursue Partnerships to Provide Public Water & Sewer to the Double Toll Gate Area - Note: Step 7 – Review and Revise Area Plan could be a near-term priority				
Action B.7 Continue to promote well-designed commercial development in the Waterloo Area - Note: Step 1 – Review and Revise Area Plan could be a near-term priority				

Goal C. Increase the Vitality of Agriculture and Tourism

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy 1. Foster Growth and Vitality of the Agricultural Industry				
Action C.1 Promote information and understanding of the benefits of the local agricultural industry in conjunction with enhancement of County's website for all economic development components.	Comp Plan - Objective 10 – Policies 5, 6, 7, 10	FY 2015 and ongoing	Econ Dev Director	(subsumed in future Econ Dev Budget)
Action C.2 Promote activities that support local agriculture, including farm tours, "buy local", "pick-your-own", Farmers Markets, etc. In conjunction with enhancing website. Promote partnerships w/ state & local organizations.	Comp Plan - Objective 10 – Policies 5, 6, 7, 10	FY 2015 and ongoing	Econ Dev Director	(subsumed in future Econ Dev Budget)
Strategy 2: Promote Tourism Development [coordinate with Tourism Strategic Plan]				
Action C.3 Improve regional cooperation and coordination in marketing and promotion	Comp Plan - Obj 10 – Policies 2, 12			
(1) Create a Tourism Organization & Marketing Plan. The plan would be a joint effort of the County and the Town of Berryville and would incorporate many of the initiatives contained in the Tourism Strategic Plan.		Calendar 2014 and ongoing	Econ Dev Director w/ Town	(subsumed in future Econ Dev Budget)
(2) Identify all current and potential tourism partners and stakeholders (internal & external, both public & private).		Calendar 2014 & ongoing	Econ Dev Director w/ Town	(subsumed in future Econ Dev Budget)
(3) Determine how staff support is provided – separate tourism office, or County's econ. development office.		Calendar 2014 & ongoing	BOS & Co. Admin. w/ Town Council	Current Budget
(4) Secure an economic development/tourism coordinator to oversee implementation, marketing & development. <i>Share cost: County, Town & Alliance (or equiv. entity)</i>	Target 2.2 -BVCC Tourism Plan	FY 2015 and ongoing	BOS and Co. Admin. with Town Council	(subsumed in future Econ Dev Budget)
Action C.4 Establish/Revive Tourism Advisory Committee [and/or Re-establish C.C. Tourism Alliance] Coordinate with Northern Shenandoah Valley Regional Commission, Berryville Main Street, & Barns of Rose Hill.	Target 2.1 under Obj. 2 of BVCC Tourism Plan. Comp Plan - Obj 10 – Policies 3, 5, 7	Calendar 2014-15	BOS, County Administrator, Town Council	Current Budget (subsumed in future Econ Dev Budget)
Action C.5. Promote Development of Increased Accommodation Capacity Joint effort of County & Town of Berryville in conjunction w/ current efforts & implementation of Tourism Strategic Plan.		Calendar 2014-15	BOS, County Administrator, Town Council	Current Budget (subsumed in future Econ Dev Budget)

Longer Term Priorities (FY 2018 and beyond)

Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development (Long Term Strategies)

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy 3: Promote Suitable Housing Development				
Action A.6 Ensure that Comprehensive Plans and Zoning & Sub. Ords of County & Towns allow & encourage diverse, walkable, connected, accessible, human-scale development patterns.		FY 2017-18	County and Town Planning Directors	Current Budget / \$20K +/- value

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry (Long Term Strategies)

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy 1. Promote Compatible Industrial Development				
Action B.3 Pursue a Tax Increment Financing (TIF) Plan	Comp Plan - Obj 10 – Pols, 2, 11, 12			
(1) Evaluate the feasibility and suitability for a TIF (2) If the evaluation affirms feasibility, implement the TIF.		FY 2017-18	Econ Dev Director with BOS (and Town as appropriate)	To Be Determined (TBD)
Strategy 2. Initiate Long-Term Development Opportunities				
Action B.6 Pursue Partnerships to Provide Public Water & Sewer to the Double Toll Gate Area	Comp Plan - Obj 10 – Policies 2, 12	FY 2018+	BOS, Planning Director	TBD
Action B.7 Continue to promote well-designed commercial development in the Waterloo Area	Comp Plan - Obj 10 – Policies 2, 12	FY 2018+	BOS, Planning Director	TBD
Action B.8 Promote Rural Economic Innovation (including compatible home-based businesses)	Comp Plan - Obj 10 – Policies 2, 12	FY 2018+	Econ Dev Director; Planning Director	TBD

Goal C. Increase the Vitality of Agriculture and Tourism (Long Term Strategies)

Strategy/Action	Cross-References	Schedule	Responsibility	Estimated Cost
Strategy C.3. Promote Equine Development				
Action C.6 Conduct a detailed study of the equine industry		FY 2018+	Econ Dev Director	TBD
Action C.7 Strengthen businesses in the local equestrian industry	Comp Plan - Obj 10 – Policies 5, 7	FY 2018+	Econ Dev Director	TBD

Annual Cost Schedule (2014 through FY 2018)

(Notes: The following are rough, working estimates, subject to further refinement and deliberation by the Board of Supervisors; \$0 means no additional funding beyond current or normal work plan budget)

Priority Strategies and Actions	Additional Funding from current FY 14 budget				
	Cal 2014	FY 2015	FY 2016	FY 2017	FY 2018
Goal A: Increase Collaboration and Capacity for Econ Dev					
Strategy 1. Expand Overall Planning & Economic Dev Efforts					
Action A.1 Clarify role of econ dev in County's growth management strat.	\$0	\$0	\$0	\$0	\$0
Action A.2. Remove real & perceived barriers to desirable econ develop	\$0	\$0	\$0	\$0	\$0
1 Formally announce and promote the new Econ Development Strategic Plan.	\$0	\$0	\$0	\$0	\$0
2 Promote ongoing awareness and understanding of the new strategies	\$0	\$0	\$0	\$0	\$0
3 Decide how and whether to clarify County's "brand" as pro-econ development	\$0	\$0	\$0	\$0	\$0
4 Use the new economic development strategies as guidelines	\$0	\$0	\$0	\$0	\$0
5 Revise/streamline zoning & permitting regulations as needed	\$0	\$10,000	\$10,000	\$0	\$0
6 Inventory all existing businesses in county & towns	\$0	\$5,000	\$0	\$0	\$0
Action A.3. Establish a formal econ dev program in coord w/ Berryville					
1 Form joint County-Town committee to explore partnering and cost-sharing	\$5,000	\$5,000	\$0	\$0	\$0
2 Identify the professional capacity needed	\$0	\$0	\$0	\$0	\$0
3 Identify how the additional capacity fits into the current org structure	\$0	\$0	\$0	\$0	\$0
4 Create (or update) job and/or program descriptions.	\$0	\$0	\$0	\$0	\$0
5 Allocate funding and retain appropriate professional staff.	\$0	\$0	\$65,000	\$100,000	\$100,000
Action A.4. Upgrade web-based marketing, branding, and promotion					
1 Develop & Implement new marketing system for County & Town					
(1a) Creating marketing plan	\$0	\$5,000			
(1b) Work with web designer to create an Econ Development/Tourism website	\$2,000	\$2,000	\$2,000	\$2,000	\$0
(1c) Retain expert to design, implement and maintain a more robust website	\$0	\$10,000	\$10,000	\$3,000	\$3,000
2 Attend selected, occasional conferences and trade shows	\$0	\$0	\$0	\$5,000	\$5,000
Strategy 2. Increase Direct Revenues to Fund Economic Development					
Action A.5. Examine cost/benefit of (TOT) & (BPOL)	\$0	\$0	\$0	\$0	\$0

	Cal 2014	2015	2016	2017	2018
Goal B: Retain, Attract & Develop Compatible & Innovative Industry					
Strategy 1. Promote Compatible Industrial Development					
Action B.1. Implement business retention strategies					
1 Maintain and enhance working relationships between County and Town	\$0	\$0	\$0	\$0	\$0
2 Establish a formal visitation program	\$0	\$0	\$3,000	\$3,000	\$3,000
3 Assist local businesses (and prospects) on an as-needed basis	\$0	\$0	\$3,000	\$3,000	\$3,000
4 Establish a "strike team" of County & Town officials to respond to prospects	\$0	\$0	\$3,000	\$3,000	\$3,000
Action B.2. Partner with industrial landowners (and the Town)					
1 Organize, consolidate and update info about available & potential sites	\$0	\$0	\$3,000	\$3,000	\$3,000
2 Evaluate and rank sites in terms of level of readiness	\$0	\$0	\$5,000	\$2,000	\$2,000
3 Identify the specific actions needed to upgrade the level of readiness	\$0	\$0	\$3,000	\$0	\$0
4 Identify what incentives the County and Town might provide (costs TBD)	\$0	TBD	TBD	TBD	TBD
5 Establish a list of types of businesses desired and which are feasible	\$0	\$0	\$0	\$0	\$0
6 Report on success of above actions to BOS, TC, and Planning Commissions	\$0	\$0	\$0	\$0	\$0
<i>(Action B.3 is a long-term action not shown in this table)</i>					
Strategy 2. Initiate Long-Term Development Opportunities					
Action B.4. Continue to collaborate with the Town of Boyce	\$0	\$0	\$0	\$0	\$0
Action B.5. Support Efforts to Expand Retail and Office Space					
1 Urban Design: Support efforts of Town in long-term improvement of downtown	\$0	\$0	\$0	\$0	\$0
2 Information: Support efforts of Town of Berryville to establish or upgrade data	\$0	\$0	\$0	\$0	\$0
Goal C: Increase Vitality of Agriculture and Tourism					
Strategy 1. Promote Ag Development and Innovation					
Action C.1. Promote information and understanding of local agriculture	\$0	\$0	\$0	\$0	\$0
Action C.2. Promote activities that support local agriculture	\$0	\$0	\$0	\$0	\$0

	Cal 2014	2015	2016	2017	2018
Strategy 2. Promote Tourism Development					
Action C.3. Improve regional cooper't'n & coord'n in marketing & promotion.					
1 Create a Tourism Org & Marketing Plan by end of 2014.	\$0	\$0	\$0	\$0	\$0
2 Identify all tourism partners and stakeholders	\$0	\$0	\$0	\$0	\$0
3 Determine how staff support is provided	\$0	\$0	\$0	\$0	\$0
4 Secure an econ develop/tourism coordinator or resource	\$0	\$0	\$0	\$0	\$0
Action C.4. Establish/Revive Tourism Advisory Committee	\$5,000	\$5,000	\$0	\$0	\$0
Action C.5. Promote Development of Increased Accommodation Capacity	\$5,000	\$5,000	\$0	\$0	\$0
	\$10,000	\$10,000	\$0	\$0	\$0
Annual Totals	\$17,000	\$47,000	\$107,000	\$124,000	\$122,000

Total List of Actions

Goal A. Increase Collaboration and Capacity for Supporting Compatible Economic Development

Strategy 1: Expand Overall Planning and Economic Development Efforts

- Action A.1. Clarify role of economic development in County's general growth management strategy
- Action A.2. Remove real and perceived barriers to desirable economic development
- Action A.3. Establish a formalized economic development program in coordination with Town
- Action A.4. Upgrade web-based marketing, branding, and promotion

Strategy 2: Increase Direct Revenues to Fund Economic Development

- Action A.5. Examine cost/benefit of increasing TOT and establishing BPOL

Strategy 3: Promote Suitable Housing Development

- Action A.6. Ensure that Comprehensive Plans and Zoning and Subdivision Ordinances of County and Town allow and even encourage diverse, walkable, well-connected, accessible, human-scale patterns of development.

Goal B. Retain, Attract, and Develop Compatible and Innovative Industry

Strategy 1: Promote Compatible Industrial Development

- Action B.1. Implement business retention strategies
- Action B.2. Partner with industrial landowners and the Town (B.1.c)
- Action B.3. Pursue Tax Increment Financing (TIF)

Strategy 2: Initiate Long-Term Development Opportunities

- Action B.4. Continue to collaborate with the Town of Boyce.
- Action B.5. Support Efforts to Expand Retail and Office Space.
- Action B.6. Pursue Partnerships to Provide Public Water and Sewer to the Double Toll Gate Area.
- Action B.7. Continue to promote well-designed commercial development in the Waterloo Area.
- Action B.8. Promote Rural Economic Innovation

Goal C. Increase the Vitality of Agriculture and Tourism

Strategy 1: Foster Growth and Vitality of the Agricultural Industry

- Action C.1. Promote information and understanding of local agriculture
- Action C.2. Promote activities that support local agriculture

Strategy 2: Promote Tourism Development [*coordinate with Tourism Strategic Plan*]

- Action C.3. Improve regional cooperation and coordination in marketing and promotion
- Action C.4. Establish/Revive a Tourism Advisory Committee [*Coordinate with Tourism Strategic Plan*]
- Action C.5. Promote Development of Increased Accommodation Capacity

Strategy 3. Promote Equine Development

- Action C.6. Conduct a detailed study of the equine industry
- Action C.7. Strengthen businesses in the local equestrian industry

VI. Appendices

Appendix 1: **TECHNICAL MEMORANDUM #1** **Summary of Initial Public Input**

July 10, 2013

Economic Development Strategic Plan for Clarke County, Virginia

Prepared By:

Herd Planning & Design, Ltd. and S. Patz & Associates, Inc.



▪ S. PATZ & ASSOCIATES, INC. ▪

TECHNICAL MEMORANDUM #1

Summary of Initial Public Input for the Economic Development Strategic Plan

Contents

1. Input at Initial Public Meeting
2. Input at Business Round Table Sessions
3. Appendix
 - A. Meeting Agenda and Notes from Initial Public Meeting
 - B. Meeting Agenda and Notes from Business Round Table Sessions
 - C. Invitation to Round Table Sessions

1. Input at Initial Public Meeting

Meeting Date: Wednesday, February 13, 2013, 7:00 p.m.

Location: Clarke County Government Center

Purpose: To begin the preparation of an Economic Development Strategic Plan for Clarke County by convening interested stakeholders to obtain initial input about issues and opportunities for economic development in the County

The meeting room opened at 6:00 p.m. and several citizens arrived early to talk informally with County representatives. By 7:00 p.m. approximately three dozen people were present, despite the snowy weather.

Welcome and Introductions

Planning Commission Chairman George Ohrstrom opened the meeting by welcoming the public and introducing the members of the consulting team, Milton Herd and Stuart Patz.

Presentation – Agenda and Project Overview

Mr. Herd thanked those in attendance for participating and gave a 30-minute presentation, in conjunction with Mr. Patz, that included an overview of the purpose of the project, the objectives for this initial meeting, key tasks ahead, a general outline of the schedule which calls for completing the project in the September time frame, and a few key data highlights regarding the County's demographic and economic situation.

Mr. Herd explained the differences between a comprehensive plan and a strategic plan, as well as the various roles of the participants in this effort. He also reviewed the agenda and the procedures for the evening. He noted that the County is well known for its successful efforts at agricultural and rural land preservation through its innovative sliding scale zoning regulations. He also noted that the County faces some challenging issues involving trade-offs between rural preservation and economic growth, and a key aspect of this process will be finding the right balance between those two important goals.

Following the presentation, the participants engaged in a brief, general question and answer session. Key points made by citizens included:

- The County has a small population size - How big do we have to be to support businesses?
- Type of housing development – we need a range of housing types
- What is the definition of economic development? Response: Growth in jobs, economic base, and tax base.
- \$107,000 median household income – but how many of those work in the county?
- We need to look at other than just retail.
- Silver line of metro rail will affect our county.
- What is a healthy balance between residential and commercial land? Response: The consultants will research that question.
- There is potential for upgrading downtown Berryville.

- We have missed capturing past retail opportunities, such as CVS.
- Tourism? How much contribution is it to the economy?
- It's as much an image as a dollar amount.
- Surrounding tourism in the region affects us.
- Through traffic flow brings revenue – success at Waterloo.
- Tax revenue from development is limited.
- How much sales tax?
- Separate highway commercial from other “retail” uses – need to be realistic – go for economic niches like highway commercial uses.
- Good location on Route 7; cheaper gas than over the mountain.

Break-out Discussions

Participants broke into four groups of about eight people each to undertake a “SWOT” exercise in which they brainstormed the various strengths, weaknesses, opportunities and threats facing the County in terms of its future economy.

These discussions produced some valuable ideas and priority issues for the consulting team to examine in more detail. They also revealed some interesting conflicts or dilemmas that the County will have to wrestle with as it formulates a suitable strategy for economic development. For example, the County’s restrictive zoning was cited as both a strength and a weakness, as was the County’s small size. The metro rail line extension into Loudoun County was also cited as both an opportunity and a threat to Clarke County.

Strengths

- Our location – multiple cross-roads, easy highway access, lots of through traffic
- Commuter traffic along main roads
- Route 7 traffic county high
- Good traffic infrastructure
- Downtown Berryville – preserved historic character; the Barns at Rose Hill; Center of the community.
- Different and unique place – special
- We didn’t jump on “every bandwagon” or trend that came along
- Policy consistency over the course of time (and between town and county)
- Educated population – appreciates what we have
- Median income levels
- Cheap labor cost
- Reasonable tax rates
- Ag community/commodities (horse community, wineries, farm markets)
- Income generation outside county, reinvest in county
- Home businesses
- County aesthetics / natural resources
- **Restrictive zoning**
- **County size**

Weaknesses

- Our out-of-the-box thinking now “stops us” too.
- Housing types – imbalanced - Our death rate exceeds our birth rate.
- High availability fees for Water and Sewer – Town and Waterloo
- Square feet of business in town doesn’t match the need – vacant space in Berryville.
- All needs can’t be met on Main Street – potential users can’t find commercial space – complaints: “too small, no parking, too expensive, no visibility” for all types of uses.
- Loss of spending trips to Winchester - Can’t find what you need to buy here in the county
- Business license tax is a flat fee
- Lack of hotel rooms - No hotel to support events
- Limited inventory of business parking zoning
- Limited area for commercial retail on road – 7 and 340 intersections
- Demographics
- Perceived attitudes on business growth
- Karst geology re: cost of infrastructure
- Internet in rural area
- **Restrictive zoning**
- Retaining young residents / affordable housing and labor jobs
- **Population size**
- Limited public access to river
- Meeting space for conferences
- Out of room in industrial park

Opportunities

- We want more walkability (in Berryville)
- County can build on what county is now – antiques, etc, Nalls; build on these assets.
- Highway commercial on Route 7
- NSVRC – “antique road”, “local food road” – regional efforts
- Diverse agriculture/agribusiness, agri-tourism (proximity to metro areas)
- Appalachian Trail – food, lodging there?
- **End of the metro silver line only 30 miles from county boundary – opportunity and threat** – we need affordable dwelling units
- Move or retire Dwelling Unit Rights from rural lands through T.D.R.
- Timing of doing strategy
- Keeping existing businesses
- Open space for commercial ag businesses
- Construct houses for both an elderly population and young population without kids
- Promote our county’s resources
- Promote tourism sites and natural areas (e.g. Blandy)
- Pursue businesses that generate tax revenues

Threats

- Lack of good internet service
- Lack of recognition of needs

- Proffer expectations from county
- For residential rezonings – need cluster lots in the growth area – driven by concern about school children
- Aging population
- Adjacent jurisdiction growth
- Perception that change equals loss of quality of life
- Housing costs
- Diversity of opinions on county’s future
- Restrictive zoning
- Limited utility capacity due to regulations
- Funding cuts

Reconvene for Plenary Discussion

After the four break-out groups had reported back to the whole group in a plenary session, participants engaged in a concluding discussion, in which related key points were raised, including the following:

- Need to focus more on private / local investment – but less confident of success
- Past proposal for solar farm by double toll gate
- Talk to local realtors
- Look at VDOT, Electric, Rail lines, etc.
- Look at ag-related business (it was noted that some ag-related businesses create various impacts that need to be taken into account, including traffic, etc.)

Recap and Next Steps

Mr. Herd urged participants to follow-up with any additional ideas that they might have by emailing Brandon Stidham, the County Planning Director. Meanwhile, the consulting team will carry on with its research and analysis work in accord with the project work plan, and will be reporting to the Planning Commission on a regular basis.

Meeting Adjourned at 9:15 p.m.

2. Input at Business Round Table Sessions

Summary of Business “Roundtable” Sessions

Meeting Dates: April 22, 23 and 25, 2013, from 7:00 pm to 8:30 pm.

Location: Clarke County Parks and Recreation Center

Purpose: To talk with representatives of the major economic sectors of the County to understand their perspectives on the current business environment, and prospects for the future.

Scope of the Discussions

Each meeting was devoted to a different major economic sector in the County:

- Retail/Realtors/Banking
- Industrial & Farming, and
- Agribusiness/Agritourism/Tourism.

Each of the sessions had wide-ranging and informative discussions. The retail and tourism sessions had about a dozen participants each, while the industrial and farming session had about half that number.

Each session began with a brief overview of the strategic plan project followed by a preview of some key questions for the representatives to consider, mainly as a way of generating discussion. Samples of initial questions are shown below (the full list of questions is attached as an appendix).

- To what degree does the County’s population, growth rate, and the retail competition from adjacent counties limit the retail market in Clarke?
- What geographic area do local retailers consider to be their prime market area?
- What are the current barriers to retail development and leasing?
- What is the approximate vacancy rate of office space in the County?
- Are there indications that a demand for additional office space exists?
- Are there indications that the current style of industrial buildings in the County’s Industrial Park is viable in today’s current market?
- How has the mix of farm products changed during the past decade?
- What are the current barriers to industrial site development and/or use today?
- Do the County’s policies and regulations support the retention and attraction of businesses that complement or support existing industries, including farming?
- What kinds of tourism businesses are currently considered successful in the County?

Highlights of the Discussions – Key Takeaways

Retail/Realtors/Banking

Issues and limitations:

- The market area for retail businesses is limited mainly to Berryville and Clarke County; retail still struggles downtown; storefronts are small, serving niche markets such as specialty shops and antiques, as well as restaurants, and other service businesses; there is substantial turnover; apartments and office space are on upper floors, with some office vacancy.
- Fewer people are coming to downtown Berryville, due in part to alternatives such as online banking, etc.
- There is substantial retail “leakage” with local people shopping at businesses outside the county where they stop on their way to and from work.
- Hotel facilities are insufficient to meet County needs.
- There’s a perception that the County doesn’t *want* business.
- The local economy lacks a critical mass of activity in many sectors.
- Property owners tend to “sit on their land” rather than make investments or sell.

Opportunities and potential:

- Millwood is Clarke County’s own “Waterford” – it has four or five antique stores.
- Waterloo needs an anchor – it could support a small food store. But Route 50 traffic volumes have dropped off and Wal-Mart is on Rt 522 in Frederick County, only seven minutes from Waterloo.
- Rt. 340 north in Berryville has more traffic but no retail; has potential due to high traffic volumes.
- Double Tollgate needs water and sewer service – the area has 42 acres zoned commercial.
- There are no major County regulatory barriers for retail and office uses.
- Berryville needs smaller housing units to fit the demographic/demand profile.
- The “Barns” (concert venue and gallery) in Berryville is doing well and enhancing the Town.
- The market would support a good, clustered, retirement housing project.

Industrial & Farming

Issues and limitations:

- Land is too expensive for conventional farmers to buy– good for grass but too rocky for crops.
- Available land is going down, due to construction of “farmettes”.
- There’s a trend of wealthy folks hiring managers rather than leasing land to neighboring farmers.
- Lack of weed control on farmettes near farms is a growing problem – the use value assessment program would be more effective if weed control was enforced.
- If niche farmers don’t have enough produce to go to big market in DC, they can’t make it.
- Farm market needs to be more like a supermarket in terms of scope – need big volume.

Opportunities and potential:

- The demand for hay and straw (for equine industry) has grown by leaps and bounds. Clarke County is ranked third in the state for Equine.
- Niche farming is increasing.
- Clarke is becoming the “central park” of the region.
- A local meat processing plant which would allow us to “brand” our beef as “Clarke county beef” and provide a “value-added” component.
- We need a good horse facility for horse shows – needs about 200 acres – for hunters, jumpers, rodeos, etc.
- Fundamental thing is to keep land open for farming
- Help locals get their products into salable form here in the County (value-added).

Agribusiness/Agritourism/Tourism.

Issues and limitations:

- Traffic - rural roads, etc.
- When is it agriculture and when is it public assembly?
- How do we increase volume of events sensibly?
- Only 40 to 60 overnight rooms in the County.
- Special event permit process is a barrier.

Opportunities and potential:

- A “Clarke Tourism Alliance” was formed in 2004 and lasted about two and half years.
- County has many good attractions:
 - History, products, etc. for tourism – but lacks marketing.
 - Mill, wineries, vineyards
 - Shenandoah River
 - Appalachian trail
 - Watermelon park
 - Horses
 - Blandy Farm - 170,000 visitors annually.
 - L’Auberge
 - Clarke County fair
 - The Barns at Rose Hill
 - Concerts at fairgrounds – big names
- Promotion:
 - Promote travel routes: “top 10 ways to see Clarke”
 - County has decided to coordinate event notices - potential for further coordination of tourism marketing.
 - Need to establish perception of Clarke as a “destination”

- **Funding:**
 - Need to show economic cost/benefit of county using money to promote tourism – need professional staff support.
 - Occupancy tax revenues should go to tourism – raise it – how do you measure tax revenue from tourism businesses?

- **Impacts and regulations:**
 - Lessons from Loudoun: don't let problems fester.
 - Need communication between agri-business and county and economic development — get in front of the issue and the conflicts
 - Define the rules up front, for businesses. – recognize limits of intensity – maybe greater limitations than in Loudoun.

- **Lodging:**
 - Need to appeal to high end spenders for lodging.
 - Ag-tourism and horses will get draw for overnight rooms

- Looks at other tourist localities (e.g. Loudoun, Bucks County, PA) – create and market tourist routes (“top 10 ways to see Clarke”)

- **Ideas:**
 - First Friday – get arts people to set up in vacant store fronts
 - Big annual event to attract high volume of patrons from afar
 - Keep Clarke rural, but allow ag-businesses to survive and grow

Recap and Next Steps

Participants were encourage to follow-up with any additional ideas that they might have by emailing Brandon Stidham, the County Planning Director. Meanwhile, the consulting team will carry on with its research and analysis work in accord with the project work plan, and will be reporting to the Planning Commission in the near future.

3. Appendix [to Technical Memo #1]

A. Meeting Agenda and Notes from Initial Public Meeting

Public Input Meeting *on The Future Vision of the Clarke County Economy*

2013 Comprehensive Plan Update

AGENDA

Date and Time: Wednesday, February 13, 2013, 7:00 p.m. – 9:30 p.m. (Doors open at 6:00 p.m.)

Location: Clarke County Government Center – Main Meeting Room, Second Floor

Purpose: To begin the preparation of an Economic Development Strategic Plan for Clarke County by convening interested stakeholders to obtain initial input about issues and opportunities for economic development in the County

6:00 pm **Doors Open** – Citizens can examine exhibits and speak informally with County Staff and the Consulting Team

7:00 pm **Welcome and Introductions** – Brandon Stidham, Planning Director

7:15 pm **Presentation – Agenda and Project Overview** – Consulting Team

8:00 pm **Break-out Discussions** – Participants will Identify and Discuss Major Issues and Opportunities facing the County regarding Economic Development

8:45 pm **Reconvene for Plenary Discussion**

9:20 pm **Recap and Next Steps** – Consulting Team and Staff

9:30 pm. **Adjourn**

Notes From Initial Public Meeting February 13, 2013

Compilation of flip chart sheets from each breakout group

Group 1

Strengths

- Our location – multiple cross-roads, easy highway access, lots of through traffic
- Downtown Berryville – preserved historic character; the Barns at Rose Hill; Center of the community.
- Different and unique place – special
- We didn't jump on "every bandwagon" or trend that came along
- Policy consistency over the course of time (and between town and county)
- Educated population – appreciates what we have

Weaknesses

- Our out-of-the-box thinking now "stops us" too.
- Housing types – imbalanced.
- Our death rate exceeds our birth rate.
- High availability fees for Water and Sewer – Town and Waterloo
- Square feet of business in town doesn't match the need – vacant space in Berryville.
- All needs can't be met on Main Street – potential users can't find commercial space – complaints: "too small, no parking, too expensive, no visibility" for all types of uses.
- Loss of spending trips to Winchester
- Business license tax is a flat fee
- Lack of hotel rooms

Opportunities

- We want more walkability (in Berryville)
- In county to build on what county is now – antiques, etc, Nalls; build on these assets.
- Highway commercial on route 7
- NSVRC – "antique road", "local food road" – regional efforts
- Appalachian Trail – food, lodging there?
- End of the metro silver line only 30 miles from county boundary – opportunity and threat – we need affordable dwelling units
- Move or retire Dwelling Unit Rights from rural lands through T.D.R.

Threats

- Lack of good internet service
- Lack of recognition of needs
- Proffer expectations from county
- For residential rezonings – need cluster lots in the growth area – driven by concern about school children

Group 2

Strengths

- Location
- Median income levels
- Low tax rates
- Commuter traffic along main roads
- Cheap labor cost
- Reasonable tax rates

Weaknesses

- Limited inventory of business parking zoning
- Limited area for commercial retail on road – 7 and 340 intersections
- Demographics
- High water and sewer fees
- Perceived attitudes on business growth
- Karst geology re: cost of infrastructure

Opportunities

- Timing of doing strategy
- Keeping existing businesses
- Open space for commercial ag businesses
- Construct houses for both an elderly population and young population without kids

Threats

- Aging population
- Adjacent jurisdiction growth
- Perception that change equals loss of quality of life

Group 3

Strengths

- Average income (disposable income)
- Ag community/commodities (horse community, wineries, farm markets)
- Income generation outside county, reinvest in county
- Home businesses
- Good traffic infrastructure
- County aesthetics / natural resources
- Restrictive zoning

Weaknesses

- Internet in rural area
- Restrictive zoning
- Retaining young residents / affordable housing and labor jobs

- Population size
- Limited public access to river
- No hotel to support events
- Meeting space for conferences
- Diverse housing stock

Opportunities

- Promote our county's resources
- Future close assets to metrorail, time to plan for it
- Promote tourism sites and natural areas (e.g. Blandy)
- Pursue businesses that generate tax revenues
- Diverse agriculture/agribusiness, agri-tourism (proximity to metro areas)

Threats

- Aging population
- Housing costs
- Diversity of opinions on county's future
- Restrictive zoning
- Limited utility capacity due to regulations
- Funding cuts

Group 4

Strengths

- Route 7 traffic county high
- Area local preservation
- County size

Weaknesses

- Can't find what you need to buy here in the county
- Size
- No space for eco_____ identified
- Out of room in industrial park

Compilation of individual written comment sheets

Strengths

Location

Proximity to other areas

Farming

Preservation, conservation

Train

No wal-mart

Rose Hill Theater

Route 7 major commuter road between Frederick county, Winchester and Northern Virginia. These are all potential customers.

Distribution into Northern Virginia area, proximity.

Agriculture

Location

Tax rates

Median income

Rt 7 traffic – primary highway

Weaknesses

Too much what the citizens need is elsewhere

Commercial square footage has remained unoccupied in our villages and towns – this space is inadequate.

No movie theater

Need a hotel

Need a conference room

Tax dollars are being spent in Winchester and surrounding counties instead of Clarke county.

At moment only one grocery store.

Neighboring counties are already retail meccas – which really limits our possibilities.

Lack of inventory of developable land

High fees for infrastructure hook ups

Perceived anti-business philosophy.

Opportunities

Commuting corridors, particularly outside Berryville between 340 and Triple J in the Rt 7 corridor.

Accent the positive – rural farms, cattle, open spaces

Development of tourism opportunities with available entities – Blandy, Mill, Barns, Ruritan Club, Clermont, Long Branch, Shenandoah River

36,000 [vehicles] intersect Rt 340 and Rt 7 north of Berryville. 95% are cars. They need to buy food, retail, restaurants, etc.

we don't actually know – we've painted ourselves into the heritage tourism basket so that's about it.

Because of slow economy allows for planning time

Large parcels with potential agricultural ventures.

Threats

As overall lack of recognition of the needs, a lack of planning for these needs and our focus on areas outside population centers a high volume commuting corridors.

Trying to save downtown at the expense of rest of county. Increased retail traffic on Rt 7 could actually help downtown.

Boutique shops.

Disorganization

Franchises

Probably the viability of traditional agriculture.

Aging population – demographics

C. Meeting Agenda and Notes from Business Round Table Sessions

Business Round Table Discussion *on The Future Vision of the Clarke County Economy* **A Part of the 2013 Comprehensive Plan Update**

AGENDA

*[Note: This is the generic Agenda – The Three Round Table sessions focused on three different topics:
April 22 Realtors, Retailers, and Banking
April 23 Industrial and Farming
April 25 Agribusiness / Agritourism / Tourism*

Time: 7:00 p.m. – 8:30 p.m.

Location: Clarke County Parks & Recreation Center Multi-purpose Room, 225 Al Smith Circle, Berryville

Purpose: To engage in a discussion with the consulting team to identify the barriers and potential opportunities for improving the retention, attraction, and expansion of appropriate businesses and industries in the County

7:00 pm **Welcome and Introductions** – Brandon Stidham, Planning Director

7:10 pm **Overview** by the Consulting Team – Milt Herd and Stu Patz

7:15 pm **Plenary Discussion** – Participants will the major barriers and potential opportunities, based upon their experience in the County, and the consultant’s research and analysis to date.

8:15 pm **Recap and Next Steps** – Participants will review results of the discussion and identify policy conflicts, missing information, remaining questions, etc.

8:30 pm. **Adjourn**

Meeting Notes from Round Table Sessions

Key Questions for beginning the discussions:

Realtors, Retailers, and Banking

Retail –

- To what degree does the County's population, growth rate, and the retail competition from adjacent counties limit the retail market in Clarke?
- What geographic area do local retailers consider to be their prime market area?
- What population segments do local retailers consider to be their prime customer base?
- What are the current barriers to retail development and leasing?
- What are the opportunities?
- What is needed to help retain and grow existing businesses?

Office –

- What is the approximate vacancy rate of office space in the County?
- Are there indications that a demand for additional office space exists?
- What are the current barriers to office development and leasing?
- What are the opportunities?

Industrial and Farming

- Are there indications that the current style of industrial buildings in the County's Industrial Park is viable in today's current market?
- Does the demand for this type of light industrial space remain reasonably strong?
- How has the mix of farm products changed during the past decade?
- What are the current barriers to industrial site development and/or use today?
- What are the current barriers to farming and farm expansion?
- Do the County's policies and regulations support the retention and attraction of businesses that complement or support existing industries, including farming?
- Are there opportunities for further industrial development that could be nurtured or promoted?
- Are there opportunities for retention or expansion of farming operations that could be nurtured or promoted?

Agribusiness / Agritourism / Tourism

- What kinds of tourism businesses are currently considered successful in the County?
- Is there much partnering or networking activity among tourism businesses or sectors? Is there potential for regional coordination/partnering?
- What are the current barriers to tourism development and expansion?
- Do the County's policies and regulations support the retention and attraction of businesses that complement or support tourism?
- What kinds of tourism opportunities are seen as having future potential?

Notes from Discussion

Retail/Realtors/Banking

- The market area for retail is Berryville and Clarke County only; retail struggles downtown; storefronts are small; niche markets such as specialty shops, antiques, and restaurants; lots of turnover in the past year or year and a half.
- Fewer people are coming to downtown Berryville – online banking, etc.
- Home occupations are picking up; we hear that rents are high, but landlords have to charge rent for rehabilitation, maintenance, etc. We're losing some local people to outside businesses where they stop on their way to and from work, for example. Retailers are undercapitalized.
- Can Berryville be a destination?
- Hotel facilities are insufficient to meet County needs.
- Millwood is Clarke County's own "Waterford" – it has four or five antique stores. Waterloo needs an anchor – it could support a small food store. But Route 50 traffic volumes have dropped off – the Toll Road and traffic calming in Loudoun County. But Route 340 traffic is increasing – Rt. 340 north in Berryville has more traffic but no retail – Buckmarsh has potential due to high traffic volumes.
- In Double Toll Gate we've been trying to get sewer service – the area has 42 acres zoned commercial.
- When asked about County regulatory barriers for retail and office, no one responded.
- Berryville does have an inventory of vacant space, rents, etc., in the downtown. There are nine vacant storefronts. Most enterprises are service businesses, not retail. There is available office space on the upper floors, although more apartments on upper floors than offices. Businesses are afraid to commit.
- The Town needs smaller housing units to fit the demographic/demand profile.
- There's a perception that the County doesn't *want* business.
- Marketing and perception – the message that is communicated is important.
- There is a need for synergy and a critical mass of enterprise activity in each sub-sector of the local economy.
- There is a plan for new buildings on East Main Street in Berryville – where the hardware store is now – but there are road entrance issues with VDOT.
- Ancillary retail is allowed on Route 340 near the Food Lion and Red Apple.
- Waterloo needs an anchor store.
- Wal-Mart is on Rt 522, only seven minutes from Waterloo, which likely undermines the potential for large scale "big box" retail at Waterloo.
- The level of service provided by the local Food Lion is not up to the level of its regional competitors.
- Property owners tend to "sit on their land" rather than make investments or pursue offers for purchase/lease.
- The "Barns" (concert venue and gallery) in Berryville is doing very well and changing the Town, in a good way.
- The market would support a good, clustered, retirement housing project.

Industrial & Farming

- The demand for hay and straw (for equine industry) has grown by leaps and bounds. Clarke County is ranked third in the state for Equine: boarding is probably the largest component, but also breeding for racing, the Hunt, trail rides, horse “retirement” facilities. 150 to 200 are primarily horse farms.
- Conventional farmers can’t buy land – too expensive – our soil is good for grass but not for crops – too rocky.
- Available land is going down, due to construction of “farmettes”.
- Niche farming is increasing.
- Direct marketing requires a different personal temperament than conventional farming
- Two acres required per horse; 2 to 5 acres per cow/calf.
- The situation in agriculture is unstable.
- Diversification is key to farming.
- Small farmers can get by but beef cattle farming requires 400 head to make any money.
- Might make \$200/acre off corn, therefore won’t support \$6,000/acre land costs.
- There’s a trend back to rich folks buying land and hiring managers rather than just leasing it out to neighboring farmers.
- Clarke is becoming the “central park” of the region.
- We’re going to get more pressure from demand for farmettes.
- Lack of weed control on farmettes near farms is a growing problem.
- Use value assessment program – maybe give a lesser tax break if you don’t control your weeds; dilapidated fences. If Use Value meant more (enforced), that would help farmers.
- It would be good to have a meat processing plant which would allow us to “brand” our beef as “Clarke county beef” and provide a “value-added” component. But not enough market support for such an enterprise locally. Closest facility is in Gore, VA, in Frederick County.
- The local horse industry is very diverse – we need a good horse facility for horse shows – needs about 200 acres – for hunters, jumpers, rodeos, etc. It requires money to establish. Could be similar to Lexington, VA, but not as elaborate. Lots of parking needed, large indoor arena.
- We need to be able to adapt to change – need to be able to go back and forth between things.
- We worked on an ordinance that would make farm markets by-right for locally produced food, etc.
- If niche farmers don’t have enough produce to go to big market in DC, they can’t make it – need to provide for small farmers not just produce sales, so they don’t have to go to Leesburg, or DC.
- Farm market needs to be more like a supermarket in terms of scope – need big volume.
- The big boys like Smithfield Farm just go to Washington, DC, rather than try to market locally.
- Fundamental thing is to keep land open for farming
- Help locals get their products into salable form here in the County (value-added)
- Fewer farmers make their living solely off farm business.
- Environmental regulations (federal/EPA, not County or DEQ) are a challenge.

Agribusiness / Agritourism / Tourism

- A “Clarke Tourism Alliance” was formed in 2004 at initiative of Board of Supervisors. It lasted about two and half years. Cataloged historic properties and created a brochure showing key sites.
- County has history, products, etc. for tourism – but lacks marketing.
- Mill, wineries, vineyards

- River is a big attraction – beer and wine
- Appalachian trail
- Watermelon park – hundreds of thousands of people per year (mostly from Loudoun) – camping, tubing and festivals – about four months of the year – relatively low-end economic level.
- Horses
- Bridal trail at Blandy Farm - \$5 donation required – Blandy has 700+ acres on the whole site – education of 6,000 kids per year (9 months/yr), 170,000 visitors to Blandy annually. Potential for coordinated marketing.
- “Longbranch” could coordinate with Blandy
- L’Auberge is a big draw.
- Loudoun and Fauquier provide contrasts on how to handle impacts – lessons from Loudoun: don’t let problems fester.
- Traffic is an issue - rural roads, etc.
- Loudoun model – dialog between agri-business and county and economic development – communication – get in front of the issue and the conflicts
- When is it agriculture and when is it public assembly? – difficult question.
- Define the rules up front, for businesses. – recognize limits of intensity – maybe greater limitations than Loudoun.
- Mindset of owner/operator – “people out/off site by 10:00 pm” – how do we increase volume sensibly?
- Clarke county fair
- Only 40 to 60 overnight rooms in the County
- Need to appeal to high end spenders for lodging.
- We’re going for ag-tourism and education – “wayside” next to Nalls Market
- Need to establish perception of Clarke as a “destination”
- Need to show economic cost/benefit of county using money to promote tourism – we have things in place, we have a basis for documenting our revenue – need professional staff support.
- The Barns at Rose Hill
- Special event permit process – barrier
- Inhibits horse shows, too – needs to be simplified
- Very cumbersome for events at a winery
- Occupancy tax revenues should go to tourism – raise it – how do you measure tax revenue from tourism businesses?
- Loudoun puts TOT money into promotion efforts.
- Need coordinated marketing of all tourism together, like “visit Loudoun”
- Looks at others, like Loudoun, Bucks County, PA – people need to be spoon-fed to do routes, “top 10 ways to see Clarke”
- County has decided to coordinate event notices
- Concerts at fairgrounds – big names
- Ag-tourism and horses will get draw for overnight rooms
- Have all businesses carry each other’s brochures, etc.
- First Friday – get arts people to set up in vacant store fronts – or third Friday.
- Big annual event to attract high volume of patrons from afar [e.g. Sturgis, SD].
- Keep Clarke rural, but allow ag-businesses to survive – increase number of ag-businesses in Clarke
- Embrace value-added agriculture [some disagreed].

C. Invitation to Business Round Table Sessions



Clarke County Planning Department
101 Chalmers Court, Suite B
Berryville, Virginia 22611
(540) 955-5132

TO: Participants in the Economic Development “Roundtable” Sessions
FROM: Brandon Stidham (Director of Planning)
Milton Herd, AICP (Planning Consultant)
RE: “Roundtable” Sessions with County’s Planning Consultants
DATE: April 9, 2013

Clarke County is currently updating the Comprehensive Plan, including adding a new element for Economic Development Strategy. An important task in this effort is to talk with representatives of the major economic sectors of the County to understand their perspectives on the current business environment, and prospects for the future.

To do this, we will conduct a series of “round table” discussions on April 22, 23, and 25, with County staff and the Consulting Team. Each meeting will be devoted to a major economic sector in the County:

- Retail/Realtors/Banking
- Industrial & Farming, and
- Agribusiness/Agritourism/Tourism.

We invite you to participate in the Agribusiness/Tourism discussion, to be held on April 25 at the Clarke County Parks & Recreation Center Kitchen/Preschool Meeting Room, 225 Al Smith Circle, from 7:00 pm to 8:30 pm.

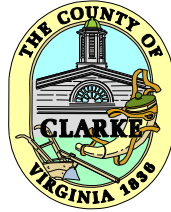
As a preview to this session, we wanted to share some of the key questions we would like to explore with you and your colleagues. These are rather general questions, aimed primarily at obtaining empirical information from people who are working in these sectors, and exploring barriers as well as opportunities for expansion of these sectors.

These are the questions we want to start with, knowing that these will likely lead to further questions as we dig into the issues.

Thursday, April 25, 7:00PM – Agribusiness / Agritourism / Tourism

- What kinds of tourism businesses are currently considered successful in the County?
- Is there much partnering or networking activity among tourism businesses or sectors? Is there potential for regional coordination/partnering?
- What are the current barriers to tourism development and expansion?
- Do the County’s policies and regulations support the retention and attraction of businesses that complement or support tourism?
- What kinds of tourism opportunities are seen as having future potential?

Please affirm that you will be able to attend this session by calling or emailing Brandon Stidham at (540) 955-5130 or bstidham@clarkecounty.gov.



Economic Development Strategic Plan for Clarke County, Virginia

Appendix 2:

**TECHNICAL MEMORANDUM #2
Economic Development Issues, Needs, and Opportunities**

December 4, 2013

Prepared By:

Herd Planning & Design, Ltd. and S. Patz & Associates, Inc.



Contents

<i>Executive Summary</i>	3 (85)
1. Introduction	4 (86)
2. Summary of Initial Public Input	5 (87)
3. Research and Analysis	6 (88)
A. Regional Overview.....	6 (88)
B. Growth Areas and Potential in Clarke County.....	6 (88)
C. Fiscal Impact of Development (further analysis forthcoming).....	10 (92)
D. Best Practices for Rural Economic Development.....	10 (92)
E. Population, Employment and Land Use Forecasts.....	25 (107)
4. Potential Strategies for Economic Development	27 (109)

A preview of formal economic development strategies for the County to pursue in the short and long term time frames, to be developed in the next stage of the process

Appendix A – Comparison of Local Tax Rates

Appendix B – Comparison of Availability Fees

Executive Summary

Clarke County wants to prepare economic development strategies and actions that will help diversify its tax base without undermining the rural, agricultural character of the County, or the effectiveness of its strong and venerable growth management program, or unduly increasing the cost of providing services.

A key challenge in formulating a long-term economic development strategy for the County is to balance the fundamental goal of land preservation with the important need for economic vitality. A related challenge is to identify strategies that if successful, will allow the County to evolve in a manner and pace that is consistent with its past traditions.

The County has some highly valuable economic assets, particularly its:

- Open space resources, historic resources, and scenic quality.
- Good highway infrastructure
- Regional proximity to a large population and work force, and
- Adequate total supply of residential and industrial zoned land.
- Located within the primary service area of Foreign Trade Zone #137
- Competitive tax rates and relatively low land costs compared to most adjacent localities
- Improved proximity to Metro Rail – “Silver Line” to reach Reston in 2014 and to Dulles by 2020.

It also has some fundamental disadvantages to conventional economic development, including:

- Small local population and gradual growth of economic base
- Distance to I-81, the one interstate highway serving the western part of Northern Virginia (not relevant for counties to the east)
- Competition from adjacent jurisdictions, particularly the Winchester-Frederick area
- Few “Occupancy Ready” or “Shovel Ready” industrial sites
- Relatively high availability fees for public sewer and water service

Six major economic sectors were examined as a prelude to developing specific strategies and actions:

Industrial – Offers the strongest prospects for the greatest economic benefit in the short term, especially light manufacturing, distribution/service space and local business services.

Retail – Relatively stable but constrained by regional competition and limited population growth.

Office – Generally similar constraints to the retail sector.

Agriculture – Faces ongoing challenges but has good potential for sustainability through new markets and greater linkage to tourism activities. The County’s land use policies have created a generally stable land base for agriculture, and the pressure of increased population and changing markets also creates opportunities for niche markets including equine-related businesses, higher-intensity crops, etc.

Tourism – Has good long-term potential in light of local resources and regional location, particularly with ties to agriculture and outdoor recreation, but should not be considered a “quick fix”.

Housing – Well-planned housing can be an economic asset, but additional housing must be of a type, quantity, density, and location that is consistent with the County’s overall goals for growth management, agriculture, environmental conservation, and fiscal well-being.

Next Steps

Develop specific Strategies and Actions to take advantage of the County’s assets and mitigate its disadvantages; work with the Planning Commission and EDAC to refine these strategies and actions.

1. Introduction

The new Strategic Plan for Economic Development will take its place alongside the County's other Comprehensive Plan elements, including the Agricultural Land Plan, the Mountain Land Plan, the Berryville Area Plan, etc. However, whereas most Comprehensive Plan elements are broad, long-term, policy-oriented documents, the Strategic Plan will feature a short to medium-term time horizon, a focus on one sector (economic development), and an action-orientation. The purpose of this memorandum is to clarify issues and opportunities to provide the basis for developing strategies and actions for economic development.

Initial Guidance from the Board of Supervisors:

The Economic Development Strategy must be consistent with the County's long-standing growth management policies, including agricultural and open-space conservation. Yet it must also reflect:

1. "Out of the box" thinking to capture new opportunities
2. Involvement of Key Stakeholders to be most effective and practical
3. Coordination with County Officials to ensure broad support

In addition, based on early input from County officials and active participation from County citizens, the County's *primary objective* for economic development is to grow the tax base.

A *second objective* is to increase economic activity through the expansion of business transactions and/or by adding new jobs, particularly if the jobs are filled by the existing labor force or in-commuters. An important issue is that job growth tends to cause population growth. This can add economic and social vitality to the community, yet can conflict with the goal of preserving agricultural and open-space resources, unless employment growth occurs in locations, amounts, and sectors that are consistent with the overall community vision. This shows the importance of coordination between the County and the Town of Berryville, since their economies are largely unified, even though each has its own plans, policies and regulations.

Thus, a key challenge in formulating a long-term economic development strategy for the County is to balance the fundamental goal of land preservation with the important need for economic vitality. A related challenge is to identify strategies that if successful, will allow the County to evolve in a manner and pace that is consistent with its past traditions.

There are, however, challenges with preparing an Economic Development Strategy for Clarke County. Past efforts have not produced as much net tax revenue as the County would prefer to offset the burden on residential properties; there is a limited amount of readily available land for new development of the type needed for tax revenue generation; and the County has strong competition from the Winchester marketplace, in particular, for most non-residential land uses.

The Technical Work of the Project Includes Several Key Items:

1. Identification of methods for expanding business
2. Analysis of regional economic factors and Clarke County's competitive position
3. Analysis of constraints to economic growth and how to overcome them
4. Analysis of the Fiscal Impact of new growth (impacts on County government budget)
5. Short-Term and Long-Term plans for economic development (strategies and actions)
6. Options for the magnitude, locations, and types of economic growth in light of costs & benefits

Project Work Plan and Status:

Task 1 Initial Public Input Meeting (*completed February 2013*)

Task 2 - Evaluate County's Economic Development Issues, Needs & Opportunities

- Interviews and “round tables” with business owners (*completed April 2013*)
- Field Survey of key growth areas (*completed April 2013*)
- Regional Analysis of economic factors (*completed June 2013*)
- Fiscal Impact Analysis of growth sectors (*partially completed June 2013*)
- Research “Best Practices” of comparative localities (*completed June 2013*)

Task 3 - Evaluate Comprehensive Plan components re: Economic Development (*underway*)

Task 4 - Prepare Economic Development Strategies for Implementing Component Plans (*underway*)

Task 5 - Develop Draft Economic Development Strategic Plan as a New Component (*underway*)

2. Summary of Initial Public Input

Initial input on economic development strategies was obtained from a public meeting meeting and key stakeholder “round table” sessions during February through April 2013, and through several individual interviews with business owners and property owners in the County, including the Berryville area. A full report on the results of this input is included in Technical Memorandum #1 of the consultant’s work, included in the appendix to this memo.

Summary highlights of this input include the following:

- The business community is fully aware of the challenges that officials face in expanding the County’s economic base. However, most of their input focused on relatively small scale or short-term solutions. While the public and business community fully embrace the traditional goals of the County, there is the underlying recognition of the need for more tax revenue and economic activity.
- There was great support expressed about the value of current growth trends and the agricultural and equine base of the County, but little mention of the outdated industrial properties in the town, and their prospects for redevelopment.
- It appears that the Clarke County community believes that Berryville’s retail and office space markets will remain modest in size. However, there is recognition that upgrades are required to maintain stability.
- There was broad appreciation of the positive natural and cultural aspects of the County as a special place within the region, including the desire that economic development should not overwhelm the County’s traditional character and quality of life.

Overall, there was great interest in the need for the Economic Development Strategy and an abundance of support for creative ideas.

3. Research and Analysis

A. Regional Overview

The County's regional location is somewhat of a detriment to economic development and job growth. The County is a sort of "hole in the donut" in terms of land use and population intensity within the region. While the major competition is from Winchester-Frederick to the west, Clarke is surrounded on all sides by major population and job centers, including:

- Winchester and Frederick County to the west
- Front Royal and Warren County to the south
- Purcellville and Loudoun County to the east
- Martinsburg and Charles Town to the north

The Winchester marketplace is the prime competitive location, as well as Warren County. Winchester has the advantage of being along the I-81 corridor, which is a "must" for most area industrial businesses. Winchester also has a large retail component. Warren County has proximity to both I-66 and I-81, as well as the inland port. These factors require the Clarke County marketplace to compete for a more limited niche market.

B. Growth Areas and Potential in Clarke County

Clarke County has six general geographic areas for potential economic growth:

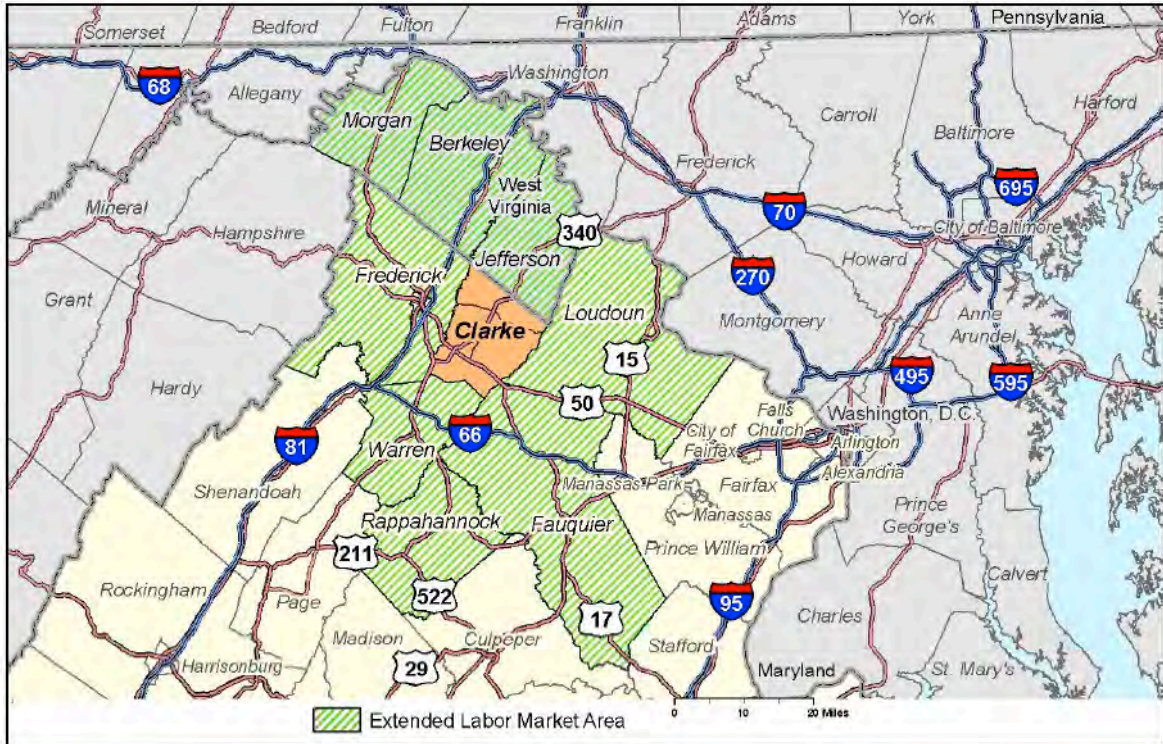
- Town of Berryville and designated annexation areas
- Waterloo Area
- Town of Boyce
- Double Tollgate Area
- Villages of Millwood, White Post, and Pine Grove
- Rural Areas

In the short term, the Town of Berryville and its designated annexation areas is the most competitive location in the County for conventional industrial, retail, and office development. This indicates a clear need for the County and Town to continue to work closely together to promote appropriate economic development.

In the long term, growth could be expected in the Waterloo and Double Tollgate areas, as both locations are well located with good highway access. Although Double Tollgate needs water and sewer service, both areas have attracted some interest from the development community. Double Tollgate is well located on the Rt. 522 corridor adjacent to employment uses in Warren and Frederick Counties, and on the very western edge of Clarke, thereby limiting impacts on most of the County from more intensive development.

The Town of Boyce has public utilities, a location on Rt. 340, and proximity to Rt. 50, and thus has some potential for development. The several historic villages in the County have unique charm and historic settings but generally less potential for development due to limitations of access and/or utilities.

The Route 7 corridor is an excellent location for the development of additional retail space, but most locations along the corridor are without public utilities. As with other areas for long-term growth opportunities, care must be taken to prevent standard highway related “strip” development.



Source: *Community Profile – Clarke County, Virginia Economic Development Partnership*

Map of Regional Labor Market Area

In the longer term, increased economic development can be expected in the rural area, mainly in the rural-based agricultural and tourism sectors. However, expansion in this sector is expected to be gradual. Sites with good proximity to the four major arterial corridors (Routes 7, 50, 340, and 522/340) offer the best prospects for compatibility with the County’s broader land use planning goals.

Not all of the existing industrial sites are ready for immediate use. The County as a whole has more than enough land zoned for commercial or industrial uses, much of it undeveloped or underdeveloped. However, some sites need improvement and not all of the land is located to meet current market demand (for example the commercial zoning at Double Tollgate, which has longer term development potential).

Besides the geographic perspective, the County also has a basic overall economic structure similar to other localities, in that there are three basic levels of business activity:

- Level 1 include primary “economic base” businesses that generate revenue from outside the County. These would include most manufacturing and distribution enterprises, tourism businesses, state and federal government facilities, agriculture, and large wholesale or retail operations.

- Level 2 businesses are those that support the Level 1 businesses, and include commercial real estate, construction services, banking and insurance, and printing.
- Level 3 businesses are those that serve local residents, including retail stores, personal services, entertainment and recreation.

Level 1 businesses are fundamental to future growth in the economy and tax base. In Clarke County these include manufacturing and distribution, agriculture, tourism, and business services that serve non-local markets.

Summary of Assets and Liabilities for Economic Growth in Clarke County

Key tasks in formulating an economic development strategy are to identify ways to:

- *Build upon* the County's existing economic assets and resources
- *Correct* existing liabilities, including outdated buildings and sites, as well as policies and regulations
- *Convert* liabilities into assets through creative financing and public financial support, as well as marketing and networking.

Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis

Using input from stakeholders, combined with further research, the SWOT features were identified. These are listed below under the four headings. Two salient issues form a backdrop to most of the other issues.

Ready Sites. In terms of conventional, high value industrial economic development, the County lacks shovel ready industrial sites. The developability of existing sites can likely be improved with some level of public support, such as timely review and approval of development applications, and possibly assistance with infrastructure improvements under a well-designed program such as a service district, micro loan program, or tax increment financing. These sites are likely to be competitively priced compared with both the Winchester and Loudoun marketplaces, which should make them more marketable. Many industrial buildings are outdated and no longer usable for quality industrial businesses. The County also has mature office space which is no longer competitive and some of the better space lacks nearby parking. Some of these issues have been in place for years and could be rectified with public and private sector initiatives.

Population and Housing Growth. Clarke County's population is aging and not growing as fast as in nearby communities. This provides benefits to the County in terms of lesser impacts from growth. Yet a very slowly expanding population tends to constrain retail expenditures and limits the expansion of retail sales and other area businesses. This is also an issue related to housing unit demand. Without population growth, there is limited household growth and limited housing unit demand. This can be a factor in the supply of affordable housing, in particular, which can be a detriment to new business growth, if housing unit availability stymies employees from finding nearby, acceptable housing. The County is very aware of the delicate balance between having a healthy amount of population and housing growth, without having an excessive amount that overwhelms public services and community character. The County has a lower

level of affordability in housing compared to some of its neighboring jurisdictions, although the data do not suggest a severe problem. Thus, it would be prudent for the County to monitor this issue.

The County values the benefits of slow population growth, and thus the challenge is to find strategies that can succeed without a more rapid population growth rate, and to focus population and housing growth in the most advantageous areas and with a mix of unit types that will foster a healthy demographic balance to underpin a strong local economy.

Summary of SWOT factors

Strengths

- Small population size
- Protective planning policy/Restrictive rural zoning
- Existing vacant industrial space
- Cost-competitive space and land
- Good access to a high quality work force
- Successful, County-developed business park
- Location and access
- Substantial volumes of through traffic, including commuter traffic along major roads
- Good road infrastructure
- Land zoned for highway commercial retail
- Historic downtown Berryville
- Well-preserved natural environment and historic character
- Unique place within the region
- Policy consistency over the course of time
- Relatively high household income
- Reasonable tax rates
- Ag community/commodities (equine community, wineries, farm markets)

Weaknesses

- Small population size
- Protective planning policy/Restrictive rural zoning
- Lack of “shovel ready” (level 5) or “occupancy ready” (level 1) sites
- Imbalance of housing types for expected demographic changes
- High availability fees for water and sewer
- Vacant retail and office space in Berryville
- Uncompetitive commercial space
- Retail leakage to surrounding counties
- Perceived attitudes on business growth
- Karst geology (environmental sensitivity; cost of infrastructure)
- Poor or spotty internet service in rural area
- Limited public access to river

Opportunities

- Population growth in adjacent jurisdictions
- Downtown Berryville – improve walkability, mixed-use, vitality
- Expand tourism-related businesses - antiques, farm markets/stands, wineries, etc.
- Diversify agriculture/agribusiness, agritourism
- Expand highway commercial uses
- Expand home business activity
- Regional tourism coordination such as “antique road”, “local food road”
- Retain existing businesses
- New housing for both an elderly population and young population without kids

Threats

- Population growth in adjacent jurisdictions
- Lack of adequate housing diversity and affordability
- Aging population; loss of maturing young people
- Perception that change equals loss of quality of life
- Housing costs
- Limits on utility capacity due to state/federal regulations

C. Fiscal Impact of Development

This analysis examines the fiscal benefits of the businesses that are most likely to generate net economic benefits for Clarke County. The most immediate is industrial development, as land could be made available and market support likely exists for available sites. Market support also exists for other commercial uses, but these would not be as sizable as prospective industrial uses. *(further analysis forthcoming)*

D. Best Practices for Rural Economic Development

Comparison to Other Counties

This study compared Clarke County to several other jurisdictions to identify potential strategies that may offer good prospects for application in Clarke County.

Comparative peer or neighboring counties in Virginia were selected, based on:

- Population size and local government resources
- Geographic location and character – proximity to urban centers, major roadways, and natural amenities
- Major economic components, sectors, and resources
- Income and education levels

Counties examined:

- | | |
|--------------------|-----------------------|
| 1 Botetourt County | 5 Goochland County |
| 2 Fauquier County | 6 Nelson County |
| 3 Fluvanna County | 7 Rappahannock County |
| 4 Frederick County | 8 Warren County |

Comparison of Key Attributes

Direct comparisons between Clarke County and other jurisdictions in Virginia is challenging because Clarke is one of the smallest counties in the state, in both population and land area, and most of the counties with such small populations are fundamentally different from Clarke in terms of population, income, proximity to urban areas, and other attributes that make direct comparisons useful.

Thus, most of the counties selected for comparison are larger, yet still rural with somewhat similar demographic characteristics. Of the counties selected as peer communities, only Rappahannock has a smaller population, with Nelson being about the same. None of the counties has as small a land area as Clarke. This fact is particularly salient when comparing the agricultural productivities. Although Clarke County has the smallest land area of this group of counties, it was second only to Fauquier and Frederick in the total value of farm products sold, and both of those counties have more than twice the land area of Clarke. Further, despite its small size, Clarke ranks 4th among all counties in Virginia in its inventory of horses, and 7th in sales of apples.

The following table summarizes various key attributes of the comparison jurisdictions.

County	2012 Population* Land Area	Per capita income (2007-11)*	Education Level**	Location	Major Economic Sectors*** (2011)*	Agriculture – Market Value of Farm Products****	Retail Sales per capita*
Botetourt	33,148 543 sq. mi.	\$30,293	22.9%	<ul style="list-style-type: none"> • Bisected by I-81 • Adjacent to Roanoke 	<ul style="list-style-type: none"> • Manufacturing • Retail trade • Construction • Trans & warehg. 	<ul style="list-style-type: none"> • Total: \$13,548,000 • Per Farm: \$21,234 • Ranked 10th in Apples in VA 	\$7,661
Clarke	14,323 177 sq. mi.	\$37,551	30.7%	<ul style="list-style-type: none"> • 9 mi. to I-81 • Between Winchester & Loudoun • Mountain ridge on east 	<ul style="list-style-type: none"> • Manufacturing • Education • Health care • Retail trade • Construction 	<ul style="list-style-type: none"> • Total: \$21,901,000 • Per Farm: \$44,156 • Ranked 4th in Horses in VA; • 7th in Apples 	\$6,381
Fauquier	66,542 650 sq. mi.	\$40,569	32.3%	<ul style="list-style-type: none"> • Bisected by Rt. 17, 15, I-66 • Warrenton is largest Town 	<ul style="list-style-type: none"> • Retail; Health care • Accommodn & food serv. • Construction • Prof., scientific, tech 	<ul style="list-style-type: none"> • Total: \$47,981,000 • Per Farm: \$39,264 • Ranked 3rd in Hay in VA; • 1st in Horses • 5th in Milk 	\$12,845
Fluvanna	25,927 287 sq. mi.	\$28,864	28.1%	<ul style="list-style-type: none"> • East of Charlottesville • West of Goochland • South of I-64 	<ul style="list-style-type: none"> • Construction • Accommodation and food serv. • Retail • Health care 	<ul style="list-style-type: none"> • Total: \$5,595,000 • Per Farm: \$17,110 • Ranked 21st in Broiler chickens 	\$3,144
Frederick	80,317 415 sq. mi.	\$29,409	24.2%	<ul style="list-style-type: none"> • On I-81 • Surrounds City of Winchester 	<ul style="list-style-type: none"> • Manufacturing • Retail • Accomdn & food • Transportation & warehouseg. 	<ul style="list-style-type: none"> • Total: \$27,957,000 • Per Farm: \$41,346 • Ranked 1st in Fruits & berries; • 1st in Apples 	\$15,427
Goochland	21,347 284 sq. mi.	\$46,697	37.1%	<ul style="list-style-type: none"> • Adjacent to Henrico Co. & Richmond • Bisected by I-64 	<ul style="list-style-type: none"> • Finance and Insurance • Management • Construction 	<ul style="list-style-type: none"> • Total: \$11,236,000 • Per Farm: \$29,647 • Ranked 23rd in Horses 	\$8,914
Nelson	14,827 472 sq. mi.	\$26,060	24.6%	<ul style="list-style-type: none"> • Bisected by Rt. 29 • South of I-64 • No large towns • Mountains on the west 	<ul style="list-style-type: none"> • Arts, entertainment, recreation • Retail • Health care • Construction 	<ul style="list-style-type: none"> • Total: \$12,445,000 • Per Farm: \$26,937 • Ranked 4th in Fruits & berries; • 5th in Apples 	\$4,967
Rappahan-nock	7,456 267 sq. mi.	\$39,735	37.2%	<ul style="list-style-type: none"> • Served by Rt. 211 • No large towns 	<ul style="list-style-type: none"> • Accommodation and food serv. • Trans & warehsg. • Retail; Constrtn 	<ul style="list-style-type: none"> • Total: \$7,539,000 • Per Farm: \$18,122 • 40th in Horses • 11th in Apples 	\$3,042
Warren	38,070 214 sq. mi.	\$30,069	21.7%	<ul style="list-style-type: none"> • Served by Rt. 522 • Includes Front Royal 	<ul style="list-style-type: none"> • Retail • Health care • Accommodation and food serv • Trans & warehsg. 	<ul style="list-style-type: none"> • Total: \$5,559,000 • Per Farm: \$14,365 • Ranked 10th in Turkeys 	\$10,182

* U. S. Census; University of Virginia Geostat Center, County and City Data Book

** Bachelor's degree or higher, percent of persons age 25+

*** by number of employed and/or land coverage

**** 2007 Census of Agriculture, USDA; rankings reflect sales of farm products, except for horses which reflect inventory

Comparison of Major Economic Development Strategies

1. Botetourt County

Botetourt County is adjacent to, and north of Roanoke, and is bisected by I-81. The County's overall planning strategy is to achieve a balanced land use pattern and to focus new growth in areas where services exist or are planned, while protecting rural residential areas and prime agricultural lands from future growth.

The County has specific strategies for economic development, including:

- Targeting manufacturing segments involved in the production of parts and components from metals, plastics and other materials for transportation, energy and medical equipment industries and wood-based products; limited distribution operations, back-office service operations, professional and technical services, medical offices and imaging centers, and tourism.
- Support small businesses, existing and new.
- Shift focus from business attraction to support for a broad range of economic activity.
- Establish a formal Office of Economic Development, as have many other counties in Virginia.
- Enhance site-readiness of available sites.
- Encourage younger workers to live and/or work in the County.
- Improve the marketing of tourism resources.

2. Fauquier County

Neighboring Fauquier County is known for its agricultural industry, especially the horse farms and wineries, as well as its long-standing commitment to rural land preservation and strong growth management through the establishment of defined service districts for concentrating residential development.

The County's overall goal is to promote economic growth that preserves the natural and cultural heritage of the County, and maintain the uniqueness of the area, including encouraging appropriate commercial, retail, tourism and agri-businesses.

Key strategies are to:

- Establish infrastructure plans for the County's service districts
- Create individualized service district plans
- Streamline the permitting process
- Develop incentive packages

3. Fluvanna County

Located southeast of Charlottesville and west of Goochland County and the City of Richmond, Fluvanna is a small, rural locality with several small towns and villages. Nearly two-thirds of the workforce is employed outside the County. Major taxpayers include energy generation and distribution companies, utilities, and transportation companies. Leading employment sectors are health care, accommodation and food services, and retail trade.

Fluvanna's economic vision is to increase quality employment opportunities, the strength and diversity of the county's taxable base, and the quality and variety of businesses and business districts. Strategies include:

- *Strengthen and clarify the county's commitment to economic development.* This strategy calls for active engagement of the Economic Development Commission, Economic Development Authority, Board of Supervisors, and Planning Commission. It also calls for creating a full-time position, with support staff, to focus on economic development issues, as well as revamping the county's Web site, and utilize other media, to professionally and effectively promote Fluvanna County.
- *To implement the county's community planning areas, as shown on the Future Land Use Map.* This strategy calls for creating a planned unit development (PUD) zoning district to allow for increased flexibility for commercial, industrial, and residential uses, as well as increased residential density within well-planned, mixed-use communities within the community planning areas, and constructing a water line to the urban development area, along with necessary waste treatment facilities, broadband and cellular services, and road improvements to provide the infrastructure necessary for healthy, successful community planning areas.
- *To protect rural areas through economic development.* This strategy calls for using the county's natural resources, culture, and historic and recreational sites to capitalize on heritage, ecological, and recreational tourism, as well as attracting other visitors, offering incentives for building mixed-income housing, with an emphasis on workforce and affordable housing, in the community planning areas, and promote local and regional markets for value-added agricultural and forestry enterprises and products.
- *To diversify and strengthen the county's tax base.* This strategy calls for creating an economic development team and then implementing a program such as Business First that will keep in contact with existing businesses, and streamlining the application and permitting process by working with businesses to help them locate in the appropriate areas of the county.

4. Frederick County

Neighboring Frederick County surrounds the City of Winchester and is fully bisected by I-81, including the intersections of I-81 and Routes 7 and 50.

The County seeks to achieve an appropriate ratio between the taxable value of residential versus non-residential land. It also recognizes that its attractiveness will generate additional population growth and that an expanded employment base affords increased income and a higher quality of life.

The County's planning strategy focuses on four major economic sectors:

- Office and industrial
- Retail
- Tourism
- Agribusiness

Office and industrial

The County foresees future opportunities for office and industrial growth in six key segments:

- Food Processing
- Distribution/Repackaging and assembly centers
- Healthcare Research and Development
- Plastics Manufacturing
- Back Office Support
- Government Activity

The County believes that "a low residential tax rate is a direct result of the expansion of the commercial and industrial tax base." The County's goal is to enlarge the share of the commercial and industrial tax base from 13% to 25% of the total.

Strategies include:

- Ensure that enough suitable acreage is identified and reserved for office and industrial use
- Minimize low tax generating entities such as distribution centers, and maximize high-tax base industries
- Determine funding plan for policies such as service redundancy, water availability, electric service, communication, etc. These could include public/private funding and transportation access funds for industrial development.
- Address how the County's public role could be used more effectively in lowering development costs.

Retail

The County recognizes that the retail sales potential of any geographic market is based upon two factors:

- 1) The number of households within the market and the income of those households.
- 2) The market's ability to compete successfully against neighboring markets.

The County expects its future population growth to fuel retail development, with an opportunity for growth of specialty retailers of regional and national scope, in addition to the growth of locally-based retailers. The County's strategy is promote itself as a dynamic and vital retail market at the regional and national levels. It also aims to focus on high quality development and architectural design for such uses.

Tourism

The County recognizes tourism as a strong and important industry not only in Frederick County, but throughout Virginia, annually providing the County with millions of dollars of business activity and tax revenue, as well as over a thousand jobs. The County aims to focus especially on the heritage tourism market because this demographic tends to spend more and have longer stays. Strategies include:

- Linking the area's visitor attractions with a trail network
- Preserving the rural agricultural landscape
- Maximizing the opportunities of Cedar Creek and Belle Grove.
- Pursue combined commercial and recreational uses.

Agribusiness

While the County's total acreage in farmland has continued to decline, the support of its agricultural economy remains strong. The County expects agriculture to become more intensive, requiring less acreage than traditional farming activities, while increasing the income from operations. It will also continue to diversify into related enterprises such as new value added products, new processes, new retail opportunities, and agri-tourism. Agriculture will also change to take advantage of the technical results of research and development. Strategies include:

- Encourage diverse uses on farm sites, such as farm markets, alternative fuels, pick-your-own operations, etc.
- Review ordinances to enable agriculturally related activities in the rural areas, while ensuring they are compatible in scale, size and intensity with surround land uses.
- Provide opportunities for combining agricultural operations with recreational uses, including equine operations and golf courses.

5. Goochland County

Goochland County is located west of Henrico County and the City of Richmond, with a relatively small population of 22,000 people. The County's vision for future land use aims to foster economic growth while preserving the rural character of the County, supporting a sustainable agricultural community, and reinforcing desirable neighborhoods required for maintaining the high quality of life. It's policies also aim to actively pursue industrial development that is compatible with the County's growth goals, including improving the marketing capabilities of its economic development office, and designating suitable areas for industrial development.

The County faces similar challenges as Clarke County in that it has a small population relative to its neighboring jurisdictions, and faces stiff competition from those neighbors for economic growth.

The County's Action Plan for Economic Growth includes several key steps:

1. Establish an Economic Development Program

- Hire and Economic Development Director and support with adequate operating budget.

- Develop Tools to Effectively Market the County

Resource profile, economic development web site, blogs, etc. to provide prospects with contact information, description of resources available to support each type of industry, updates on activities, and listing of major properties available.

- Establish a Set of Metrics to Track Economic Development Progress

Includes transaction-related activities, etc.

- Gather on going feedback from existing employers and support efforts to expand their businesses

Outreach to each business in the County and make sure the right level of attention and support is provided to them whether they are recruiting new employees or expanding a facility

- Streamline processes for doing business within the County

Actions include:

Examine current Board of Supervisor policies & practices to see if approval times could be shortened.

Create a project contact/project manager to navigate the applicant through the permitting process & be an advocate for the applicant during the process

Amend ordinances to allow Plan of Development and subdivision approval in one application

- Provide on going updates on economic development progress to County residents

Media releases, posting on County web site, periodic public meetings and roundtable discussion and other methods.

2. Stimulate Investment in Tuckahoe Creek Service District to Build County's Tax Base

- Amend the Comprehensive Plan and Zoning ordinances to allow for mixed use (retail, services, multi tenant offices and some multi family residential) development in selected locations within the District.
 - Prepare master plans that include mixed use (in selected areas) that is approved by the County.
 - Prepare and certify selected sites at a Shovel/Pad Ready status.
 - Promote the area to prospective retailers, investors and companies.
3. *Business Growth Along the I 64 Corridor (in the vicinity of Exits 148, 152 and 167)*
- Evaluate existing/potential parcels available for industrial, distribution and commercial activities.
 - Develop plan to enhance water/sewer/telecom at each exit (I-64). May include partnering with Louisa County and/or the State.
4. *Expand venues to support outdoor related tourism*
- Identify and development access points on the James River within the County for canoeing, kayaking and fishing.
 - Lay out a road trail for biking in different parts of the community, identified by signage. Develop map of trails and a description of interesting sites along the trail and place it on web site.
 - Working with Parks and Recreation, develop a series of trails for walking, observing birds/wildlife, mountain biking and horseback riding throughout the County. These trails could be the most popular tourist attraction in the County once established.
5. *Promote additional sports and other outdoor events that leverage the outdoor venues*
- Triathlon including biking, running and canoeing/kayaking.
 - Road races for bikes.
 - Special events for birding and hiking for groups.

6. Nelson County

Nelson County is a small, mountainous, rural jurisdiction south of Charlottesville, bisected by Route 29, and includes the four-season resort of Wintergreen. I-64 runs east and west in Albemarle County, just to the north of Nelson. Its population size is similar to Clarke County's.

The County's goals for Economic Development are:

- Enhance the quality of life for Nelson County residents by maintaining and encouraging a diverse and vibrant local economy in designated development areas and compatible with the county's size and rural character.

- Seek to have new residential development support the additional county costs associated with the development.
- Support and encourage tourism as a viable means to diversify the local economy.
- Recognize the importance of the county’s agricultural economy as an integral part of Nelson’s economic heritage and as an important part of the current economy.

The County’s Economic Development Authority has a simple mission statement which is “*to promote the diversity and growth of the County’s economic base.*”

The EDA’s strategic plan has four goals with objectives, in order of priority:

Goal 1. Business and Industry Development

1. Business retention and expansion
2. Rehab and renovated existing vacant buildings
3. Target industry study

Goal 2. Communications and Relationships with Other Economic Development Actors

Objectives:

1. Spur/encourage other economic development groups to become more active and develop relationships with other economic development actors. Activities to accomplish this objective – meet with the following groups (amongst others) in the next 12 -18 months: - Chamber of Commerce - Hospitality and Travel Association - NAMA - School Board - Farm Bureau - Service authorities - Planning District Commission - Industrial Development Authorities of neighboring counties - Historic society.
2. Get word out to public regarding what the EDA can do for community, in addition to educating the public regarding the benefits of economic development, tourism, and the like.

Goal 3. Education, Workforce, and Technology

Objectives:

1. Work with Nelson County School District in developing entrepreneurship, whether through courses, seminars, etc.
2. Conduct a workforce audit (labor market study).
3. Prepare for adult education and retraining needs.
4. Continue to monitor internet technology opportunities and to develop internet technology access plan for County.

Goal 4. Tourism

Objectives (in rank order):

1. Improve signage in County
2. Diversify tourism base in County
3. Develop infrastructure to support tourism (current and future), including hotels, restaurants, workforce, housing for tourism workforce, etc.
4. Maintain inventory of tourism product and infrastructure

7. Rappahannock County

Rappahannock is one of the smallest counties in Virginia, both in population and land area. It has only 7,500 people on 267 square miles. It lies to the south of Clarke County, and is separated from Clarke by Warren County and the Blue Ridge Mountains, which border it on the northwest. The Rappahannock River borders it on the northeast. The topography is hilly and nearly two-thirds of the County is classified as forestland. The County's population has remained very stable, and at 7,500 people today, it has only 300 more people than it did in 1940, although after losing population after World War II, it has added 2,300 people since 1960 (a 45% increase).

Although agriculture remains the foundation of the County's economy, it plays a smaller role than it has in the past, although it has shown signs of resurgence in recent years with a rise in specialty "niche" markets, such as grapes and organic products. A substantial portion of the labor force commutes out of the County to jobs in neighboring jurisdictions.

The cornerstone of the County's land use planning is the declaration of Rappahannock as a "scenic county", which means:

- One in which preservation and enhancement of the natural and historic beauty and cultural value of the countryside shall be respected as being of foremost importance, and
- One in which conditions for a sustainable agricultural and tourism economy not be dependent upon traditionally defined growth patterns as have developed in jurisdictions to the east as a consequence of the growth of the Washington, D.C. metropolitan area.

Thus, the County's goals emphasize preservation of agriculture land, and natural, historic, recreational, and scenic values. However, the County's plan also encourages residential development in designated growth areas, including the desire for the broadest possible range of housing opportunities, styles and configurations, within the context of a rural, agricultural community.

The County promotes only economic growth that is compatible with environmental quality and rural character. In particular, it aims to limit strip commercial development, and to focus new businesses on Lee Highway between the old Toll House and Rock Mills Road (Rt. 622).

8. Warren County

Located contiguous to the south of Clarke County, Warren County has a significantly larger population than Clarke, and includes the Town of Front Royal as its county seat.

The County's Economic Development Authority has prepared economic development strategies that center on targeting companies in the following sectors:

- Manufacturing
- Food Preparation/Packaging/Distribution
- Technology
- Bio-Medical Technology
- Health and Wellness
- Distribution and Logistics
- Hospitality

The EDA's guiding objective is to create 300 new jobs in 2013-2015, although it also intends to focus on capital intensive firms with high-paying jobs, as well as expanding industrial uses in the Rt. 522 corridor.

In association with its aggressive objectives for job growth, the EDA plans to work with the Town of Front Royal and Warren County to expand the supply of workforce housing that offer a diverse range of housing types and prices.

The County's Comprehensive Plan establishes economic goals and objectives which include achieving a diverse tax base, fostering the growth of existing businesses, coordinating the Town and County's tourism marketing efforts, increase the group tours and festivals in the community, attract Shenandoah National Park visitors, and support local and regional agricultural tourism.

Implementation efforts include:

- **Enterprise Zone** - expanding and extending the County's enterprise zones
- **Public/Private Partnerships** - encourage public/private partnerships that will provide well serviced industrial sites which can be developed quickly.
- **Shell Building Program** - Invest in a shell building program that will provide available space as well as incubator facilities for new and small businesses.
- **Site Identification** - Identify potential sites compatible with the Future Land Use map for industrial, commercial, and office development, based on the following criteria:
 - Availability of infrastructure.
 - Commercial/Community Center location.
 - Access to major transportation routes.

- Compatibility with surrounding development.
- **Tourism** - Continue to emphasize and promote tourism as an industry. This should be accomplished through coordination with local, regional, and State tourism development Boards and agencies.
- **Water/Sewer Service** - Examine alternative means of providing solutions for servicing the County's water and sewer needs, including State and Federal agency grant funds. Ultimately, a regional water/sewer authority should be developed.

The County also has a variety of economic development programs and activities, including a micro loan program (in which Clarke County participates), a technology consortium which works to address high speed bandwidth availability and cellular phone coverage, as well as an industrial roundtable hosted by the EDA which is a quarterly luncheon meeting of plant managers and leaders from larger industries to discuss issues of interest.

Best Practices in Rural Communities

A review of the literature for rural economic development practices shows several trends:

- 1 Efforts to expand, recruit and develop industrial uses that fit local resources and markets
- 2 Efforts to Strengthen Downtown Business Districts
- 3 Efforts to use local natural and historic assets to support tourism businesses, “home grown” businesses, and attract “creative class” workers.

1. Efforts to expand, recruit and develop industrial uses

Resources That Support Economic Opportunities

For conventional economic development targets such as manufacturing and distribution, several sets of resources are most important to prospects.

- *Sites and Buildings*: location, size, cost, functionality, and level of readiness.
- *Labor*: the right skill mix, cost and availability.
- *Utilities*: accessible at the right capacity, reliability/redundancy and cost.
- *Transportation*: interstate, air, rail, etc. that meet specific needs.
- *Business environment*: taxes, cost, regulatory climate and local interest.
- *R&D*: applied toward new products, process upgrades and new techniques.
- *Support Services*: professional, technical and software related.

Evaluation of Site Readiness

Sites and buildings are a very fundamental consideration for industrial location. There are seven “levels” of readiness:

Level 1– “Occupancy Ready” - Building in place and in good condition.

Level 2 – “Rehab Ready” – Building in place but unfinished (shell) or needs rehab/ expansion.

Level 3 – “Building Ready” - Zoning permit and/or Building permit approved.

Level 4 – “Pad Ready” site – cleared, graded, with road access in place.

Level 5 – “Shovel Ready” site – zoning in place, site studies complete, site plan approved.

Level 6 – Zoning in place.

Level 7 – Planned for commercial/industrial in Comprehensive Plan but not zoned for such.

A preliminary evaluation of the readiness of key available sites within the County has been made and will be reported at the next stage of this process.

2. Efforts to Strengthen Downtown Business Districts

A recent Ohio State University study (“Central Business Districts: The Measures of Success”) analyzed more than 500 rural and exurban mid-size (population between 2,000 and 15,000) communities and identified proven strategies and policies for developing successful central business districts (CBDs).

1. Well-developed community and government relations built on trust
2. Consistent pedestrian traffic
3. Effective downtown promotion
4. Easy access to good financial and educational resources
5. Reliable communication network
6. Active downtown business recruitment and retention
7. Transparent and flexible planning and zoning
8. Capable, collaborative business and civic organizations
9. Physical design of the CBD
10. Strong neighborhood customer base (which yields daily and year-round sales)

While these efforts would be mainly focused on the Town of Berryville, they also pertain in part to the entire Berryville Growth Area. Further, the Town and County continually cooperate in various planning efforts, so the jurisdictional boundaries are not true barriers to economic development strategies.

3. Efforts to use local natural and historic assets to support tourism businesses

Several broad strategies are emerging in many other localities across the nation that have similar attributes to Clarke County. Some of these may fit well with Clarke’s growth management and economic goals.

- **Place-based development** capitalizes on the distinctive and special characteristics of a particular place, such as its natural resources, cultural heritage, and other amenities. Clarke County’s position as the so-called “central park” of the region is particularly important to this concept.
- **Economic gardening** relies on “growing your own” by cultivating local entrepreneurs and small firms, and creating an environment that supports their growth. This is particularly relevant to Clarke County’s location in the midst of highly competitive jurisdictions like Loudoun and Frederick counties.
- **Creativity and talent cultivation** involves fostering an environment that supports individuals and firms who use art or design in their products and services. The “creative class” of workers in the modern economy is an important potential asset to rural communities like Clarke County that are on the fringe of major metropolitan regions. Attracting “creative class” talent draws new people for those jobs, and thus expands the population. Thus, the benefits must be weighed against the impact of additional residents.

Several specific opportunity areas offer potential for follow-up from the general strategies noted above:

- **“E-commerce” and telework** offer multiple business opportunities, from enabling professionals to work from a rural home to creating new e-commerce businesses that can link to global markets. High quality broadband infrastructure is critical. These opportunities relate directly to the “economic gardening” of small businesses, and can be encouraged by providing networking opportunities, expansion of the micro-loan program, regulatory streamlining, etc.
- **“Ecosystem services”** such as habitat and watershed protection, in part through collaboration with environmental groups that see the value of working landscapes as a way to conserve and enhance the natural environmental resources.
- **Opportunities for a return to regional food systems** that can bolster local regional economies, particularly when larger stores are buying local products. The growing interest in local fresh food supports this strategy, as well as the County’s proximity to a large metro population.
- **Sustainable agricultural systems.** Sustainable agriculture is based on substituting internal inputs, including labor and management, for externally purchased ones. Specific practices include "natural" processes such as nutrient cycling, nitrogen fixation, and pest-predator relationships; greater reliance on biological potential of plants and animals; and improved management of soil, water, and energy.
- **Alternative energy**, through wind farms, solar farms, and other alternative energy generators (subject to mitigation or avoidance of any environmental issues that would conflict with tourism and other planning goals).

All of these strategies are underpinned by four tenets for rethinking economic development in the modern economy:

- 1 - *Innovation* is the key to driving growth and prosperity in today’s global economy
- 2 - *Investments* of capital are required to put innovations to use
- 3 - *Preservation* of valuable natural assets provide a foundation for the new rural economy
- 4 - *Connections* of dense networks among individuals, organizations, and communities provide the social infrastructure to expand the local rural economy.

As the County’s new economic development strategy is formulated, all of the above concepts should be considered for incorporation into specific policies and actions.

E. Population, Employment and Land Use Forecasts

A key factor in economic development strategy is ensuring adequate and suitable land is available for appropriate job growth, as well as for expected population growth. This analysis includes:

- Population Forecast (provided by the Virginia Employment Commission)
- Employment Forecast (based on regional as well as local trends)
- Land Demand for expected population and job growth

The results of this analysis shows that the County as a whole has adequate land allocated by zoning and/or subdivision approval to accommodate the expected residential and employment uses for the next two decades or more. In both cases, however, some this land does not meet the precise levels of readiness and suitability to meet the current market needs.

Residential Land Demand Forecast

	2000	2011-12	2020	2030	2040	Total Change 2011-2040
Total County Population¹	12,652	14,323	15,025	15,871	16,631	2,308 people
Total Dwelling Units		6,238 ¹	6,594 ²	7,052 ²	7,451 ²	1,213 units ²
Population per Unit		2.48 ¹	2.45 ²	2.42 ²	2.40 ²	
New Units needed³						
Urban			214 units	275 units	240 units	728 units
Rural			143 units	183 units	160 units	485 units
Total			356 units	458 units	399 units	1,213 units
Total Average Density of All New Units⁴			0.71 units/ac	0.71 units/ac	0.71 units/ac	
Residential land absorption⁴						
Urban			71 ac	91 ac	79 ac	
Rural			428 ac	549 ac	479 ac	
Total			499 ac	640 ac	558 ac	1,696 acres
Land Capacity						
Urban lots available ⁵		782	568	294	54	
Rural lots (DUR) available ⁶		3,699	3,556	3,373	3,214	
Total		4,481	4,125	3,667	3,268	

¹ U.S. Census Bureau and Virginia Employment Commission (note: this is a slightly lower forecast for 2020 than that by SPA)

² Herd Planning & Design (forecasts assume average 7% vacancy rate)

³ Herd Planning & Design (based on 20-year trend of 44% of new lots located in rural areas)

⁴ Herd Planning & Design (assumes urban lots avg. 0.33 acres and rural lots avg. 3.0 acres) Absorption rate based on population forecast)

⁵ Herd Planning & Design (includes only land within the Berryville Growth Area as estimated by the Town of Berryville in the BADA meeting summary 2-27-13)

⁶ Herd Planning & Design (Dwelling Unit Rights (DUR) represent existing or potential lots in rural zoning districts estimated by Clarke Co.)

Employment Land Demand Forecast

		2010	2020	2030	2040	Total Change 2011-2040
Total Jobs in County ¹		3,777	4,383	5,087	5,904	2,127 jobs
Total Jobs added		n/a	606	704	817	2,127 jobs
Square Feet of Employment Space	Sq. Ft. / Job ²					
Retail ³	450 sf/job		68,175	79,200	91,913	239,288
Office ³	200 sf/job		30,300	35,200	40,850	106,350
Industrial/warehouse ³	900 sf/job		272,700	316,800	367,650	957,150
Total			371,175	431,200	500,413	1,302,788
Acres needed	Floor Area Ratio					
Retail	0.22 ⁴	F.A.R. ⁵	7 acres	8 acres	10 acres	25 acres
Office	0.25 ⁴	F.A.R. ⁵	3 acres	3 acres	4 acres	10 acres
Industrial/warehouse	0.18 ⁴	F.A.R. ⁵	35 acres	40 acres	47 acres	122 acres
Total			45 acres	51 acres	61 acres	157 acres

¹ Herd Planning & Design, assumes correlation with regional job growth forecast from Virginia Employment Commission

² Herd Planning & Design, based on data from GMU Center for Regional Analysis and NPA Data Services, Inc.

³ Herd Planning & Design, assumes 50% industrial, 25% office, 25% retail

⁴ Herd Planning & Design, based on local and regional patterns

⁵ Floor Area Ratio (the ratio of total square feet of building to total site acreage)

According to estimates made by the Town of Berryville (BADA meeting summary 2-27-13) there is currently enough zoned but undeveloped land within the Berryville Growth Area to accommodate over 400,000 square feet of business/industrial uses, and nearly 300,000 square feet of business/retail uses, in addition to existing vacant space.

4. Potential Strategies for Economic Development

This section lays the groundwork for developing specific economic development strategies and actions for the County, by identifying and clarifying key opportunities and constraints. A Strategic Plan for action will be the next major task of work.

A. Constraints to Economic Growth and How to Overcome Them

Clarke County has some significant constraints to growth of its tax base and the local economy. Some of these are immutable, while others can be mitigated or overcome.

Further, some of the “constraints” are also advantages or opportunities when seen in a different context. This dichotomy of advantages and disadvantages is an important theme for the County because in order to be more successful in growing the tax base while still achieving its other quality of life goals, the County must embrace the dual nature of its key assets, particularly the small population size, and stable rural land base.

Thus, part of developing an economic development strategy is to determine ways to turn “disadvantages” into advantages by converting “permanent” constraints into opportunities.

Major Immutable Constraints:

- Small local population and slow growth economic base
- Distance to I-81, the one interstate highway that serves the western portion of Northern Virginia
- Competition from adjacent jurisdictions

Major Constraints to Mitigate:

- Few “Occupancy Ready” or “Shovel Ready” industrial sites
- Lack of public utilities in some areas designated for future development
- Limited number of locations where development is being promoted
- Limited County staff resources to support economic development activities

B. Options for the Magnitude, Locations, and Types of Economic Growth

Findings are based on the results of research and analysis done to date, including general public input, discussions with local business leaders, analysis of local and regional market activities, and research on “best practices” in other localities.

Six economic sectors were examined:

Industrial – strongest prospects for greatest economic benefit in the short term

Retail – stable but constrained by regional competition and limited population growth

Office – relatively small market

Agriculture – faces challenges but good potential for sustainability and greater linkage to tourism

Tourism – strong long-term potential in light of local resources and regional location

Housing – the right kind of housing in the right location can be an economic asset

The context of this analysis is that the County’s economic development strategy must fit into its overall planning and growth management goals, which strongly emphasize protection of the agricultural, natural, and open-space character of the County.

Industrial

In the short term, the County has good prospects for additional light industrial development, particularly by providing small sites suitable for smaller industrial businesses which serve the local and regional market. These types of sites can help the County attract “spillover” development from Loudoun County (Purcellville area), Frederick County (Winchester vicinity), and in the longer term Warren County (Rt. 522 corridor).

The County has a significant amount of suitable industrial space available, including 100,000± square feet of space within the Town of Berryville in the Station Road area. Much of the current available industrial space is not being absorbed, in part due to it being older and outdated space. Thus, the County could be proactive in helping to get the space onto the market at competitive rates.

In the longer term there may be potential for specialty uses such as federal facilities, institutional facilities, and the like. Examples include the Mt. Weather facility on the Blue Ridge mountain, the FBI facility in Winchester, and the Library of Congress facility in Culpeper (Packard Campus of the National Audio-Visual Conservation Center). These types of projects offer the opportunity for ancillary economic growth.

However, these projects are relatively rare, and the County has less ability to be proactive in pursuing them. Further, they typically require significant infrastructure, zoning approval, and face stiff competition from neighboring localities. Yet the County can position itself to be nimble in reacting to such opportunities that may emerge in the future, particularly with large properties at more affordable prices.

Specific conventional industrial development opportunities:

- **Light Manufacturing**

This segment includes production and assembly of components for a variety of types of industrial equipment and industrial and consumer goods, as well as food processing and packaging, and high value wood products. It also includes paper, metal, and/or electronics recycling. Several of these kinds of prospects have shown an interest in the available sites in the Berryville area.

The County has several sites with good potential for many types of users, at competitive prices, with available utilities and good access to the regional highway network, although

some of the sites have various deficiencies which to date have delayed full lease-up or sale. If these deficiencies are corrected, these sites could be competitive in the regional market.

- **Limited Distribution/Service Space**

Includes small distribution, service businesses, warehouse and transfer facilities with local and regional scope, often directly associated with a local manufacturer. The available sites for manufacturing are also suitable for distribution uses.

- **Local business services**

Includes support services for local businesses and residents, including well-drilling, cabinet making, printing, construction services, etc. In general, the available sites for manufacturing and distribution are also suitable for business services, although additional smaller sites of one to three acres would be desirable.

In summary, the County has relatively cheap land prices compared to regional competitors, which for some users can off set disadvantages such as proximity to I-81. However, the County lacks a good supply of updated sites and buildings. Working with landowners to expand the supply and improve the suitability of sites would enhance the County's competitive position in attracting light industrial users. Since the best sites are in and around the Town of Berryville, it is essential that the Town and County coordinate their efforts for mutual benefit.

Retail

The market for retail space is fairly stable, but growth is hindered by regional competition and a small and slowly growing household population, despite the County's relatively high household income. While there is some potential to capture a greater share of local disposable income as well as to capture additional retail business from through-traffic, the County will do well to simply maintain a stable retail commercial base unless there is further growth in population and/or household income. In the meantime, significant retail expansion will likely be limited mostly to the tourism and agriculture sectors as noted below.

Office

Like the retail sector, the office space market is small. The existing space with adequate parking is mostly leased. Local real estate brokers have some available land for new office space development, but have been unable to market it. There is likely some level of demand for new office space, but marketable sites must be made available. The key is to have land that is fully permitted and on sites with adequate parking. However, the total size and value of office and retail space in the County is too small to offer strong potential for significant expansion of the County's economic base or tax base, compared to the potential for industrial development.

In the longer term, the County may be able attract growth in the professional, technical, and creative services sector, due to the County's competitive price for land services, supplemented by its unique position in the region as a pristine rural environment with good access to a large regional job market. This sector includes a wide range of activities including accounting,

software development, graphic design, etc. These will tend to be firms with relatively few employees and small space requirements, but which may have wide-ranging client bases.

This sector also includes the growing trend of high-end home occupations, either as independent businesses or as satellite offices of larger companies located in nearby urban areas. With improved telecommunications technology, the County has good long-term prospects for growth in the home-based, creative-class workforce. The County's rural amenities such as the rural landscape and outdoor recreational opportunities will help attract and retain these kinds of businesses, but they also need certain urban amenities that support small, independent business life styles, including restaurants, coffee shops, business support services, etc. While these kinds of amenities are often associated with larger concentrations of population, as the population of the Berryville Area increases, the market support for these types of businesses will also increase.

Agriculture

The agriculture sector is under increasing pressure from changing markets and regional population and land value increases. However, the County land use policies and regulations have been effective in creating a generally stable land base to support agriculture, especially compared to neighboring jurisdictions. While the pressures for change are not expected to abate, many of these changes (markets, population increase, etc.) also offer new opportunities. The County is well positioned to benefit from the increase in regional population by tapping into niche markets and products in the agricultural sector, in addition to its traditional commodity products. Potential expansion areas could include horses and equine-related businesses, vegetables, higher-intensity crops, etc. Many of the new agricultural markets intersect with the tourism sector, which is discussed in more detail below.

Tourism

The tourism sector is highly competitive and many other localities have attributes and resources similar to Clarke's. However, there is still significant potential for tourism to play a bigger role in the County's economy in the long term, in light of the quality of the local historic, scenic, recreational, environmental and agricultural resources. Yet tourism should not be the sole foundation for future economic development as it is unlikely to generate the desired tax base increase.

Substantial progress in expanding the local tourism sector will also require professional staff support, from the County and/or from the private sector. Volunteers alone are not likely to be able to support a competitive and robust local tourism sector. Tourism expansion will also be most effective if pursued on a regional basis in cooperation with neighboring localities, institutions, and businesses.

While tourism development does not tend to attract a large amount of permanent population growth, it does raise issues similar to those associated with other forms of job growth, as well as with housing development – i.e. traffic, land use intensification, and changes to the rural character of the County.

Rural tourism (agri-tourism, heritage tourism, and ecotourism) has significant potential for growth in Clarke County, but mainly as a long-term prospect. The rural communities that have

successfully transformed their economies are mainly places with economic bases in retirement, recreation, trade centers, and those near urban areas. Clarke County has most of these features. However, most rural tourism enterprises are not as economically intensive as industrial or office uses, for example. Rural tourism activities include:

- Agriculture Festivals
- Antique Stores
- Bed and Breakfasts
- Farmers' Markets
- Mazes (corn, hay)
- Wineries
- Tractor Pulls/Hay Rides
- Horse stables/riding
- Petting Zoos
- Pet Shows
- Pet Competitions
- Roadside Markets
- Scenic Byway Tours
- Ecosystem Preserves
- Hiking
- Rafting
- Living History Farms
- Pick-Your-Own Farms
- Wedding Venues
- Rural retreats/camps

Although it will not create a massive amount of jobs in any one rural region, agri-tourism can be an important component of a sustainable agricultural economy. Regionalization is a critical strategy for developing an agri-tourism experience, drawing on the clusters of interesting sites, activities, and events that have linkages across jurisdictional boundaries.

With many excellent resources for leveraging tourist activity, including the Shenandoah River, the Appalachian Trail, historic sites, towns and villages, and local-oriented farming operations, the County is well situated to expand its tourism sector, especially in conjunction with its neighboring localities, as a long-term strategy, but not a short-term fix.

The 2013 Virginia State Tourism Plan prepared for the Virginia Tourism Corporation provides a useful framework for stakeholders in the region to develop the tourist industry. For the Shenandoah Valley, the Plan identifies the primary focus areas (“themes”) as: Nature and Outdoor Recreation, Town/City Centers, History & Heritage, Arts & Music, and Events. It defines secondary focus areas as: Culinary (Agri-tourism, Dining, Wineries), Meetings (Meetings & Conferences), Sports, Industry (Corporate/Business Base), and Commercial Attractions (Family, Higher-end).

Some of the key policy recommendations it offers for the region as a whole are applicable to Clarke County specifically, and will be further developed as the Economic Development Strategic Plan is created. These are consistent with the above analysis and include:

- Enhance collaboration among tourist attractions through additional trail, package and itinerary development, based on key visitor themes for the region (nature/outdoors, history/heritage, town/city centers, music, arts, wine, agri-tourism, and others)
- Explore theme trail development to enhance destination and attraction connectivity
- Continue niche market promotions where appropriate, including Civil War enthusiasts
- Continue to improve intra-government coordination and collaboration among the multiple destinations
- Explore the development of a tourism council at the community level in localities where policy enforcement is recognized as an issue. The council should be comprised of public and private stakeholders that are responsible for overseeing the use of tourism tax revenue in the community.

Housing

- There could be strong growth in the County’s housing market, but additional housing must be of a type and location that is consistent with the County’s overall goals for growth management, agriculture, environmental conservation, and fiscal well-being. Housing can be fiscally and economically positive if it is high value, high quality, properly located, and served by adequate infrastructure. New housing should thus be primarily located within the Berryville Growth Area where the County seeks to focus residential development and should be consistent with the land use goals and policies pertaining to that area.
- In addition to conventional housing, the County could expect a growing market opportunity for senior living facilities, including assisted living, rehabilitation, and nursing care facilities (or inclusive “continuing care” facilities) that serve the local and regional market. Sites within the Berryville growth area would be most appropriate.
- Overall, the County should strive to achieve and maintain a balanced housing supply, including housing for a full range of age and income groups, thereby balancing the costs and benefits of the different demographic groups that occupy different housing types, and providing greater stability in the County’s residential tax base, as well as in the local work force.

A. Identification of Methods for Retaining and Growing Existing Businesses

Several general methods are appropriate:

- Promote the creation of viable locations for growth, meaning newer buildings and more modern buildings in suitable locations.
- Promote the creation of a “critical mass” of companies that will provide needed ancillary uses for area businesses.
- Facilitate expansions and upgrades of existing operations by working with local businesses to ease the process of obtaining permits and site improvements to expand facilities on existing sites, or to relocate to other larger local sites.

B. Potential Strategies – Short-Term and Long-Term

Short-term strategies refer to public-private investment in areas where current market support exists. Long-term strategies will result from approved policies that will lead to new infrastructure in designated “controlled” growth areas.

Specific actions will be further developed in subsequent work as the Strategic Plan is developed.

Strategic Action Framework

Leadership, Vision, and Policy

- Refine and Clarify Economic Development Policies, Programs, and Priorities (implement policies that promote an “open for business” image)
- Expand County Economic Development staff capacity - including marketing and tourism capabilities
- Continue and enhance the working relationship between the County and the Town of Berryville regarding all economic development efforts

Communications and Marketing

- Enhance working relationships with agencies, institutions, groups, and businesses
- Expand targeted economic development promotional efforts - web presence - including social media and other web-based tools - media relations, tours and visitations, partner organizations

Business Resource Development - Retention and Attraction

- Work with key landowners to improve site readiness
- Provide incentives for location, expansion, and retention
- Streamline and fine tune zoning regulations and permitting processes
- Promote public and private investment to improve resources, information, facilities/utilities/access, financing
- Explore Tax Increment Financing (TIF) for key areas

Promote Agriculture and Tourism Infrastructure and Activities

- Coordinate efforts of tourist-related activities and resources, including cross-promotion
- Promote key resources – trail, river, historic sites, etc.
- Expand special events calendar – birding, hiking, competitions, festivals, dog shows, etc.
- Foster development of rural tourist business enterprises with suitable regulations
- Promote high value-added agri-business, equine industry, and related activities

Next Steps in this Planning Process

Immediate next steps in this process include:

- Meet with the Planning Commission and EDAC to review the findings of Technical Memorandum #2. *[completed 10/29/13]*
- Develop specific strategies and actions to take advantage of the County’s assets and mitigate its disadvantages, based upon this analysis and further input from County.
- Work with the Planning Commission, EDAC, and other key stakeholders to refine these strategies and actions, and compile them into a draft Strategic Plan element.

APPENDIX – A [of Technical Memo #2]

Comparison of Local Tax Rates in Peer Communities

Real Property Nominal Tax Rates for Localities Reporting, 2011 (Rate per \$100 of Assessed Value)

	Cities	Counties
Mean*	\$0.94	\$0.61
Median	\$0.94	\$0.58

*unweighted

Real Property Nominal Tax Rate 2011

County	Rate/\$100		
Botetourt	\$0.65		
Clarke	\$0.62	Berryville	\$0.0116
Fauquier	\$0.97	Warrenton	\$0.015
Fluvanna	\$0.57		
Frederick	\$0.545	Winchester*	\$0.86
Goochland	\$0.53		
Nelson	\$0.55		
Rappahannock	\$0.58		
Warren	\$0.59	Front Royal	\$0.11

*base rate (not including special districts)

Tangible Personal Tax 2011

County	Rate/\$100		
Botetourt	\$2.55		
Clarke	\$4.69	Berryville	\$1.00
Fauquier	\$4.65	Warrenton	\$1.00
Fluvanna	\$4.15		
Frederick	\$4.86	Winchester	\$4.50
Goochland	\$4.00		
Nelson	\$2.95		
Rappahannock	\$4.20		
Warren	\$4.00	Front Royal	\$0.64

Tangible Personal Tax 2011 - for Large Trucks

County	Rate/\$100		
Botetourt	\$2.55		
Clarke	\$4.69	Berryville	\$1.00
Fauquier	\$4.65		
Fluvanna	\$4.15		
Frederick	\$4.86	Winchester	\$4.50
Goochland	\$4.00		
Nelson	\$2.95		
Rappahannock	\$4.20		
Warren	\$4.00	Front Royal	\$0.64

Tangible Personal Tax 2011 - Heavy Tools & Machinery

County	Rate/\$100		
Botetourt	\$2.55		
Clarke	\$4.69	Berryville	N/A
Fauquier	\$2.30	Warrenton	\$1.00
Fluvanna	\$4.15		
Frederick	\$4.86	Winchester	\$4.50
Goochland	\$4.00		
Nelson	\$2.95		
Rappahannock	N/A		
Warren	\$4.00	Front Royal	\$0.64

**Tangible Personal Tax 2011
Computer Hardware**

County	Rate/\$100		
Botetourt	\$2.55		
Clarke	\$4.69	Berryville	N/A
Fauquier	\$2.30	Warrenton	\$1.00
Fluvanna	\$4.15		
Frederick	\$4.86	Winchester	\$1.09
Goochland	\$4.00		
Nelson	\$2.95		
Rappahannock	N/A		
Warren	\$4.00	Front Royal	\$0.64

Tangible Personal Tax 2011
Generating Equipment

County	Rate/\$100		
Botetourt	\$2.55		
Clarke	\$4.69		
Fauquier	\$2.30	Warrenton	\$1.00
Fluvanna	\$4.15		
Frederick	\$4.86	Winchester	\$4.50
Goochland	\$3.75		
Nelson	\$2.95		
Rappahannock	N/A		
Warren	\$4.00		

Machinery and Tools
Property tax 2011

County	Nominal rate/\$100		
Botetourt	\$1.80		
Clarke	\$1.25	Berryville	\$1.00
Fauquier	\$2.30	Warrenton	\$1.00
Fluvanna	\$2.00		
Frederick	\$2.00	Winchester	\$1.30
Goochland	\$3.75		
Nelson	\$1.25		
Rappahannock	N/A		
Warren	\$1.30	Front Royal	\$0.60

BPOL Tax Rates 2011
(selected categories)

County	Rates per \$100					
	Retail			Financial, RE and Prof. Services		
Botetourt	0.10	Fincastle	0.08	0.29	Fincastle	0.23
Clarke	N/A	Berryville	0.12	N/A	Berryville	0.15
Fauquier	0.10	Warrenton	0.10	0.2975	Warrenton	0.2975
Fluvanna	N/A			N/A		
Frederick	0.20	Winchester	0.20	0.58	Winchester	0.58
Goochland	0.05			0.15		
Nelson	N/A			N/A		
Rappahannock	N/A			N/A		
Warren	0.14	Front Royal	0.12	0.39	Front Royal	0.36

Meals (restaurant) 2011

County	%		
Botetourt	4.0%	Fincastle	4.0%
Clarke	N/A	Berryville	2.0%
Fauquier	N/A	Warrenton	4.0%
Fluvanna	N/A		
Frederick	4.0%	Winchester	5.0%
Goochland	N/A		
Nelson	4.0%		
Rappahannock	4.0%		
Warren	4.0%	Front Royal	4.0%

Transient Occupancy Tax 2011
Hotel and Motel

County	%		
Botetourt	5.0%	Fincastle	N/A
Clarke	2.0%	Berryville	N/A
Fauquier	2.0%	Warrenton	4.0%
Fluvanna	N/A		
Frederick	2.0%	Winchester	5.0%
Goochland	N/A		
Nelson	5.0%		
Rappahannock	2.0%		
Warren	2.0%	Front Royal	6.0%

APPENDIX – B [of Technical Memo #2]

Comparison of Local Availability Fees

VARIOUS WATER AND SEWER AVAILABILITY FEE RATES

Source: Clarke County, 2013

For this study, a 5/8" or 3/4" meter was utilized for a 500 gpd service, a 2" meter was utilized for a 2,000 gpd service, and 4" meter was utilized for a 10,000 gpd service.*

	500 gpd- Water	500 gpd- Sewer	500 gpd- Total	2,000 gpd- Water	2,000 gpd- Sewer	2,000 gpd- Total	10,000gpd- Water	10,000gpd- Sewer	10,000 gpd- Total
CCSA	\$27,600	\$40,500	\$68,100	\$110,400	\$162,000	\$272,400	\$552,000	\$810,000	\$1,362,000
Town of Purcellville	\$38,631	\$32,400	\$71,031	\$206,032	\$172,800	\$378,832	\$643,850	\$540,000	\$1,183,850
Berryville	\$7,825	\$34,125	\$41,950	\$42,000	\$182,000	\$224,000	\$131,250	\$568,750	\$700,000
Fauquier County, VA	\$9,750	\$21,000	\$30,750	\$52,000	\$112,000	\$164,000	\$195,000	\$420,000	\$615,000
Town of Lovettsville	\$12,150	\$17,850	\$30,000	\$64,800	\$95,200	\$160,000	\$202,500	\$297,500	\$500,000
Loudoun County, VA	\$7,616	\$6,417	\$14,033	\$91,392	\$77,004	\$168,396	\$116,700	\$276,900	\$393,600
Stafford County, VA	\$10,350	\$5,250	\$15,600	\$55,200	\$28,000	\$83,200	\$172,500	\$87,500	\$260,000
Culpeper County	\$9,750	\$15,000	\$24,750	\$37,104	\$40,056	\$77,160	Negotiate w/BOS	Negotiate w/BOS	Negotiate w/BOS
Rockbridge, VA	\$4,000	\$4,500	\$8,500	\$32,000	\$36,000	\$68,000	\$120,000	\$135,000	\$255,000
Chesterfield County	\$4,795	\$4,025	\$8,820	\$38,360	\$32,200	\$70,560	\$119,875	\$100,625	\$220,500
Frederick County, VA	\$6,388	\$12,534	\$18,922	\$11,931	\$33,043	\$44,974	\$46,115	\$159,519	\$205,634
Rockingham County	\$2,650	\$5,300	\$7,950	\$21,175	\$42,325	\$63,500	\$66,125	\$132,250	\$198,375
Botetourt County, VA	\$3,200	\$3,250	\$6,450	\$22,600	\$16,250	\$38,850	\$90,110	\$58,750	\$148,860
Strasburg	\$11,950	\$11,825	\$23,775	\$21,510	\$30,745	\$52,255	\$40,630	\$76,863	\$117,493
Winchester, VA	\$5,000	\$7,400	\$12,400	\$13,500	\$10,600	\$24,100	\$30,000	\$45,000	\$75,000
Orange County, VA	\$2,000	\$8,220	\$10,220	\$5,658	\$18,985	\$24,643	\$10,000	\$33,560	\$43,560
Halifax County	\$1,250	\$1,500	\$2,750	\$4,000	\$4,800	\$8,800	\$8,000	\$9,600	\$17,600

*Note that Berryville charges \$5,250 for a 5/8" meter and \$7,825 for a 3/4" meter; \$22,750 for sewer with a 5/8" water meter, and \$34,125 with a 3/4" water meter.

Appendix 3:

Appendix to Technical Memorandum #2: Market Data and Analysis In Support of Economic Development Strategy

December 5, 2013

Appendix 3: Market Data and Analysis In Support of Economic Development Strategy

The base market data in support of our market study conclusions and economic development strategy plan are presented in this part of the report. As noted above, there are three land uses where new development can be expected, both in the near-term future and within a longer term study period. These include industrial land and building space development, retail and office (commercial) space development and equestrian related expansion, related to commercial uses for the equestrian business. These represent the identified primary development opportunities within the overall Economic Development Strategy.

These are the most logical land uses defined as growth sectors for the Clarke County economy, based on market trends and the ability to generate new growth in locations that are designated for development. Our overall strategies, related to economic expansion, provide other recommendations for County action.

We did not study the housing market, but our overall market research shows that a pent-up demand exists for new apartment units, and for new for-sale homes as the housing market is improving locally and nationwide. Without some new housing unit development, resulting in population growth, the County's prospects for retail and office space development and occupancy are less likely to occur, and the retention of commercial businesses will be more of a challenge.

That said, there are several sizable new subdivisions in active planning in Frederick County that would provide strong competition for County sites. However, there is, and will be, some level of market support for new housing development in Clarke County.

The base market data analysis starts with the following demographic and economic trends and is followed by detailed market analysis of each land use under study. A brief evaluation of the need for more housing unit development is also presented.

Economic Base Overview

Within the economic base overview are three key factors, each related to net new job growth. These are the basic economic factors that support population and household growth and thus, housing unit demand. They are also the key indicators for office space and industrial space occupancy, and ultimately, for growth in retail expenditure potential.

The first table, Table 1, shows trends in at-place jobs within the County and includes data from the Town of Berryville. Data are only current to year-end 2012, with 2013 data not expected to be published until mid-2014. At-place jobs refer to jobs located within the County and Town.

These data are not positive. They show a sizable (21%) decline in jobs in the County since 2002. The County realized job losses prior to the recession of 2008 and that trend continued after the recession officially ended. While most communities generated some net job growth in 2011 and 2012, if not before, that did not occur in Clarke County. There was a modest job decline in both 2011 and 2012.

For the past 10 years, the net decline in jobs in the County was 980. There was modest growth in the industrial categories of Wholesale Trade, Professional/Technical Services and Accommodations/Food. The Health Care sector also was likely a growth category, but Department of Labor disclosure issues with these data do not allow for publication of data. Significant job declines occurred in Manufacturing, and to a lesser extent, in Construction, and Finance/Insurance. Small job increases were realized in the government sector.

The job losses in the Manufacturing sector are troublesome, not only due to the magnitude of the losses, but also to the fact that job declines still are occurring and manufacturing jobs are being studied as the primary industrial job category in the county. There were no major company closures or lay-offs during the past 10 years. The declines in manufacturing jobs shown in Table 1 are likely due to losses at small companies. Data presented below will show increased industrial building vacancy which will “explain” some of the job losses in the manufacturing sector.

Retail trade jobs also declined, but jobs in accommodations/food increased. These trends are important factors in support of an economic development strategy plan. Clearly, the past national recession was a cause of some job losses, but competition from other jurisdictions is another.

Industry	2002	2005	2008	2009	2010	2011	2012
Agriculture, Forestry, Fishing	ND	ND	ND	ND	ND	ND	ND
Mining	ND	ND	ND	ND	ND	ND	ND
Utilities	ND	ND	ND	ND	82	ND	ND
Construction	370	443	385	309	294	286	300
Manufacturing	1,171	1,156	1,103	912	667	618	539
Wholesale Trade	52	95	160	156	152	147	152
Retail Trade	309	298	293	288	284	273	245
Transport. & Warehousing	ND	26	24	22	20	15	17
Information	ND	21	21	19	21	22	18
Finance/Insurance	161	216	104	102	99	97	93
Real Estate	43	48	43	43	39	45	47
Professional/Tech. Services	95	136	165	16	170	198	217
Management of Companies	ND	ND	ND	ND	82	ND	ND
Admin./Waste Services	ND	ND	ND	ND	82	ND	ND
Educational Services	ND	ND	ND	ND	205	237	ND
Health Care	ND	ND	ND	ND	311	339	ND
Arts/Enter./Recreation	97	75	95	104	118	80	52
Accommodations/Food	129	176	168	192	210	220	214
Other Services	161	156	140	141	129	132	133
Local Government	541	577	594	587	581	579	567
State Government	107	105	111	108	110	118	131
Federal Government	<u>34</u>	<u>34</u>	<u>37</u>	<u>41</u>	<u>44</u>	<u>40</u>	<u>37</u>
Total	4,699	4,413	4,298	4,021	3,806	3,794	3,719

Notes: ND = Data do not meet BLS or State agency disclosure standards.

Source: United States Department of Labor, Bureau of Labor Statistics

The industrial job categories where data are not presented due to ND issues are included in the County totals.

Data in Table 2 show the trends in Employment in Clarke County. Employment refers to the number of residents in the County and Town who are employed, no matter where the job is located. The fact that employment is nearly double the size of at-place jobs means that a considerable number of residents of the County commute elsewhere for work, likely west to Winchester or east to Northern

Virginia. While that is a well known fact, data in tables 1 and 2 show the magnitude of out-commuting. As with at-place job data, employment counts are current to year-end 2012.

For the County over the past 10 years, there was a net growth of employment of 554. The County's net employment growth exceeded 750 for the 2002 to 2011 period, but as shown, employment decreased in 2012 after a net gain in 2011. The total number of persons employed in the County is above the 2002 totals, but below the peak year of 2006 and 2008. 2011 was a growth year, but a reversal occurred in 2012.

The County's labor force also declined in 2012 from 2011. These trends "suggest" that County residents did not find as many jobs as desired both in and outside of the County. Another note in the comparison of these two data sources is that employment did not decline prior to the recession, as at-place jobs did. **This indicates that employment losses were primarily the result of job losses in the County.**

While the County's unemployment rate is low compared with the state (5.8%) and national average (7.0+%), it has increased during the recession. Unemployment did decrease in 2010, 2011 and 2012, although the 2012 figure is slightly higher than the 2011 rate. The current unemployment rate is considerably higher than the rate prior to 2009. This would be another indication of job losses in industries such as manufacturing.

Table 2: Trends in Employment and Unemployment, Clarke County, Virginia 2002- 2012

	<u>Labor Force</u>	<u>Employment</u>	<u>Unemployment</u>	<u>Percent</u>
			<u>t</u>	<u>Unemployed</u>
2002	7,103	6,889	214	3.0%
2003	7,200	6,977	223	3.1%
2004	7,512	7,302	210	2.8%
2005	7,788	7,589	199	2.6%
2006	8,065	7,869	196	2.4%
2007	7,978	7,762	216	2.7%
2008	8,151	7,869	282	3.5%
2009	8,270	7,736	534	6.5%
2010	7,902	7,442	460	5.8%
2011	8,040	7,641	399	5.0%
2012	7,842	7,443	399	5.1%
Net Change	739	554	185	2.1%

Source: United States Department of Labor, Bureau of Labor Statistics

Summary. The base economic trends for the County are negative, particularly related to manufacturing jobs. The at-place job trends are more negative compared with employment trends and that is due to: (1) manufacturing job losses in the County and (2) more employment opportunities in neighboring jurisdictions. The manufacturing job losses are problematic as it relates to expected industrial land and building space development.

Frederick County/Winchester is the primary competitive marketplace for Clarke County in terms of industrial uses and retail space. Warren County to the south is not a location that competes with Clarke County due to the small marketplace in that jurisdiction. Purcellville is the closest community to the east in Loudoun County. It is a largely built out community with limited land for new development. Farther east is Leesburg which is a different market compared with Clarke County. Thus, in terms of evaluating Clarke County's economic trends, the Frederick County/Winchester area is the most relevant.

- **Frederick County and Winchester** combined have realized a net growth of 3,000+ at place jobs since 2002. All of that growth occurred in the County. Net job growth occurred in 2011 and 2012.

There were sizable job losses in the Manufacturing sector in the greater Winchester marketplace, consistent with trends in Clarke County. However, there continues to be growth of industrial companies in the Winchester area with new land and building space development and occupancy.

- Employment trends have been positive in the greater Winchester area with a net growth of nearly 9,000 for the past 10 years. Net growth did occur in 2010, 2011 and 2012.
- Both market areas, Clarke County and Frederick County, were affected by the recession. However, Clarke County has not yet “rebounded”, while Frederick County has.

This conclusion is documented by the current development trends in each marketplace, as described below. The growth in the nearby Winchester area places Clarke County in a difficult competitive position.

Clarke County Development Trends

There is a limited number of small active development proposals in Clarke County at this time, indicating that current economic trends may not be reversed in the near term. Part of the reason for the modest level of development activity in the County is a lack of readily developable land, due to a lack of public utilities and /or property owners who are not willing sellers or willing developers. The past recession has been a major issue, and it appears that without some public support, increased development and economic growth may not be at desired levels.

One of the more recent scenarios in new development in Clarke County is the Berryville Graphics expansion. With a public grant provided to Berryville Graphics by County officials, the company consolidated it’s book printing operations at the Berryville headquarters, which is also a manufacturing facility. With this consolidation (when completed), Berryville Graphics will expand its local labor force by 84 new employees and realized the addition of 80+ jobs from a shift of employees from Coral Graphics in Winchester. The County assisted in keeping this company in place, as it has been located in Berryville since 1956. These job growth figures will likely not be counted until 2013 data are published.

Other investments, active and/or planned, in Clarke County, include:

- **The Transfer Company**, currently located on Lloyds Lane near the intersection of East Main Street and the Station Road, needs to relocate from its current location. The company has been in Berryville for 83 years and is looking to relocate to a 30,000± square foot warehouse building. The company is a contractor that stores military family articles at its current location while military families are out of the country. There are government-related restrictions on the type of space to where the company can relocate. This is not a high employment company, but there is strong interest in keeping the company in Berryville. With town staff assistance, company officials are planning to purchase a parcel at Smalley Packaging.
- **The Dollar Store** plans to open a new store in the Waterloo area of the County along 340 South and next to the Handy Mart.
- A new convenience store was approved on Route 340, one mile north of Berryville, that will likely be completed by early-2014.
- There are three wineries in planning, all within close proximity to each other, and all within a mile radius of Route 7 East. Each will likely have a tasting room and will grow grapes on site. Each is on 10 to 20 acres. At full capacity, each should employ 10± workers.
- **Fisher Auto Parts** plans to open a new retail store on Route 7, west of Berryville, at its intersection with Kimble Road. The company will open in an existing industrial building.
- **MODA**, a high-end flooring company out of Florida is expected to lease 20,000 square feet of available industrial space in the large Woodmark Building on Railroad Street.

Clearly, the County must increase the level of new development if it is to generate increased tax revenues. None of these new proposals are of sufficient size to alter current trends. That means County officials will need to be more proactive in generating new development and the most likely area is industrial development.

There is one large project in planning in the County at this time that would generate significant new tax revenue for the County and likely add net job growth. This is the proposed redevelopment of the retail block at one East Main Street that formerly housed the Berryville Hotel. The property is located along the south side of East Main Street in the downtown area. The block runs from Church Street to Buckmarsh Street. The building contains 21,000 square feet of building space and 4,000 square feet of second floor space. There are 13 retail spaces in the building of which 11 are occupied. There are also two apartment units on the second floor. The property has 18 or 19 parking spaces in the rear of the buildings.

The concept is to renovate the building and retain as many of the existing retail tenants as possible. Some new, better capitalized retailers are expected. The sponsor reports that it is unlikely that the second floor can be used for apartment unit occupancy due to the high cost of renovation and the current rent limits that are marketable in the downtown of Berryville. However, that could change once the building is renovated. The proposal is still in active planning and any start of renovation will likely not occur until mid-2014 or after.



Of note is that none of these planned developments are competitive with other marketplaces. The Transfer Company found local space and the retail stores and wineries will serve a local and/or tourist market. Overall, the County and Town are not now in active competition with other jurisdictions for proposed developments, but that is a bad thing. Some modest competition has existed for area industrial buildings, but area realtors were not successful in attracting new industrial companies to the County.

Winchester-Frederick County Economic Development Activity

The following analysis shows the development trends in the greater Winchester area. The purpose of this analysis is to show the types and level of development that is occurring in that marketplace and whether Clarke County can be competitive for these types of companies.

Winchester and Frederick County are the regional commercial, industrial, and medical center. Because of their position as the regional economic center, and the extensive highway system in these

jurisdictions, the greater Winchester's draw for new development is from a substantially broad area. Employers in the area offer a wide variety of private sector jobs ranging from agriculture, forestry, and manufacturing, to retail, professional, educational, manufacturing and medical services.

Winchester's largest employer is the Valley Health Systems, which owns and operates the Winchester Medical Center and five smaller primary care hospitals along with other related services, such as urgent care clinics, home health services, a childcare facility, and transport services. The hospital recently completed a three-year construction project that produced over 368,000 square feet of new and 80,000 square feet of renovated space.

Another major economic "mover" in the City is Shenandoah University. Shenandoah University has recently undergone significant expansions, which include Halpin-Harrison Hall, the new home of the Harry F. Byrd, Jr. School of Business, the Brandt Student Center, the History and Tourism Center, and the forthcoming construction of new administrative offices on the site now housing the Virginia National Guard. More construction is expected to take place in the coming years around the east campus near Shentel Stadium. Today, the University enrolls approximately 4,200 students and employs over 400 people.

The Winchester area also serves as a major retail center for the region. Apple Blossom Mall, a mature enclosed regional shopping center, contains Sears, Belk, and J.C. Penney's as its anchors, along with an additional 85 specialty stores. It is being renovated. Commercial plazas, such as Apple Blossom Corners, Winchester Crossing, and Winchester Station house Martin's, Staples, Kohl's, Office Max, Books-A-Million, Michael's, Old Navy, and HH Gregg. Also, serving the area are three Wal-Mart Supercenters, Lowe's, Home Depot, Big K-Mart, Target, T.J. Maxx, and Pier 1 Imports. The Old Town Mall, a pedestrian mall in the City's downtown, offers a wide range of specialty shops and restaurants. There are also several anchorless strip centers and one life style center that contains Ann Taylor, Jos A Banks Clothier, and other high-end retail stores.

The federal government's presence is also growing in Winchester. The Federal Emergency Management Agency, better known as FEMA, opened a new operation headquarters in a two-building office complex of 120,520± square feet at 430 Market Street in 2008. The facility houses more than 600 FEMA staff and is the agency's Disaster Operations Center.

Also in Winchester is a 99,350± square foot facility occupied by the US Army Corps of Engineers. It is the headquarters of the agency's Transatlantic Division.

The FBI is currently planning on building a 256,430± square foot facility in Frederick County, called the Records Management Facility. The facility will consolidate FBI's paper records and will also provide storage for National Archives and Records Administration's (NARA) compliant records in an environmentally conditioned, fire-protected space. This facility is anticipated to open in 2016 date could employ as many as 1,200 people. This proposal has been in planning for several years, so the 2016 data may not be "hard and fast". The FBI currently operates its Records Management Division in a 16-year-old, 106,296 square foot facility at 170 Marcel Drive.

Because of the excellent transportation network in the Winchester area, particularly I-81, officials of Winchester-Frederick County are able to focus on two freight-intensive industries: food processing and distribution. Other notable and prominent industrial sectors include metal fabrication, plastics and printing.

Specific economic developments in Winchester and Frederick County are detailed in the paragraphs below. Much of this new growth is the result of the improving economy. It reflects the continued expansion of the growth industries in the Winchester marketplace.

- **Evolve Stone**, a manufacturer of ploy-based resins, announced in March, 2013 that it would launch operations in Winchester where it would employ 46 people.
- **Kraft Foods Group** announced in December, 2012 that it would increase Capri Sun beverages production and deploy new packaging technology at its Frederick County plant. The company currently employs around 460 at its Frederick County operation, and the latest expansion is expected to add an additional 25 jobs.
- **Green Bay Packaging Inc.**, a company that manufactures corrugated shipping containers, announced in December, 2012 that it would add 10 employees.
- **Gateway Office Condos**. There is currently one office building under construction within the City of Winchester. The site is located across from the Winchester Medical Center. The building will contain 44,500 square feet of space and, to date, 85% of the space is pre-sold as condominium units. This includes 8 condo units, of which only one is for non-medical use.

- **Invenio Marketing Solutions** opened a new 12,000 square foot office/warehouse building in Frederick County in October, 2012. The company moved its local office from a smaller warehouse. Sixty-one employees moved into the new space and 10 additional employees were hired soon after the move. The company added an additional 40 employees at the end of 2012.
- **McKesson Corp.**, a health care services and information technology company, announced in September, 2012 that it would open a distribution center in 2013 that will employ 205 people. The company distributes medical and surgical supplies to physicians and care facilities. The 450,000 square foot distribution center, now under construction, should begin operations by late-2013.
- **M&H Plastics**, a supplier and manufacturer of plastic packaging for the personal care and health care markets, announced in August, 2012 that it would create 20 new jobs and expand its facility by 50,000 square feet to 110,000 square feet.
- **Navy Federal Credit Union** announced in August, 2012 that it would build another facility on its Winchester campus and add 400 jobs. The credit union currently has about 500 workers at its site on Security Drive in Winchester. Most of the new jobs will be customer-support positions with salaries above \$40,000. The facility is scheduled to open in late-2013.
- **Fabritek/Winchester Tool**, a metal fabrication manufacturer, announced in July, 2012 that it would expand by adding 29 new positions.
- **Melnor Inc.**, a Frederick County distributor of lawn and garden watering products, opened its new 130,000 square foot headquarters and distribution center at Stonewall Industrial Park in September, 2012.
- **Carmeuse Lime & Stone**, a manufacturer of lime and limestone products for a variety of industries, announced in June, 2012 that it would expand its manufacturing operations in Frederick County. The project will create 25 new jobs.
- **Thermo Fisher Scientific Inc.**, a biotechnology services company, announced in February, 2012 that it would expand its Frederick County repository for cancer research specimens by more than 22,000 square feet. The expansion added 30 new jobs to the existing 31. The facility stores samples for the majority of the National Cancer Institute's clinical trials.
- **Rubbermaid Commercial Products Inc.** announced in December, 2011 that it would expand its operations in Winchester and establish a distribution center in Frederick County. The company announced that it will invest in high-technology, energy-efficient injection molding machines to upgrade the Winchester facility's production capability while it would retrofit an existing 454,000 square foot Frederick County facility into a state-of-the-art logistics center in. The result is the expansion of 71 new jobs.
- **HP Hood** operates a 375,080± square foot milk plant at 160 Hood Way where it employs over 420 people. The company announced in May, 2013 that it would expand the facility to increase ultra-high temperature production capacity, creating 75 new jobs.

- **Loudoun Street Mall Renovation.** This renovation project was completed in May, 2013. The renovation project included construction of a splash pad water fountain, a public restroom, three gateways, new landscaping, replacement of water and sewer pipes, upgrading the storm water system and replacing the brick walkway and electrical system.

There are several large apartment projects in active planning in the Winchester area and 80± units have been added in adaptive reuse buildings over the past few years. These are all at top-of-the market rents for the City. Occupancy at area better apartment communities is 100 percent. An additional 80 units in downtown adaptive reuse buildings are in active planning.

Within Frederick County is an active development proposal for the former Russell 150 site (known now as Heritage Commons) located along U.S. Route 522, south of U.S. Route 50, east of I-81 and across from Airport Road. This is a mixed-use development with 1,200 homes (mostly apartment units), 600,000 square feet of office space and 100,000± square feet of retail space. The site is the location of the new Frederick County Administration Building. Development could start in 2015, with site work commencing before that. The mixed-use development is planned for a 15± year build out.

Two other large subdivisions are proposed. Madison Village, located next to Heritage Commons, will have nearly 600 units, with a mix of apartments and “towns”.

Summary. These new development proposals will add over 1,000 new full-time jobs to the Winchester area over the next few years. Within this marketplace, job growth was 1,500 in 2011, but stable in 2012. The post-2012 period should be a much larger growth period. While it’s difficult to determine whether Clarke County could be competitive for some of the growth in the Winchester area, because of a lack of readily available land in Clarke County and Berryville, clearly the growth in the Winchester area is an indication that the industrial land and building space market is expanding, in particular. The retail space market there is fully stored with most big box stores and an abundance of other local and national retailers. A key point to note is the large number of new government facilities that are being relocated to the area.

Demographic Trends and Projections

The following is an overview of the demographic trends and housing unit trends in Clarke County. These data include the Town of Berryville. For 1990, 2000 and 2010, data are from the census

count for each year. For 2012, the data is also from the U.S. Census, but is an estimate from the American Community Survey (ACS). Projection to 2015 and 2020 are from SPA.

These data and analysis will show the level of population and household growth that can be expected, but also the trends in retail goods and services expenditure potential. They are an integral part of the economic development strategy, as they indicate whether current trends will generate the level and type of economic growth that is expected.

Population Trends and Projections

Data in Table 3 present census data for the past three decades on population trends by age. These data are summarized in the following paragraphs:

- The total County population increased by nearly 1,400 during the 2000 decade after a nearly stagnant population over the 1990 to 2000 period.
- The County's population has gotten older over the past 20+ years. In 1990, 14 percent of the County's population was over 65 years of age. This percentage increased to 14.6 percent in 2000 and 16.3 percent in 2010. The State's percentage is 12.2, while the Country has 13 percent of its residents over 65 years of age.
- The County's under 18 aged population remained steady in terms of percentage of total population, but did increase in absolute numbers by a modest 440 for the 1990 to 2010 period.
- There was a decline over the past 20 years in the 18 to 44 aged population, as well as the 65 and over population.

The population estimate for the County as of 2012, based on the most recent 2012 census estimate is 14,320±. Current trends could generate a population forecast of 14,750 in 2015 and 15,500 in 2020. If the population by age continues, the growth in the school-aged population may not continue to increase at the same levels as during the 2000 decade.

Table 3 Population Trends by Age Categories, Clarke County, 1990-2010						
Clarke County	1990		2000		2010	
	#	%	#	%	#	%
Total Population	12,100	100.0%	12,650	100.0%	14,030	100.0%
Under 18	2,760	22.9%	2,958	23.3%	3,221	22.9%
18 to 24	1,030	8.6%	737	5.9%	821	5.9%
25 to 34	1,960	16.2%	1,359	10.8%	1,185	8.4%
35 to 44	1,960	16.2%	2,318	18.3%	1,802	12.9%
45 to 54	1,440	11.9%	1,988	15.7%	2,620	18.7%
55 to 64	1,250	10.4%	1,446	11.5%	2,098	14.9%
65 to 74	950	7.8%	1,024	8.1%	1,246	8.9%
75 to 84	550	4.6%	604	4.8%	740	5.3%
85 years and over	200	1.6%	218	1.7%	301	2.1%

Source: 1990, 2000 and 2010 Census, U.S. Department of Commerce, Bureau of the Census

The following are median household income data for the County for the 2005 to 2013 period. These household income data are calculated by the U.S. Internal Revenue Service (IRS). They are reported in current dollar values, and thus, are not adjusted for inflation. These data were used because they are IRS data and are consistent. Census data are from a 25% survey and are “self” reporting figures.

There is confusion in trying to reconcile the IRS household income data with the IRS data. HUD officials use the IRS income data to evaluate housing markets. They do not use Census income data.

The IRS household income data are higher than the Census data. The IRS data is current to 2013. The most recent Census data are 1999 dollars, based on the 2000 Census. The more recent ACS data are estimates and to as reliable as the IRS data. Thus, the IRS data is used in this report.

These income data show a sizable increase in the median household income in the County over the 2005 to 2013 period. **This is the growth period prior to the past recession.** The increase in median household income continued during the recession, and for the post-recession period, the increase was at a much lower rate than in the pre-recession time frame.

Table 4 - Trends in Median Household Income In Clarke County, 2005 -2013 (current dollar values)	
	Median Household Income 1/
2005	\$71,850
2006	\$99,600
2007	\$103,500
2013	\$107,300
Note: 1/ Based on IRS counts from annual tax returns.	

The U.S. Bureau of the Census did not survey the population for income data in 2010, as they did in the past. Thus, the IRS data may differ from past Census counts related to household income. The IRS data is likely more accurate, as it is a near 100 percent count and based on tax return data. Census income data is a 25 percent sample with survey respondents self reporting.

Given the fact that income data from the 2010 U.S. Census count are not available, the breakdown of Census household income data is most recent for 2000. The 2000 household income data for the County were adjusted to constant 2013 dollars. They show that:

- 35% of the households in the County have incomes under \$50,000, with \$50,000± being the U.S. median income.
- Approximately 28 percent of the County’s households have incomes of \$100,000+.
- Approximately one-third of the County’s households have incomes below the national average and nearly 30 percent have household incomes over double the national average.
- Less than 40% of the County’s households are in the \$50,000 to \$99,999 household income category.

Household Data Trends. The next chart shows housing unit and household trends in Clarke County for the 1990 to 2011 period. These data show that the County realized a net increase of 850± new housing units in each of the past two decades. That total would average 85 new homes per year and would include new construction and apartment units built in prior commercial space. The most recent census estimate for 2011 is 6,238 housing units, a decrease of two units from the census count.

Table 5 - Housing Unit and Household Trends				
<u>1990-2011</u>				
	<u>1990</u>	<u>2000</u>	<u>2010</u>	<u>2011</u>
Housing Units	4,530	5,390	6,240	6,238
Vacant Units	290	450	730	--
Households	4,240	4,940	5,510	5,560
Persons Per HH	2.77	2.50	2.50	--

These trends show an increase of vacant housing units up to 2010, but some of the vacant units could be accounted for by seasonal occupied units. The County’s average household size decreased since 1990. That is likely due to the County’s aging population, i.e., empty nesters and retired couples.

Retail Sales Expenditure Potential. The following chart is an analysis of the retail sales expenditure potential in the County for 2007 and 2012. The analysis is presented in current dollars. The 2007 data on sales are from the American Community Survey prepared by the U.S. Census Bureau. Estimates of percentages of household income spent on retail sales are based on data from the Department of Commerce, Bureau of Labor Statistics.

The analysis for 2007 shows that the County's households generated nearly \$554 million in retail sales expenditure potential. In 2007, the census count shows that \$91.6+ million in retail sales were realized in County retail establishments, or 16.5% of total expenditure potential.

The definition of retail sales would exclude expenditures for housing, transportation, health care, education, etc. from the sales total. Thus, County retailers are capturing only 16.5 percent of total sales for food, restaurant sales, apparel, hobbies, personal services, etc. The remainder of the expenditure potential from County households are outflow sales to other jurisdictions.

For restaurant sales, County establishments captured \$6.7+ million in sales in 2007, or a modest \$1,260 per household on average. Restaurant sales represent approximately 5.0 percent of total household expenditure potential. Restaurants in the County realized a 1.2 percent capture of all restaurant expenditure potential from County residents in 2007.

All of these sales figures in the County would account for inflow sales from non-County residents, so the capture rate of County expenditure potential is slightly high. Census data on retail and restaurant sales from 2007 clearly show the significant amount of sales potential of County residents that is spent elsewhere.

For 2012, much of the data are estimates, as noted. There was an increase in expenditure potential of \$46.6 million (current dollars) between 2007 and 2012. We estimate that the County's capture rates in 2012 are slightly higher compared with 2007 due to new retail store additions in the County, even though the Winchester area, in particular, has also added new retail and restaurant outlets.

The 2012 data of retail sales in the County are not now available, but the trends and absolute sales totals likely did not increase much. The 2012 data are estimates for all data except the number of households and median household income. These estimates are based on the 2007 census figures.

Table 6 - Trends in Retail Sales Expenditure Potential, Clarke County, 2007-2012 (current dollars)		
	2007	2012
Households	5,350	5,610
Median HH Income	\$103,500	\$107,000 1/
Total HH Retail Sales		
Expenditure Potential (000's)	\$553,725	\$600,300
Retail Sales in County (000's)	\$91,615	\$105,050 1/
Capture Rate	16.5% 2/	17.5% 1/
Restaurant Sales Potential (000's)	\$27,200	\$30,015
Restaurant Sales in County 4/	\$6,735 4/	\$7,500 4/
Capture Rate of Expenditure Potential	0.12% 3/	0.13% 3/
Notes: 1/ Estimate		
2/ Of retail sales only		
3/ Based on 5% of household income spent on food consumed outside of the home (\$27.7 million).		
4/ Based on 75% of Census calculation of accommodation and food sales.		

Of note is that a Food Lion grocery store of the size of the facility located in Berryville likely generates annual sales of \$30 to \$35 million. This does not reflect the sales at the Berryville store, as it is a company average. However, if that sales level is "in the ball park", there are only \$70+ million in annual retail sales at all other County retail stores. These data emphasize the modest retail sales market that exists in the County.

The new Dollar Store, the convenience store, Fisher Auto Parts and the three wineries will generate increased retail sales, but the vast amount of outflow retail expenditures will continue.

Summary. There is a stark contrast between the type and magnitude of development occurring in the Clarke County marketplace and the greater Winchester marketplace. The data related to development activity in the Winchester area shows the value of the regions proximity to I-81. It also shows some opportunities for officials of Clarke County if developable land is readily available.

Most important is that County retailers are losing a sizable amount of retail and restaurant sales. A recapture of outflow sales can only occur with significant new retail space additions in the County.

Clarke County Industrial Market

There is one successful business park in Clarke County which is located along Jack Enders Boulevard on the southeast corner of the Town of Berryville (see Map A). The Clarke County Business Park is noted as No. 1 on the map. It is a 65± acre property developed by County officials during the early-2000's. The park is nearly fully developed and has two adjacent parcels for potential expansion (No.'s 3 & 4).

A second industrial area is at the south end of Station Road. This is a 20± acre parcel with a large vacant industrial warehouse and 10± acres of vacant land. On Map A, this site is shown as No. 2. The warehouse was a former fruit processing and warehouse facility, and after that, a furniture manufacturing company. The industrial building of nearly 100,000 square feet is only partially reusable for industrial.

On the north side of East Main Street is approximately 29 acres of industrial land located along First Street and Cattleman's Lane. This area is a "collection" of older, blighted industrial buildings with limited occupied space and limited value for reuse, as is. The area has excellent potential for redevelopment, but has numerous property owners (No. 5) and other issues. The site is bisected by an active railroad right-of-way.



Map A- Industrial Park and Site Locations in Berryville

- **Clarke County Business Park** was established in the early-2000's with the financial assistance of the Clark County Board of Supervisors. The park, which consists of approximately 65 acres, was a former school property owned by the County. County officials put all of the infrastructure in the property to establish the business park, including the extension of Jack Enders Boulevard and providing public utilities to the property. The business park has 14 finished lots that were sold to business owners at a reduced price of \$65,000 to \$70,000 per parcel. At present, only two parcels remain undeveloped. One, 614 Jack Enders Boulevard, was recently purchased by a Fairfax County business owner, but the parcel has not yet developed. The second, a 3.0± acre parcel located on the south side of the curve on Jack Enders Boulevard, has been sold but not yet developed.

An aerial of the business park is shown below on page 23. It shows 12 developed lots with primarily owner-occupied businesses. One parcel has two leased tenants in one building. One building is a condominium with five warehouse bays of approximately 1,750 square feet.

The park was primarily marketed during the 2002 to 2008 period, and prior to the past recession. There has been almost no activity in the County over the past few years. There are nearly 200,000 square feet of building space in the park in 14± buildings.

We did interview several of the business owners to determine why they located in Clarke County. Many owners are local and expanded their businesses. The "non-local" companies moved from neighboring counties. Owners of four companies provided these insights:

- **Pumpnickel Press**, a family-owned greeting cards company, was started in Leesburg in 1998. To accommodate its growth, the owners of Pumpnickel Press purchased its current 14,510 square foot building within the Clarke County Business Park. Berryville was reportedly chosen because of its close proximity to Leesburg and the low operating costs of the Clarke County setting.
- **G.A. & F.C. Wagman**, a York, PA-based company that provides a wide range of Geotechnical Construction Services for public and private sector clients, entered the park in 2012 with the purchase of the facility at 601 Jack Enders Blvd. The 9,000 square foot building includes 3,600 square feet of office space and 5,400 square feet of block construction warehouse space. The site is the company's southern regional headquarters. The company chose Berryville because it had previously acquired an existing area business.
- **Cochran's Lumber & Millwork**, a flooring and millwork company, began operations in 1978 in the Town of Bluemont, Virginia about 9 miles east of Berryville. In 2004 the company relocated to Berryville in a 28,600 square foot facility on 5.3 acres. The Berryville site was chosen because of its close proximity to Bluemont.
- **Timberlake Cabinet Company**, a kitchen cabinets manufacturer based in Winchester, operates its Builder Direct Service Center for the Northeast Region from its 14,800 square foot building in the business park.

Most of the companies in the park own their facilities. There are several renters in The Makar Company building who occupy most of the 45,000± square foot structure at 520 Jack Enders Blvd.

Three of the condo warehouse bays at 516 Jack Enders Boulevard are investor-owned and available for lease.

The table below lists the tenants in the park. Collectively, 200± people are currently employed at the companies in the Clarke County Business Park in nearly 200,000 square feet of space. The buildings in the park average just under 17,000 square feet. Lot sizes average five acres.

Table 7: Characteristics of Clarke County Business Park Tenants		
Tenant	Type	Year Built
Am-Liner East, Inc.	Sewer/Manhole Rehabilitation	2006
Caldwell Santmyer Inc	General Contracting	2003
Champion Iron Works, Inc.	Iron Works	2002
Cochran's Lumber & Millwork, Inc.	Flooring and Millwork	2004
G.A. & F.C. Wagman, Inc	Construction	2005
Jason's Shop LLC	Trucks Service & Repair	2006
Lou Who Contracting, Inc.	Heating and Air Conditioning Repair	2002
Pumpnickel Press	Greeting Cards	2005
River's Edge Landscapes	Landscaping	2008
Singhas & Michael Corps	Well Water Drilling & Service	2002
TC Beard Services	Beauty Equipment	2007
The Makar Company Building	General Contracting	2006
Timberlake Cabinet Company	Kitchen Cabinets	2004
Total 1/		
Notes: 1/ Excludes vacant structure at 614 Jack Enders Blvd.		
Source: Clarke County Planning Department, Field and Telephone Survey by S. Patz & Associates, Inc.		

These companies are generally a mix of construction related businesses, repair companies and warehouses. Two are somewhat different, warehouse and distribution of beauty equipment and greeting cards. Most of the businesses are in buildings of 9,000 to 20,000 square feet and on lots of two to five acres. Note 11 on the following aerial photo is the location of the new Hunt Company Propane Building.

The lot shown as No. 6 on the following aerial photo is a small vacant property. No. 7 is the other vacant property. No. 11 is a narrow lot that is now being developed.



Clarke County Business Park

The photos that follow are examples of buildings/businesses in the business park. These are typical of small businesses in industrial buildings with docks, storage areas and brick and metal exteriors.





On the following page, the first photo is a vacant 1.4-acre site within the park on a parcel referred to as the water tower site. The asking sales price is \$195,000, which is likely above market at this time, as the site is irregular in shape and will be difficult to develop. This is the top left photo on the following page.

The top right photo shows the new building that will house Hunt County Propane. It is a 2,000± square foot office building with back area for truck parking and storage of propane tanks. The site is long and narrow and was unusable for traditional industrial users. The company is moving to Berryville from Middleburg.

The bottom left site shows the condominium warehouse building. It has five bays of 1,750 square feet. These are vacant.

The right bottom photo is the Makar Building. It is on the market for sale for \$4.5 million, which includes a 45,000± square foot building and 7.3 acres of land. Calculated on a per square foot price for the building, the price is \$100 per square foot for an occupied building. On a per acre basis, the price is \$610,400 per acre. Rent at this building is \$4.0 NNN.

The Water Tower Building has been available for sale for several years. The Hunt County Propane property was purchased from a bank after foreclosure. The condo bays have been available for lease for several years and are being offered at a very low per bay lease rate. The larger 45,000 square foot building with 7.3 acres has also been available for some time with only limited interest at this time.

Properties Being Marketed at Clarke County Business Park



Water Tower Site



Hunt Country Propane



Warehouse Condominium Bays



Makar Building For Sale

Clarke County staff have identified two parcels adjacent to the County's business park for potential future industrial site development. One site is a 12.57-acre property located along Jack Enders Blvd, technically within the business park, at the park's northeast corner. The site is flat meadowland which shares the same characteristics as the land within the business park. Utilities are in place along Jack Enders Boulevard. (see following aerial). The site is privately owned and reportedly available for sale, but is not being actively marketed.

This parcel is owned by the Mercke family. At one time the family, who operates Loudoun Stairs, Inc., in Purcellville, considered developing the parcel for it's own use. That is no longer an active idea.



Mercke Family Owned Property

The other potential site for industrial development is a 16.2-acre meadowland located on the opposite side of the railroad tracks along S. Buckmarsh Street (U.S. 340) and west of the Clarke County Business Park. Its eastern boundary is the railroad right-of-way and its western boundary is marked by several detached single-family homes. (see aerial). The site is accessed from U.S. 340. Utilities could likely be extended from the Clarke County Business Park.

This parcel is also owned by the Mercke family. Both parcels have been available for some time. The aerial below shows the close proximity of both sites to the existing county business park. Both sites could be natural expansions of the park. Also, on the top of the aerial, on the west side of the railroad tracks, along Station Road, is a second industrial property in the County, to be discussed below. It is across the railroad tracks from the large Berryville Graphics property.

There are approximately 35 acres of available industrial land in this area, all with road access and availability to public utilities. These sites are in private ownership and are excellent development parcels. However, there is no active marketing and no evidence that there is a market for these properties at this time.

There is other undeveloped land adjacent to the County's Business Park, as shown on the aerial to follow. This is the property on the south side of the park. It is not zoned land and utilities need to be extended to the property. This area could provide a sizable site for future industrial development.

There are two other industrial properties in the County that have potential for future development. These include the former manufacturing building at 351 Station Road and the industrial properties along First Street that are owned by the Smalley family.



Mercke Family Owned Property

- **351 Station Road** (see aerial on the following page) is a vacant 300,000± square foot warehouse on half of a 20± acre industrial property. The site is located at the terminus of Station Road, which is less than a mile south of Station Road's intersection with SR 340 business, East Main Street. The existing warehouse has multiple areas, as it was built in phases. The property was a former fruit processing plant and warehouse which has been vacant for several years. Part of the warehouse building is in good condition and nearly readily available for immediate use. This is a 90,000+ square foot portion of the building.

Station Road is a two-lane, narrow hardtop road that primarily serves this warehouse property. It crosses a railroad line just north of 351 Station Road. This is the same railroad track that runs north-south throughout the County and north into West Virginia past Martinsburg and south past the west side of Clarke County Business Park.

The warehouse property is being marketed for lease at \$2.75 per square foot gross for a large warehouse user, or \$3.20 per square foot gross for smaller users. The property is also reported

to be on the market for sale at somewhat more than \$3.5 million. Photos of the warehouse building and property are shown below. The aerial that follows shows the warehouse property (No. 8) which is directly across the railroad right-of-way from Berryville Graphics (No. 9). The third industrial area under study is along First Street, shown on the right top of the aerial (No. 10).



Front View A



Rear View og

The property is level and has sufficient land for parking and truck docking. The vacant land is grass area to the east of the building. Town officials report that stormwater detention needs may limit the amount of the site that is developable.

This property has been recently studied by several companies from Winchester for warehouse use. The likely highest and best use of this property is reported to be the lease of the 90,000± square feet of newer portion of the warehouse space and the possible subdivision of the remaining land for finished lot sales, of the type on the County’s business park. Alternatively, the entire parcel could be redeveloped for lot sales of two and five acres.



The property has issues related to redevelopment. The current proposed price is at least 50 percent above market, not including the cost to demolish the existing building, if required. There is also a need to determine whether the entire site is usable.

- **First Street Industrial Area.** This area, located on the north side of East Main Street along First Street, from east Main Street north of Fairfax Street, is an old, blighted area with several buildings in varying degrees of disrepair (see photo below). Combined, there is approximately 29 acres in this area with at least 10 industrial buildings with a total of 160,000 to 175,000 square feet. The Norfolk and Southern railroad tracks parallels First Street on the east. On the east side of the railroad tracks is Cattleman’s Lane with several industrial buildings on approximately 10 acres of land, which is primarily owned by the railroad.

One local family owns much of the land along First Street. The owner reports that all of the land is developable and that only 35± percent of the building space is occupied. A few of the older buildings along First Street were built in the early-1990’s. The “newer” buildings were built between the mid-1950’s to mid-1980’s. There is more than 210,000 square feet of vacant space in the First Street industrial buildings, with most of this space not fully marketable.

The owner also has vacant land on the west side of First Street next to the adjacent subdivision. That land is zoned residential and is part of the 29 acres owned by the Smalley family. Number 10 on the following aerial is the residential land. The remaining buildings on the south side of First Street are the 29 acres of industrial property. Additional industrial property exists along Cattleman’s Lane, in addition to the 29 acres along First Street.

There are old industrial buildings with market value primarily for storage space but also in light manufacturing. The 300 block of First Street contains the larger and better buildings. These buildings have some occupancy. They are primarily metal buildings that lease for \$2.0 to \$2.50 per square foot. There are 17.5 acres in this block. The more blighted and mostly vacant buildings are in the 200 block. The 200 block has 5 to 6 acres. The residential site is 6.5 acres.

Industrial Buildings Along First Street



Good Warehouse Space in 300 Block of First Street



Vacant Industrial Building in 300 Block of First Street



Example of Blighted Industrial Buildings in 200 Block of First Street



First Street Industrial Area

The property owner reports that they want to be more aggressive with marketing and that the property could be available for sale. However, at this time, the intention is to try to lease the better buildings, leaving only 5± acres that could be available to market. The 6.5-acre residential area is not an attractive location for housing with the adjacent industrial area being in such poor condition.

Summary. The following paragraphs summarize the findings related to the current Clarke County industrial land and building space market.

- The land sales effort at the County's industrial park during the early-2000's was successful in terms of land sales, albeit with very low land prices. The land sales effort has stalled since the recession. Industrial land is no longer available at below market prices.
- The Berryville/Clarke County industrial market has not expanded since the recession, which is one reason for limited response to investments by area property owners. Increased land and building prices also have been a detriment for industrial growth.
- The loss of manufacturing jobs in the County during the 2000 decade is a major problem to overcome in attracting investment in industrial land and building development.
- The two sites owned by the Mercke family are excellent properties for new industrial development, but they are not being professionally marketed and development may not occur without public support.
- The First Street industrial area clearly has more market value and development potential than is being exhibited, but the existing buildings have limited market appeal and better companies are not likely to be attracted to this location without some upgrades.
- Marketing of industrial building space along First Street and Station Road are not necessarily benefits for economic development in the County. It would simply be reuse of very modest, unattractive buildings with limited increase in rural estate value. It is simply town and county officials accepting the businesses that are attracted to the most inexpensive space.
- Current trends and conditions do not provide any reason for industrial firms to relocate to the County.
- Low priced finished lot sales have been the County's most successful economic development strategy for industrial development. There are few finished lots available for development at this time.
- Most of the available industrial land in the County is under private ownership. Current property owners will need inventories to develop their land. This could be in the form of a TIF program to have public investment for infrastructure development or the County could use funds from the IDA, with an expanded budget, to provide infrastructure development.

Winchester-Frederick County Industrial Market

The Winchester Region has 10 identified industrial parks with approximately 1,770 acres. Most of these industrial parks were developed prior to 1990. Some are now built out, but the greater Winchester area still has industrial park land available and a considerable amount of vacant industrial space.

While Clarke County has attracted primarily small businesses within the past 10+ years, the Winchester-Frederick County area has realized the development of large companies, focused on two freight-intensive industries.

- **Food Processing**. The food processing industry is a link between the agricultural and retail sectors and Winchester has been a favorable location for these companies to operate. Winchester has been an attractive location for perishable products and packaged foods manufacturing operations. Winchester-area food processors include Kraft Foods, New World Pasta, HP Hood, Miller Milling, National Fruit, and Royal Crown Bottling
- **Distribution**. Given that Winchester-Frederick County is located on the Interstate 81 corridor, the area is well-suited for assembly operations. Ford Distribution Center, Home Depot Distribution and Kohl's Distribution are three area companies.

Other notable industrial sectors that have been attracted to Winchester-Frederick County include **(1) Metal Fabrication** (Ashworth Brothers, Barrett Machine, Cives Steel Company, Extreme Steel, Fabritek, McElroy Metal, Miller Machine & Tool, Winchester Metals, and Winchester Tools), **(2) Plastics** (Creative Urethanes, M&H Plastics, Monoflo, O'Sullivan Films, Poly Processing, Southeastern Container, and Rubbermaid), and **(3) Printing** (Clear Choice Printing, Commercial Press, Coral Graphics, Quad/Graphics, Signet Screen Printing, and Winchester Printers). Each of these industrial sectors have been spread throughout the Winchester-Frederick County industrial parks.

Clarke County is not competitive for this sector of the market, but within the 11.5 million square feet of occupied space in the Winchester area are tenants who could be attracted to locations in Clarke County.

Data in Table 8 show the trends in industrial land and space development and in the Winchester area since the 1940's. The point to note is the significant amount of development during the 1990's and during the first part of the 2000 decade. However, during the recession and since 2010, there were 22 new buildings built with 1.4 million square feet of space. A negative point is that only 4 new buildings with 207,000± square feet were placed on the market since 2010. These four buildings were built on approximately 20 acres of land.

Table 8 Trends in Industrial Land and Building Development Pace, Winchester-Frederick County, 1940-2013			
Years	Buildings	Building Size (Sq Ft)	Parcel Size (Acres)
1940s	1	34,272	14.85
1950s	1	76,802	5.14
1960s	16	1,069,468	203.14
1970s	25	1,376,190	221.62
1980s	45	1,890,888	238.33
1990s	64	4,150,784	604.96
2000s (Pre-Recession)			
1/	31	2,357,384	311.52
2000s (Recession) 2/	18	1,200,532	148.64
2000s (Post-Recession)			
3/	<u>4</u>	<u>206,740</u>	<u>19.82</u>
Total	205	12,363,060	1,768.02
Notes: 1/ 2000-2006 2/ 2007-2009 3/ 2010+			

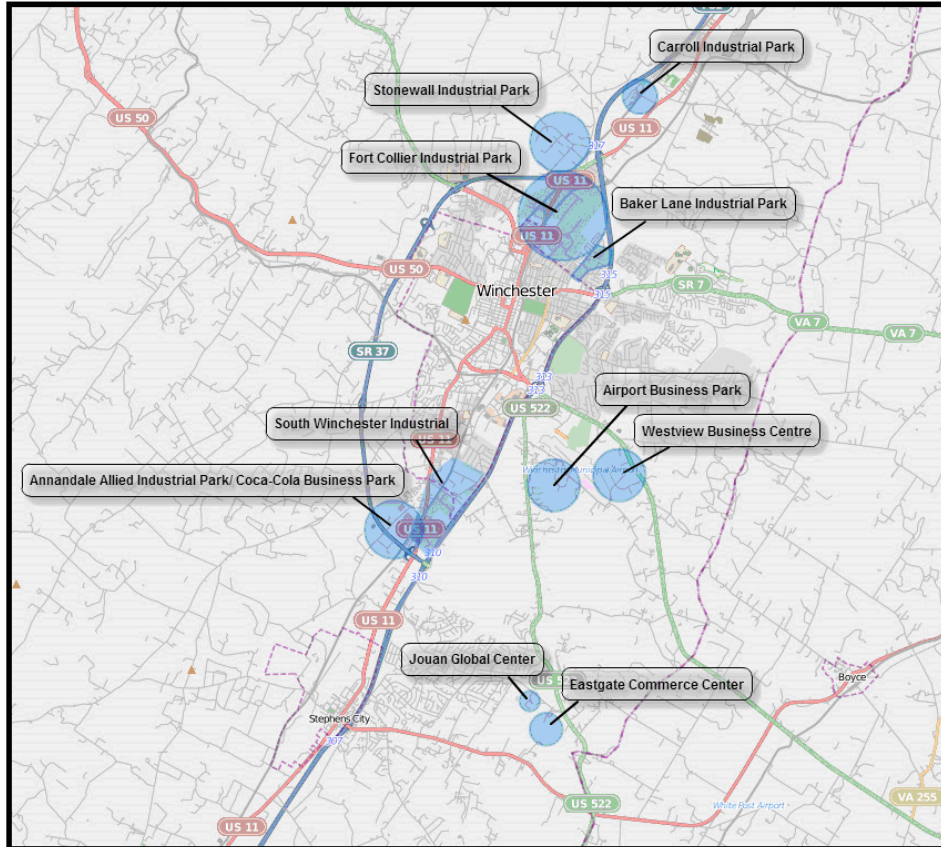
Essentially all industrial development within the Winchester-Frederick County marketplace since the end of the recession (2010) took place in Stonewall Industrial Park. These developments consist of four structures totaling 206,740± square feet of space, all of which are occupied. Approximately 128,000 square feet of this space was built by Melnor Inc, a producer of lawn and garden water products. The four new companies are shown in the table below:

Table 9 <u>New Industrial Development in Winchester-Frederick County, 2010-2013</u>				
<u>Address</u>	<u>Year Built</u>	<u>Building Size (Sq. Ft.)</u>	<u>Lot Size (Acre)</u>	<u>Tenant Type</u>
475 McGhee Rd	2012	12,800	2.66	Bakery
401 McGhee Rd	2012	24,400	2.06	Real Estate
101 Tyson Dr	2012	128,000	11.00	Lawn/Garden Products
645 McGhee Rd	2011			Food
		<u>41,540</u>	<u>4.10</u>	Processing/Packaging
Total/Average		12,800	2.66	
Source: S. Patz & Associates field and telephone survey.				

The next table shows that the Winchester area has a current total of nearly 900,000 square feet of vacant space. However, nearly 90% of this space is in two mature parks. Four parks are fully occupied. Stonewall and Fort Collier have large vacant buildings.

Table 10 <u>Available Industrial Space in Buildings in Winchester-Frederick County Industrial Parks, 2013</u>			
<u>Industrial Park</u>	<u>Date Started</u>	<u>Vacant Space (Sq Ft)</u>	<u>Average Rental Rate</u>
Airport Business Park	1987	30,327	\$9.00
Annandale Allied/Coca-Cola Parks	1974	0	--
Baker Lane Industrial Park	1986	40,800	\$6.30
Carroll Industrial Park	1967	0	--
Eastgate Industrial Park	2003	0	--
Fort Collier Industrial Park	1947	305,848	\$6.18
Jouan Global Center	1997	0	--
South Winchester	1955	10,000	\$7.50
Stonewall Industrial Park	1961	469,065	\$3.35
Westview Business Centre	1975	<u>20,474</u>	--
Total		876,514	\$6.47

The map below shows the locations of the above industrial parks. With the exception of some development in southern Winchester, all of the industrial parks are located within Frederick County. This is reported to be due to land availability and tax issues.



Map B - Location of Winchester-Frederick County Industrial Parks

In terms of the vacant space, Stonewall Industrial Park has a 245,000 square foot vacant building, the former National Wildlife Federation Distribution Center. This building has been vacant since mid-2006. The Fort Collier Industrial Park has nearly 250,000 square feet of vacant space in two buildings, the 92,250 square foot former Barber and Ross Company building that also was vacated in 2006 and a 150,000+ vacant warehouse. These three buildings represent nearly 60 percent of the vacant space in the area. Most of the available buildings are under 20,000 square feet in size. Excluding these three large vacant buildings, the total amount of vacant space is less than 400,000 square feet in a total marketplace with 12.4 million square feet –3.1 percent.

Vacant Space by Year Built. There are two salient issues regarding available space in Winchester. One is the amount. The second is the quality. The amount is large but 40 percent of the available space is large buildings that are not now marketable. Much of the remaining space is mature, as shown in Table 11. Vacant space built since 2000 equals 184,500+, with 153,500 of that space being a vacant warehouse. There is only 49,000 square feet of vacant 1990's-built space.

Area realtors report that current demand is largely for warehouse space with limited office area and high ceilings. This type of space is in low supply in Winchester at this time.

Table 11 Industrial Building Vacancies by Year Built, Winchester-Frederick County			
	<u>Industrial Park</u>	<u>Year Built</u>	<u>Available Space (Sq Ft)</u>
<u>1970s</u>			
200 Lenoir Dr	Stonewall	1971	15,200
202 Lenoir Dr	Stonewall	1971	22,157
212 Fort Collier Rd	Fort Collier	1972	7,500
188 Brooke Rd	Fort Collier	1977	92,248
210 Fort Collier Rd	Fort Collier	1977	3,100
441 Victory Rd	Westview	1979	<u>18,314</u>
<i>(Subtotal/Average)</i>			<i>(158,519)</i>
<u>1980s</u>			
204 Lenoir Dr	Stonewall	1981	28,800
206 Lenoir Dr	Stonewall	1981	28,800
259 Brooke Rd	Fort Collier	1982	38,400
704 Baker Ln	Baker Lane	1986	10,000
155 Aviation Dr 1/	Airport	1987	23,327
255 Tyson Dr	Stonewall	1987	36,000
310 Tyson Dr	Stonewall	1987	244,500
326 McGhee Rd	Stonewall	1987	38,707
255 Tyson Dr	Stonewall	1987	<u>36,000</u>
<i>(Subtotal/Average)</i>			<i>(484,534)</i>
<u>1990s</u>			
214 Fort Collier Rd	Fort Collier	1991	11,150
200 Aviation Dr	Airport	1994	7,000
119 Imboden Dr	Baker Lane	1997	14,400
220 Imboden Dr	Baker Lane	1999	<u>16,400</u>
<i>(Subtotal/Average)</i>			<i>(48,950)</i>
<u>2000s</u>			
175 Commonwealth Court	S Winchester	2000	10,000
320-332 Independence Dr	Westview	2004	2,160
255 Fort Collier Rd	Fort Collier	2004	153,450
531 McGhee Rd	Stonewall	2006	<u>18,901</u>
<i>(Subtotal/Average)</i>			<i>(184,511)</i>
Total/Average			876,514
Notes: 1/ Owner wants to sell and lease back. Source: S. Patz & Associates field and telephone survey.			

Net Industrial Building Rents. In the Winchester marketplace, industrial building rents vary greatly based on building size, age and condition. The market area average is \$6.50 per square foot. A few buildings offer a low rate of \$2.50 to \$2.75 per square foot. However, most space is offered at \$4.00 and above. For small size spaces, the rent rate extends to \$7.50± per square foot.

Industrial Finished Lot Prices. Within the greater Winchester marketplace, industrial land prices for finished lots range from \$113,000 to \$127,000.

Purcellville Industrial Market. Purcellville has a small industrial land and space market. It is a mature market with no recent development. The industrial space that exists is virtually fully occupied, at higher rents compared with the Clarke County and greater Winchester market areas. There is no land available for industrial development and area realtors report no activity in the town.

Downtown Berryville Office and Retail Space

Our (very rough) estimate is that there is at least 100,000 square feet of commercial space along Main Street and on adjacent streets. Approximately 70,000 square feet of this space is along Main Street. This total excludes the retail businesses east of the railroad tracks along East Main Street. It would also exclude the Food Lion on McNeil Drive on the north side of town and the other stores near Mosby Boulevard on No. Buckmarsh Street. Other scattered office or retail space may not be included in this total. For the entire town, another 100,000 square feet of primary retail space can be added to the downtown total.

Within the downtown Historic area, there are approximately 7 to 10 vacant spaces, both ground floor and second floor. This totals nearly 15,000 square feet, or 15± percent of the space within the Historic downtown blocks. The vacant space is typically small sizes, with a mix of upgraded and basic space. The 1,300 square foot 19 West Main Street was recently leased to a lawyer and the 16,000 square foot 401 East Main Street is fully rented at this time. The other space has been vacant for several years. The one large vacant building near the downtown is the former Mill Building that is under study for a brewery.

The above analysis noted the plans to upgrade the block of East Main Street that contains the former Berryville Hotel site. This renovation, if undertaken, will likely generate interest from new retailers.

Currently, the interest from small office tenants is very limited and quality space that is available for this type of use is also limited. All of the vacant buildings along East Main Street in the downtown average under 1,800 square feet, which only is attractive for a select group of “niche” businesses.

Tourism

The subsection on tourism in Clarke County is separated in two parts: (1) the overnight accommodations market; and (2) visitation facilities in the County. These two sectors are somewhat separated, as the tourist attractions within the County generate limited patronage for the seven facilities in the County that provide rooms for overnight stays, according to interviews with property owners of area B & B's and county inns.

Overnight Accommodations Market

A preliminary survey of existing overnight accommodations is shown in the table below. Further information and analysis on hotel accommodations in the Berryville area will be added pending the completion of the Town's hotel market study, expected in early 2014.

Table 12 Characteristics of Overnight Accommodations, Clarke County, Virginia		
	<u>Number of Rooms</u>	<u>Room Rates</u>
Battletown Inn	7	\$59-\$125
Crossed Racquets Inn	3	\$125-\$150
L'Auberge Povencale 1/	14	\$175-\$325
Rosemont Manor	15	\$250-\$350
Smithfield Farm	5	\$185-\$275
Waypoint House	3	\$125-\$225
Total/Average	49 2/ 3/	(\$190)
Notes: 1/Includes Villas in Boyce		
2/ Excludes Bears Den Youth Hostel		
3/ Estimate of total annual occupied room nights is 2,800		
Source: Field and telephone survey by S. Patz & Assoc. November, 2013		

Tourist Attractions

Clarke County has four noteworthy tourist attractions. The State Arboretum at Blandy Experimental Farm is the largest with 180,000 annual visitors (FY 2012) and steady annual increases. There are 28,000+ visitors at the Burwell-Morgan Mill in Millwood, including the two annual art shows and weekly patronage at the Mill. This total would be expanded with shoppers at the Millwood antique stores and other village businesses. Millwood also has 20± horse farm with shows and competitions annually. This sector of tourism is studied in the equestrian subsection to follow. Data provided in the analysis is based on interviews with managers of the attractions.

Table 13 - Patronage at Clarke County's Larger Tourist Attractions	
	<u>Annual Tourist Visits</u>
Morgan Mill	28,400
• Art Shows	(18,000)
• Mill	(10,000)
Historic Asso. Museum	1,500
Long Branch Plantation	25,000
State Arboretum (at Blandy)	<u>180,000</u>
Total	214,900

The Historical Association Museum has limited annual visitation. Long Branch Historic Plantation generates 5,000± annual tourist visits, plus patronage for weddings and private parties.

Each of these operates independently with no central marketing or package deals. The County has other attractions which are not fully defined tourist attractions, such as:

- **Barnes at Rose Hill** which is a park and entertainment facility and contains a visitors center for Clarke County.
- **Holy Cross Abbey Monastery** which has a gift shop and holds church related retreats.
- **Josephine School Community Museum** generates modest patronage for this replicated school house that previously served the County's African American community.
- **Old Chapel** is not open to the public.

Clarke County does have two key attractions to build upon for increased tourism. Clearly, the Blandy Experimental Farm is one of them. The State Arboretum is located on 700± acres with grounds open to the public. The facility contains a slave quarters that was built between 1825 and 1830. This is a place for public events, including live music at Blandy's amphitheater and plant sales of indigenous and heritage varieties.

The Burwell-Morgan Mill is located in the historic Village of Millwood along with a cluster of antique stores and specialty shops. The Mill has two annual art shows and is an operable mill. Within the Millwood area is the Sandstone Farm which has 20 horse shows annually and draws a

considerable number of visitors annually, but these are reported to be primarily local patrons who have their own horses at the shows.

On a smaller scale is the privately owned Dinosaur Land that is an attractive facility for children. Patronage at this business, which is located in the Double Toll Gate area, is typically 45,000+ annually, but patronage increased to 49,700 in 2012 and 47,800 in 2011 with the 2013 estimate to exceed 50,000.

The County attracts numerous visitors for river-related activities along the Shenandoah River and for hiking along the Appalachian Trail. Bicycling is a growing sport within the County with the attraction the winding, rural country roads. The Virginia National Golf Club is public and is a most attractive setting for a golf course between the Shenandoah River and Blue Ridge Mountains. The analysis of the County's equestrian farms is presented below, but horseback riding and lessons are a major part of the County's rural environment. Added to these is Watermellon Park, a riverfront campsite, which hosts music festivals annually.

Lastly, there are several wineries in the County and three new ones planned for opening. Some of the wineries are settings for private parties.

Clarke County has a large outdoor, sport-related environment that draws thousands of visitors to the County annually. To date, this sector of the tourist/visitation market has not generated much overnight room demand.

Only one tourist facility is generating a large tourist draw, in spite of a number of truly attractive facilities. There are clearly viable and unique country inns and B & B's in the County in truly historic properties. This patronage at these facilities are far below market potential, based on full room occupancies during peak visitation periods.

The two key points that unfolded from the overview of the Clarke County tourist "market" is: (1) market potential far exceeds current patronage levels; and (2) there is no marketing or coordination among the various tourist related facilities and functions. These issues are further discussed in the economic development strategy.

Clarke County Equine Industry

According to the Clarke County Equine Alliance, there are currently 120 to 150 farms that are strictly horse farms in Clarke County. This includes a variety of types such as Thoroughbred Racing, Quarter Horse, Hunters, Jumpers, Eventing horses, carriage horses, breeding facilities, old trail riding horses, ponies and several horse farms for retirees. While horse shows and horse breeding are prevalent in Clarke County, they are reported not to be the main economic driver behind the local equine industry. Horses are expensive to maintain. This has created a very profitable horse hay market in the County. Horse hay is more expensive than cattle hay, as it must be a select grass or alfalfa, and baled in square bales, not just round bales. Several local farmers provide horse hay. It is an expanding market. Horses also need farriers, specialists in equine hoof care (several are local), feed stores (one local and several regional in Frederick County and Fauquier County) that supply grain and other horse products.

Boarding horses is a big economic impact item for horses in Clarke County. Horses arrive in Clarke County from as far north as New York State. Various types of horses are boarded and trained for monthly fees as low as \$200 per month per horse for field-boarded retirees, and up to \$1,200 to \$1,400 per month for stable boarding and training. Approximately 75 to 100 farms in Clarke County board horses, many of which also provide training, horse sales and breeding. These farms are located in Berryville, Boyce, Millwood and White Post.

Horse shows are a smaller economic driver in Clarke County. Attendees at horse shows include participants, members of participant's travel parties or spectators. Most, if not all attendees, however, are local. Unlike larger horse shows at the Virginia Horse Center outside the City of Lexington, horse shows in Clarke County are local events that draw participants primarily from Clarke County and its neighboring counties. Due to the physical constraints on outdoor competition during the winter, horse shows in Clarke County occur primarily in the late spring, summer and early fall. May is the busiest month, while December sees the least activity. Most shows occur during the weekends and last one day, and therefore do not create significant patronage for hotels.

Other notable regional horse show venues include the Upperville Colt and Horse Show in Fauquier County and the Warrenton Pony Show. A majority of national and state horse events in Virginia are hosted by Virginia Horse Center outside the City of Lexington in Rockbridge County,

which covers 600± acres with 19 show rings, a 4,000-seat coliseum, 8 barns, cross country and combined carriage driving courses, a tractor pull, campgrounds, special event spaces and full café services. This facility hosts over 80 events annually and is largely responsible for the 1,330± people employed in the equine industry in Rockbridge County, Lexington and Buena Vista. The Virginia Horse Center is a major source of business for the local lodging industry. According to the most recently conducted survey of lodging establishments in Lexington, Buena Vista, and Rockbridge, conducted in 2005, 28 percent of overall room rentals were directly attributable to the Virginia Horse Center. Unlike the equine events in Clarke County, many of these events are multi-day events that attract out-of-state visitors.

New Kent County, home to the Colonial Downs racetrack which directly employs over 300 people during the Thoroughbred racing season, is another significant economic activity center with a total economic impact of 790± jobs. Colonial Downs has had attendance and financial issues in recent years. It has seen attendance levels fall, prompting the facility to reduce the racing season from 32 days in 2012 to 25 days in 2013.

The three facilities that have the most horse shows in Clarke County are Sandstone Farm, Elmington Farm and Evergreen Farm. Sandstone Farm in Millwood has the most shows annually and is scheduled to have 21 horse shows by the end of 2013, and likely a similar amount in 2014. This is down from 24 in 2010. They do not anticipate any growth in the near future and the staff of the Clarke County Equine Alliance does not see room for additional shows in the County.

Elmington Farm in Berryville has about 6 shows annually. Evergreen Farm in Berryville has about 10 dressing shows annually. Because each of these facilities host shows and not races, essentially all attendees are local, from Clarke County or surrounding counties. Depending on the weather, and possible competing events elsewhere, attendance figures for these shows can range anywhere from 50 to 150 people. Spectators are generally friends and family of those competing, as these are not national events and do not attract a wide audience.

In addition to horse shows and events, Clarke County hosts the Blue Ridge Hunt Point-to-Point amateur horse races at Woodley Farm in Berryville, which is a big draw attracting over one thousand spectators. Like the other horse-related events in Clarke County, this is a single-day even.

Equine Employment. According to the Center of Economic and Policy Studies at the Weldon Cooper Center for Public Service, a total of 336 people were employed in the equine sector

in Clarke County in 2010, the date for which the most recent data are available. The table below shows the total employment in the equine industry in Clarke County and adjacent counties in Virginia.

Table 14: Equine Employment, Clarke and Neighboring VA Counties, 2010	
	Employment
Clarke County	336
Fauquier County	883
Loudoun County	1,079
Warren County	81
Winchester-Frederick County	<u>166</u>
Total	2,545
Source: Center for Economic and Policy Studies, Weldon Cooper Center for Public Service.	

Horse Inventory. According to the 2001 Virginia Equine Survey Report, Clarke County had approximately 4,400 horses, accounting for a total value of \$70.3 million. The average value per horse in 2001 was approximately \$15,975. By 2006, the number of horses in Clarke County rose to 6,000 for a total value of \$73.4 million and an average value of \$12,228 per animal. This is a 36.4% increase. While no official data has been published since 2006, the Clarke County Equine Alliance estimates that Clarke County currently has between 9,000± and 10,000± horses.

Table: 15 Equine Inventory and Value, Clarke County and Neighboring VA Counties, 2001-2006						
	Equine Inventory		Total Value		Average Value per Equine	
	2001	2006	2001	2006	2001	2006
Clarke County	4,400	6,000	\$70,289,000	\$73,367,000	\$15,975	\$12,228
Fauquier County	13,700	14,800	\$226,083,000	\$268,254,000	\$16,502	\$18,125
Loudoun County	15,800	15,500	\$294,671,000	\$208,855,000	\$18,650	\$13,475
Warren Count	1,100	1,700	\$11,610,000	\$13,943,000	\$10,555	\$8,202
Winchester-Frederick County	2,000	3,000	\$15,245,000	\$38,166,000	\$7,623	\$12,722
Total	37,000	41,000	\$617,898,000	\$602,585,000	\$69,305	\$64,752
Source: 2006 Virginia Equine Survey Report						

Equine Economic Impact. The total economic impact of the horse industry in Clarke County and adjacent counties in 2010, in terms of total sales and tax revenue, is shown in the table below for 2010, the data for which the most recent data are available. Data show that total sales

related to the horse industry accounted for nearly \$20.5 million, leading to tax revenues of \$608,960 for the County.

Table 16: <u>Economic Impact of Horse Industry, Clarke and Neighboring VA Counties, 2010</u>		
	<u>Total Sales</u>	<u>Tax Revenue 1/</u>
Clarke County	\$20,451,415	\$608,963
Fauquier County	\$53,676,492	\$2,113,116
Loudoun County	\$70,425,051	\$2,890,422
Warren County	\$4,299,750	\$114,495
Winchester-Frederick County	\$8,499,769	\$170,381
Total	\$157,352,477	\$5,897,377
Note:1/ 2010 constant dollars. Source: Center for Economic and Policy Studies, Weldon Cooper Center for Public Service		

Findings

On a positive note, the Equine industry in Clarke County is expanding and currently generates considerable annual tax revenues for the County. The production of horse hay is an expanding business, as is the number of farms that provide services to the Equine market.

There are numerous local, single-day horse races and shows, but these have only a local draw. Area professionals in the horse farm market in Clarke County are not positive regarding an expansion of horse racing or shows on a more regional level, as the costs and risks for endeavors of this type could be excessive.

Nonetheless, there is clearly reason for business growth in the Equine industry that should expand the County’s tax base.

Economic Development Director

PURSUANT TO THIS AGREEMENT, made and entered into this 14th day of April, 2015, by and between the Clarke County Board of Supervisors (hereinafter "County"), and Len Capelli, party of the second part (hereinafter "Contractor"); and in consideration of the benefits to be accrued to the parties hereunder, said parties hereto agree as follows:

I. WORK:

Contractor agrees that all activities shall be in furtherance of the Goals and Strategies identified in the Economic Development Strategic Plan for Clarke County, Virginia adopted October 21, 2014 (referenced) and in accord with the Memorandum of Understanding (MOU) Between the Town of Berryville and Clarke County Regarding Economic Development and Tourism (attached). The Contractor agrees to perform the Essential Functions/Typical Tasks outlined in the Clarke County Director of Economic Development and & Tourism Job Description (attached).

II. LIMITATIONS ON WORK:

Unless otherwise authorized in writing, the Contractor shall organize and execute all work to fall within the contract maximums. Any request for additional pay must be in writing and approved prior to beginning the additional work. *Direct Services to the County of Clarke*. For performance of the work described in Section A 1, 2, and 4 above the following limitations shall apply:

III. COMPENSATION:

For performance of the work described herein, the Contractor shall be compensated by the County at the rate of thirty-two dollars and fifty cents (\$32.50) per hour, not to exceed one hundred hours per month for any month. The billable hours shall only be for productive hours specific to work for the County. In addition, the Contractor will be reimbursed for actual expenses incurred in direct connection with the work in accordance with the rates and limits established for County employees. Business entertainment, travel, telephone, memberships in professional organizations, and mileage in connection with this work are reimbursable, up to the limits budgeted. The Board of Supervisors may consider budget amendments upon compelling information presented.

IV. ADMINISTRATIVE SUPPORT:

The County shall provide office space, telephone, access to copiers and other office equipment available to County employees. The Contractor may request administrative and clerical support, not to exceed eight hours per week to supplement the Contractors efforts. The County Administrator will work with the Contractor to assign or employee sufficient personnel to provide this support. The County shall cover the cost of this administrative and clerical assistance either through assignment of existing personnel or by employing such additional personnel as is required. Additional services and or goods shall be approved in advance by the County Administrator and shall be obtained in accordance with the County's procurement policy

V. MANNER OF PAYMENT:

Contractor shall submit statements itemizing hours spent in performance of work on a monthly basis to the County Administrator. Approved payment shall be made to Contractor within 45 days of receipt of statement.

VI. CONTRACTOR STATUS:

The parties hereto intend that the relation between them created by this Agreement is that of employer—independent contractor. Contractor is not an employee of the County of Clarke nor of the Board and is not entitled to the benefits provided by the County to its employees, including but not limited to worker's compensation, unemployment insurance, group health insurance, V.S.R.S. or F.I.C.A. contributions. Contractor will be solely and entirely responsible for his/her acts during the performance of this Agreement.

VII. OWNERSHIP RIGHTS:

Clarke County shall retain ownership rights to any materials or work produced by Contractor pursuant to this Agreement and may use said material or work products as the County may see fit. This shall not affect Contractor's right also to use said material or work products as she may wish. The Contractor may not convey, sell, or assign rights to said material without the approval of the County.

VIII. RIGHT OF INSPECTION:

The work contemplated herein must meet the approval of the County's designated agent and shall be subject to such agent's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state and local laws, rules and regulations applicable to Contractor and to operations covered by this Agreement or accruing out of the performance of such operations.

IX. DURATION:

The initial term of this Agreement shall be for one year from date of execution and shall automatically renew for not more than two one-year terms thereafter.

X. IDEMNIFICATION:

Contractor shall indemnify the County of Clarke against all liability and loss in connection with, and shall assume full responsibility for, payment of all federal, state and local taxes or contributions imposed or required under social security and income tax laws.

XI. ASSIGNMENT:

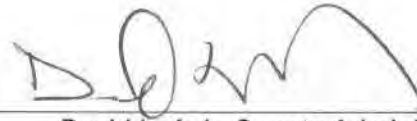
The Contractor shall not assign This Agreement without the express written consent of the Board.

XII. TERMINATION:

The Parties may terminate this Agreement at any time by providing written notice to the other party ninety days in advance of the desired date of termination.

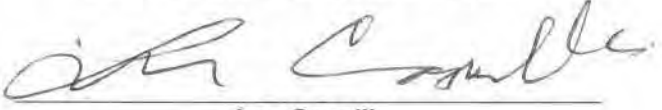
WITNESS the following signatures:

CLARKE COUNTY BOARD OF SUPERVISORS BY:



David L. Ash, County Administrator

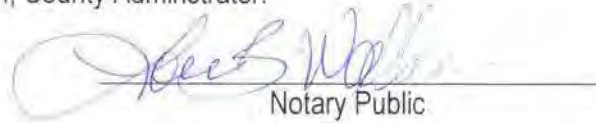
CONTRACTOR BY:



Len Capelli

STATE OF VIRGINIA
COUNTY OF CLARKE, TO-WIT:

The foregoing Agreement was acknowledged before me this 14th day of April of 2015, by David L. Ash, County Administrator.



Notary Public

August 31, 2015
My Commission Expires

326567
Registration Number

LORA B. WALBURN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #326567
My Commission Expires August 31, 2015

STATE OF VIRGINIA
COUNTY OF CLARKE, TO-WIT:

The foregoing Agreement was acknowledged before me this 14th day of April of 2015 by Len Capelli, Contractor.



Notary Public

August 31, 2015
My Commission Expires

326567
Registration Number

LORA B. WALBURN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #326567
My Commission Expires August 31, 2015