6-A

MOTION: **May 16, 2017**
Regular Meeting

SECOND: **Res. No. 17-**

RE: **AUTHORIZE PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE COUNTY CODE TO BE EFFECTIVE JULY 1, 2017, MANDATED BY CHANGES TO STATE LAW MADE BY THE GOVERNOR AND THE 2017 GENERAL ASSEMBLY: PROPOSED AMENDMENTS TO CHAPTERS 2 (ADMINISTRATION), 4 (ANIMAL AND FOWL), 4.5 (BAD CHECKS), 5 (BUILDINGS AND BUILDING REGULATIONS), 13 (MOTOR VEHICLES AND TRAFFIC), 16 (MISCELLANEOUS OFFENSES), 22 (REFUSE), 26 (TAXATION), 27 (TAXICABS), AND 31 (WEAPONS); AND INITIATE ZONING TEXT AMENDMENT**

ACTION:

WHEREAS, the Board of County Supervisors of Prince William County, Virginia, pursuant to both general and specific authority granted by the Code of Virginia, has enacted certain provisions of Chapters 2 (Administration), 4 (Animal And Fowl), 4.5 (Bad Checks), 5 (Buildings And Building Regulations), 13 (Motor Vehicles And Traffic), 16 (Miscellaneous Offenses), 22 (Refuse), 26 (Taxation), 27 (Taxicabs), and 31 (Weapons) of the Prince William County Code to parallel certain provisions of the Code of Virginia; and

WHEREAS, the parallel provisions of the Code of Virginia have been previously amended or amended by the 2017 General Assembly and the Governor of Virginia; and

WHEREAS, it is the Board's desire to conduct a public hearing for the purpose of considering adoption of corresponding amendments to the Prince William County Code; and

WHEREAS, the Board has enacted Chapter 32 of the Prince William Code, Zoning, and the Governor and General Assembly have enacted Chapters 665 and 835 of the 2017 Acts of Assembly and Chapter 613 of the 2016 Acts of Assembly, mandating changes to local zoning ordinances including provisions that deem proposed telecommunication towers or facilities constructed pursuant to Chapter 9.1, Title 56 of the Code of Virginia to be substantially in accord with the comprehensive plan and waiving the need for approval by the planning commission, changing when the appeal period commences for a zoning appeal, establishing a rebuttable presumption in a zoning appeal that the property owner's last known address is the address shown on current real estate assessments, and zoning for wireless communications infrastructure; and

WHEREAS, the Prince William County Board of Supervises finds that public necessity, convenience, general welfare, and good zoning practices require the initiation of this zoning text amendment;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby determine that it shall conduct a public hearing to be scheduled on June 20, 2017, by the Clerk to the Board to consider the adoption of the amendments to Chapters 2, 4, 4.5, 5, 13, 16, 22, 26, 27, and 31 of the County Code, shown on the attachment to this Resolution, all to be effective July 1, 2017. The Clerk is further directed to make copies of all proposed amendments available to the public upon request;

BE IT FURTHER RESOLVED that the Clerk to the Board properly advertise notice of the public hearing for the stated purpose in a newspaper of general circulation in Prince William County;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors does hereby direct the Planning Commission and County Staff to initiate appropriate amendments to Chapter 32 of the Prince William Code, which is the Zoning Ordinance to address the Requirements of Chapters 665 and 835 of the 2017 Acts of Assembly and Chapter 613 of the 2016 Acts of Assembly.

Votes:
Ayes:
Nays:
Absent from Vote:
Absent from Meeting:

For Information:
County Executive
Police Chief
Finance Director
Planning Director
Development Services Director
Public Works Director
Commonwealth's Attorney

ATTACHMENTS: Proposed Amendments
Chapter 665 of the 2017 Acts of Assembly
Chapter 835 of the 2017 Acts of Assembly
Chapter 613 of the 2016 Acts of Assembly

ATTEST: _____
Clerk to the Board

COUNTY OF PRINCE WILLIAM

COUNTY ATTORNEY

One County Complex Court, Prince William, Virginia 22192-9201
(703) 792-6620 FAX: (703) 792-6633

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Peter Grasis
Carolyn Pruitt Desai
Wahaj Memon
Chanel G. Hall

April 26, 2017

AGENDA DATE: MAY 16, 2017
COUNTY ATTORNEY TIME

TO: **BOARD OF COUNTY SUPERVISORS**

FROM: **MICHELLE R. ROBL**
County Attorney

DEBORAH K. SIEGEL DKS
Assistant County Attorney

RE: **AUTHORIZE PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE COUNTY CODE TO BE EFFECTIVE JULY 1, 2017, MANDATED BY CHANGES TO STATE LAW MADE BY THE GOVERNOR AND THE 2017 GENERAL ASSEMBLY: PROPOSED AMENDMENTS TO CHAPTERS 2 (ADMINISTRATION), 4 (ANIMAL AND FOWL), 4.5 (BAD CHECKS) 5 (BUILDINGS AND BUILDING REGULATIONS), 13 (MOTOR VEHICLES AND TRAFFIC), 16 (MISCELLANEOUS OFFENSES), 22 (REFUSE), 26 (TAXATION), 27 (TAXICABS), 31 (WEAPONS); INITIATE ZONING TEXT AMENDMENTS**

We have reviewed the actions taken by the 2017 General Assembly Session to amend various sections of the Code of Virginia. The purpose of our annual review is to ensure that County Code sections remain consistent with parallel enabling provisions of the Code of Virginia, as amended by the General Assembly, and that all criminal and civil penalties be maximized, in accordance with long-standing direction from the Board.

As a result of our annual review, we recommend the attached changes to the County Code. In addition to changes reflecting actions taken by the 2017 General Assembly Session, we have included recommended changes to ensure that County Code reflects current Virginia law. Further, we recommend that the Board conduct its public hearing on these amendments during its meeting of June 20, 2017, so that the changes can be made effective July 1, 2017, when the changes to the Code of Virginia, which prompt these amendments also become effective.

I. Update to the County Code.

The proposed changes to the County Code are attached and are largely self-explanatory. A brief description follows:

Chapter 2, Administration. The amendments effective July 1, extend the filing deadline for required personal interest disclosure statements of county officers and certain employees. The amendments require a form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council be used to make the disclosures. Further the amendments require the forms to be made public no later than six weeks after the filing deadline. See proposed County Code §§ 2-47, 2-47.1, 2-47.2, 2-47.3, 2-48, and 2-48.1.

Chapter 4, Animal and Fowl. The amendments effective July 1, regarding dangerous dogs, include removing the requirement that a law-enforcement officer or animal control officer apply for a summons when the officer has reason to believe that the dog is dangerous; requiring an investigation by an officer for certain exemptions from the definition of "dangerous dog"; and creating an exemption for when a dog bites a person and investigating officer finds that the injury is minor. The amendments allow a court to use good cause as a reason to determine that a dog is not dangerous. The time within which (i) an owner of a dog found to be dangerous is required to obtain a dangerous dog registration certificate and (ii) a convicted owner of a dangerous dog is required to comply with certain provisions is raised from 10 days to 30 days. The dangerous dog registration fee is raised from $50.00 to $150.00. We further propose amendments to the County Code to reflect the current Virginia Code requirements regarding the licensing of dogs. See proposed County Code §§ 4-12, 4-15, 4-17, 4-18, 4-43, and 4-44.

Chapter 4.5, Bad Checks. We recommend amended County Code §4.5-5 to reflect the current language of Virginia Code §15.2-106. This amendment will raise the bad check fee to $50.00 and allow the County to charge a fee for checks, drafts or orders returned because of a stop-payment order placed in bad faith by the drawer. See proposed County Code §4.5-5.

Chapter 5, Buildings and Building Regulations. We recommend adding language to County Code §5-75 to reflect amendments to Virginia Code §15.2-906 allowing the County to charge owners of property the cost in removing or repairing a building or structure as permitted under the Virginia Uniform Statewide Building Code in the event of an emergency. See proposed County Code §5-75.

Chapter 13, Motor Vehicles and Traffic. Amendments effective July 1, 2017 to several sections touching upon motor vehicle regulation and highway safety were made. We propose parallel changes to the relevant sections of the County Code. These changes include: (a) adding definition of "traffic incident management services" and provision for vehicle operating pursuant to a contract with VDOT for traffic incident management services to overtake and pass slow moving vehicles, (b) requiring the legal name or trade name to be displayed on for hire vehicles, (c) allowing the court to dismiss summons for

certain violations if proof of compliance is provided on or before the court date, (d) adding requirements for lights on electric personal assistive mobility devices and electric person delivery devices, (e) expanding permitted usage of flashing amber, purple, or green warning lights, (f) updating references to Virginia Code sections, (g) adding regulations for length, weight and lighting on towaway trailer transporters, (h) adding regulations regarding length, signage, and overhangs for automobile transporters, (i) setting the fine amount on violations of certain sections, (j) clarifying that certain license suspensions shall run concurrently, (k) providing that when drivers of vehicles involved in accidents are able to do so, they shall move their vehicles from the roadway, and (l) expanding the category of entities which shall not be held responsible for failure to exercise authority under County Code § 13-450 and expanding the category of entities which are to be reimbursed under that section. Further amendments regarding tow truck drivers and operators include requiring that operators provide a written receipt with a telephone number or website available for customer complaints and requiring operators to contact animal control before towing a vehicle with an unattended companion animal inside. In addition, we are recommending updating several code sections to reflect the current Virginia Code language regarding emergency medical services vehicles. See proposed County Code §§13-6, 13-6.1, 13-21, 13-41, 13-87, 13-99, 13-99.1, 13-127, 13-131.1, 13-131.2, 13-131.3, 13-131.5, 13-132, 13-133.1, 13-168, 13-180, 13-182.2, 13-182.5, 13-207, 13-210, 13-229, 13-254, 13-313, 13-450 and 13-500.

Please know that any other state law amendments to public safety matters found within, Chapter 13, Motor Vehicles and Traffic have been reviewed by this Office, and we assure you that they have been incorporated within the County Code *mutadis mutandis*, and without necessity of amendment.

Chapter 16, Miscellaneous Offenses. We recommend amending County Code §16-7 to make it a Class 1 misdemeanor to maliciously activate any building's fire alarm. In addition, we suggest an amendment ranking liens for unpaid charges for the county's removal of graffiti, on parity with unpaid local real estate taxes. See proposed County Code §§16-7 and 16-56.

Chapter 22, Refuse. We suggest an amendment ranking liens for unpaid charges for the county's removal of trash, garbage, or litter, on parity with unpaid local real estate taxes. See proposed County Code §22-138.

Chapter 26, Taxation. Effect July 1, 2017, Virginia Code § 58.1-3234 prohibits localities from requiring applicants for taxation of real estate on the basis of use assessment who are lessors to provide the lease agreement on the property. We suggest amending County Code §26-17 to reflect this prohibition. We recommend updating Code Code §26-236 to reflect appropriate Code of Virginia sections defining private colleges and public institute of higher education. See proposed County Code §§ 26-17 and 26-236.

Chapter 27, Taxicabs. Based on the repeal of Virginia Code § 46.2-2059.1, we recommend repealing County Code §27-119, which regulated taxicab roof signs and markings. See proposed County Code §27-119.

Chapter 31, Weapons. We propose amendments to the County Code §31-1 to reflect the current Virginia Code requirements regarding concealed weapons. In addition, the proposed changes add language expanding the definition of "bow" to include slingbows. See proposed County Code §§ Sec. 31-1 and 31-40.

II. Initiation of Zoning Text Amendment.

We also recommend the initiation of zoning text amendments to incorporate new mandatory provisions, including: a change deeming proposed telecommunication towers or facilities constructed pursuant to Chapter 9.1, Title 56 of the Code of Virginia to be substantially in accord with the comprehensive plan and waiving the need for approval by the planning commission; changing when the appeal period commences for a zoning appeal; establishing a rebuttable presumption in a zoning appeal that the property owner's last known address is the address shown on current real estate assessments; and zoning for wireless communication infrastructure and small cell facilities. See the attached Chapters of the Acts of the Assembly.

A resolution scheduling the proposed County Code changes for public hearing is attached and we recommend its adoption. We will be available at the Board meeting on May 16, 2017, to discuss the proposed changes and address any questions.

ATTACHMENTS: Proposed Resolution
Proposed Amendments to the County Code
Chapter 665 of the 2017 Acts of Assembly and
Chapter 835 of the 2017 Acts of Assembly, and
Chapter 613 of the 2016 Acts of Assembly, relating to the mandated provisions to be included in local zoning ordinance.

cc: County Executive
Chief of Police
Finance Director
Director of Planning
Director of Development Services
Director of Public Works
Commonwealth's Attorney

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

* * *

ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

* * *

Sec. 2-47. - County officials and employees required to disclose.

In accordance with the requirements set forth in Code of Virginia §2.2-3118.2, ~~Semiannually, on or before December 15 for the preceding si,x-month period complete through the last day of October and by June 15 for the preceding six-month period complete through the last day of April and in any case~~ prior to assuming office or employment as a county officer or employee, specifically including members of the board of county supervisors, the county attorneys and deputy county attorney, the county executive, and deputy county and assistant county executives, clerk to the board, all department heads, all deputy and assistant department heads, all department division heads, real estate assessors, and the general manager and deputy general manager of the Prince William County Service Authority shall file, a disclosure statement ~~make disclosure~~ of their personal interests on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~required by~~ Code of Virginia § 2.2-3117 and thereafter shall file such a statement annually on or before February 1 ~~copy thereof~~ with the clerk to the board.

(Ord. No. 09-59, 10-6-09; Ord. No. 15-35, Attch., 6-23-15; Ord. No. 16-22, Attch., 6-21-16, effective 7-1-16)

Editor's note— Ord. No. 09-59, adopted Oct. 6, 2009, repealed § 2-47 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 2-47 pertained to when and by whom required. See Code Comparative Table for derivation.

State Law reference— Similar provisions, Code of Virginia, § 2.2-3113, §§ 2.2-3115 et seq.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

* * *

ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

* * *

Sec. 2-47.1. - Members of authority governing bodies required to disclose.

(a) In accordance with the requirements set forth in Code of Virginia §2.2-3118.2, ~~Semiannually, on or before December 15 for the preceding six-month period complete through the last day of October and by June 15 for the preceding six-month period complete through the last day of April, and in any case~~ prior to their first meeting as a member of an authority governing body appointed by the board of county supervisors, specifically including members of the Prince William County Service Authority, Cherry Hill Community Development Authority, Fairfax County Water Authority, Heritage Hunt Community Development Authority, Prince William County Industrial Development Authority, Peumansend Creek Regional Jail Authority, Stafford Regional Airport Authority, Upper Occoquan Sewage Authority, and Virginia Gateway Community Development Authority shall file, a disclosure statement ~~make disclosure~~ of their personal interests on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~required by~~ Code of Virginia, § 2.2-3117 and shall thereafter file such statement ~~a copy thereof~~ annually on or before February 1, with the clerk to the board.

(b) If any community development authority created by the board of county supervisors has, within the district the authority was created to serve, fully executed the services or fully completed construction of all facilities proposed to be undertaken by the authority and the only remaining function of authority is to annually expend funds to pay the debt service costs of any bonds or other forms of financing issued to fund the services provided or facilities constructed within the district the authority serves, all members of the authority governing body appointed by the board of county supervisors shall, in accordance with the requirements set forth in Code of Virginia §2.2-3118.2, annually, on or before ~~December 15~~ February 1 each year, file, a disclosure statement ~~make disclosure~~ of their personal interests on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~required by~~ Code of Virginia, § 2.2-3118 and shall file a copy thereof with the clerk to the board. Should the ordinance or resolution that created such a community development authority be amended to grant the authority to provide additional services or facilities within the district the authority serves, all members of the authority governing body shall revert to the disclosure requirements as set forth in subsection (a) of this section.

(Ord. No. 09-59, 10-6-09; Ord. No. 10-42, Attch., 9-14-10; Ord. No. 13-23, Attch., 6-4-13; Ord. No. 15-35, Attch., 6-23-15; Ord. No. 16-22, Attch., 6-21-16, effective 7-1-16)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

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ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

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Sec. 2-47.2. - Members of boards, commissions and councils required by state code to disclose.

In accordance with the requirements set forth in Code of Virginia §2.2-3118.2, ~~Semiannually, on or before December 15 for the preceding six-month period complete through the last day of October and by June 15 for the preceding six-month period complete through the last day of April, and in any case~~ prior to their first meeting as a member of a board, commission or council required by state code to make disclosure of their personal interests, specifically including non public agency representatives of the community policy and management team shall file, a disclosure statement ~~make disclosure~~ of their personal interests on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~required by~~ Code of Virginia, § 2.2-3117 and shall thereafter shall file such a statement annually on or before February 1 ~~file a copy thereof~~ with the clerk to the board.

(Ord. No. 09-59, 10-6-09; Ord. No. 15-35, Attch., 6-23-15)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

* * *

ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

* * *

Sec. 2-47.3. - Members of boards, commissions and councils as designated by the board of county supervisors required to disclose.

In accordance with the requirements set forth in Code of Virginia § 2.2-3118.2, ~~Annually~~ annually, on or before February 1, ~~December 15~~ each year and in any case prior to their first meeting as a member of a board, commission or council as designated by the board of county supervisors, specifically including the Board of Equalization, Brentsville Courthouse Historic Centre Trust, Chesapeake Bay Preservation Area Review Board, Fire and Rescue Association, Innovation Owners Association Board of Directors, Manassas Regional Airport Commission, Northern Virginia Health Center Commission, Northern Virginia Manpower Consortium Workforce Investment Board, OPEB Master Trust Finance Board, Planning Commission, Park Commission, Potomac and Rappahannock Transportation Commission, Prince William-Manassas Convention and Visitors Bureau, Prince William-Manassas Regional Jail Board, Stormwater Management Appeal Board, Supplemental Retirement Program for Police and Fire, Trails and Blueways Council, Transportation Planning Board and Wetlands Board nonsalaried citizen members appointed by the board of county supervisors shall make disclosure of their personal interests on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~required by~~ Code of Virginia, § 2.2-3118 and shall file a copy thereof with the clerk to the board. In accordance with the requirements set forth in Code of Virginia § 2.2-3118.2, ~~County~~ county officials and employees appointed to serve on the foregoing boards, commissions or councils as a representative of the county shall make disclosure of their personal interests on the form required by Code of Virginia, § 2.2-3117 annually ~~semiannually~~, on or before February 1, ~~December 15 for the preceding six-month period complete through the last day of October and by June 15 for the preceding six-month period complete through the last day of April~~ and shall file a copy thereof with the clerk to the board.

(Ord. No. 09-59, 10-6-09; Ord. No. 13-23, Attch., 6-4-13; Ord. No. 15-35, Attch., 6-23-15)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

* * *

ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

* * *

Sec. 2-48. - Disclosure of real estate holdings.

The county executive and real estate assessors, and members of the planning commission and board of zoning appeals shall in accordance with Code of Virginia §2.2-3118.2, in addition to any other forms required by state law or this chapter, make disclosure of their real estate holdings on the form required by Code of Virginia, § 2.2-3115(G) of the act and shall file a copy thereof with the clerk to the board on or before February 1 ~~December 15~~ each year and in any case prior to assuming employment ~~or their first meeting as a member of such body~~.

(Ord. No. 09-59, 10-6-09; Ord. No. 15-35, Attch., 6-23-15)

Editor's note— Ord. No. 09-59, adopted Oct. 6, 2009, repealed § 2-48 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 2-48 pertained to disclosure form; contents, filing. See Code Comparative Table for derivation.

State Law reference— Required disclosure form, Code of Virginia, § 2.2-3117.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 2

Administration

* * *

ARTICLE III. - DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

* * *

Sec. 2-48.1. - Provisions relating to certain land use advisory committees.

Nonsalaried citizen members of any board, commission or council created by the board of county supervisors to advise it or the planning commission on land use policies affecting zoning or density of specific identifiable parcels within the county shall, as a condition of assuming office, file a disclosure form of his or her personal interests and such other information as is specified on the form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council pursuant to ~~set forth in~~ Code of Virginia, § 2.2-3118 and thereafter shall file such form annually on or before ~~December 15~~ February 1.

(Ord. No. 09-50, 8-4-09; Ord. No. 09-59, 10-6-09; Ord. No. 15-35, Attch., 6-23-15)

Editor's note— Former § 2-48.1, which pertained to filing disclosure interests, was repealed by Ord. No. 86-19, enacted Feb. 11, 1986. The repealed provisions derived from Ord. No. 83-733, enacted Sept. 6, 1983.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE II. - VICIOUS AND DANGEROUS DOGS

* * *

Sec. 4-12. - Definitions.

For the purposes of this article and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Dangerous dog. Any canine or canine crossbreed that:

(1) Has, attacked, bitten or inflicted injury upon a ~~person or~~ companion animal that is a dog or cat; or

(2) Has killed a companion animal that is a dog or cat. However, ~~when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed~~ a canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that (i) ~~if~~ no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii)both animals are owned by the same person, or (iii) ~~if~~ such attack ~~occurs~~ occurred on the property of the attacking or biting dog's owner or custodian~~;, or (iv) for other good cause as determined by the court~~ or

(3) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog ~~that has bitten, attached, or inflicted injury on a person~~ shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or other good cause, that the dog is not dangerous or a threat to the community.

No animal shall be found to be a dangerous dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or other custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

No animal that, at the time of the acts complained of was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property shall be found to be a dangerous dog.

No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog.

No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

Own; owner. The words "own" and "owner" shall include any person having a right of property in a dog, any person who keeps or harbors a dog, any person who has a dog in his care, or any person who acts as its custodian. If the owner of an animal determined to be a dangerous dog is a minor, the custodian parent or legal guardian of the minor shall be considered the "owner" of such dog and shall be responsible for complying with the requirements of this section.

Serious injury or serious bodily injury. Serious injury or serious bodily injury includes an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Vicious dog. Any canine or crossbreed that:

(1) Has killed a person; or

(2) Has inflicted serious injury to a person; or

(3) Has continued to exhibit the behavior which resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by a local ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

No animal shall be found to be a vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or other custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

No animal that, at the time of the acts complained of was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property shall be found to be a vicious dog.

No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog.

No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

(Ord. No. 92-56, 6-2-92; Ord. No. 95-26, 3-14-95; Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 06-59, 6-27-06; Ord. No. 08-58, 6-24-08; Ord. No. 13-23, Attch., 6-4-13)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE II. - VICIOUS AND DANGEROUS DOGS

* * *

Sec. 4-15. - Filing of charges concerning dangerous and vicious dogs; custody of dangerous and vicious dogs pending trial.

(a) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog may apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous.

(b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a ~~dangerous dog or~~ vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is ~~dangerous or~~ vicious.

(c) When a person has been charged with possession of a dangerous dog after the animal warden has investigated and made his determination under section 4-13, or possession of a dangerous dog in violation of a list of restrictions, or violation of any provision of article V of this chapter relating to rabies quarantine, the animal warden shall take possession of the animal and confine it until such time as evidence shall be heard or a verdict rendered. If the animal warden determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered, subject to such conditions as the animal warden may prescribe pursuant to section 4-16 of this chapter.

(d) When a person has been charged with possession of a vicious dog, the animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal.

(e) Upon taking possession of the animal, the animal warden shall be under a duty to feed, care for and safeguard the animal properly until the date of trial and also until any possible appeals are complete. The animal shall not be released to the owner until the owner pays the reasonable cost of the care and keeping of the dog in accordance with the provisions of section 4-24, and any court order for release of a dog shall so provide.

(f) Failure of the owner to comply with any order of the general district court to produce a dog or pay the animal warden the costs of the dog's maintenance at the animal shelter shall be punishable as civil contempt, and it shall be unlawful for any person to assist such owner in concealing the whereabouts of the dog from the court.

(g) If the dog is ultimately held by the court not to be vicious or dangerous, the animal warden shall forthwith return the dog to the owner.

(h) The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in the Article 4 (§§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(Ord. No. 92-56, 6-2-92; Ord. No. 95-26, 3-14-95; Ord. No. 97-60, 6-24-97, effective 7-1-97; Ord. No. 00-42, 6-27-00, effective 7-1-00; Ord. No. 06-59, 6-27-06; Ord. No. 13-23, Attch., 6-4-13)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1; requirements for euthanizing animals, Code of Virginia, § 3.1-796.119.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE II. - VICIOUS AND DANGEROUS DOGS

* * *

Sec. 4-17. - Requirements and restrictions imposed upon a finding that a dog is a dangerous dog.

(a) The owner of any animal found to be a dangerous dog shall, within 30 ~~ten~~ days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of ~~$50.00~~ $150.00, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, ~~A~~all certificates obtained pursuant to this subsection shall be updated and renewed annually for a fee of $85.00 ~~the same fee~~ and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry. ~~provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian~~.

(b) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed, and (iii) that the animal has been spayed or neutered.

In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least $100,000.00, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.00.

(c) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to Virginia Code Section § 3.2-6503.

When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(d) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal warden to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(e) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § 3.2-6542, within 45 days of such a finding by a court of competent jurisdiction. The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(f) All fees collected pursuant to this chapter, less the costs incurred by the animal warden in producing and distributing the certificates and tags required by this article and in caring for animals pending the hearing described in this article, shall be paid into a special dedicated fund for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6557.

(Ord. No. 92-56, 6-2-92; Ord. No. 95-26, 3-14-95; Ord. No. 97-60, 6-24-97, effective 7-1-97; Ord. No. 06-59, 6-27-06; Ord. No. 13-23, Attch., 6-4-13)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE II. - VICIOUS AND DANGEROUS DOGS

* * *

Sec. 4-18. - Failure to comply with requirements for keeping dangerous dogs; penalties.

(a) It shall be unlawful for any person to keep within the county any dangerous dog, except in compliance with the provisions of section 4-17 and Code of Virginia, § 3.2-6540. Each day during which a person keeps a dangerous dog in the county either without a dangerous dog certificate issued by the animal warden under section 4-17 or in violation of section 4-17 and Code of Virginia, § 3.2-6540 shall constitute a separate offense. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal.

(b) Further, the general district court, upon finding that this section has been violated, may (i) order the animal warden to impound and destroy a dangerous dog which has been kept in violation of this section or (ii) grant the owner up to 30 ~~45~~ days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

(c) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(Ord. No. 92-56, 6-2-92; Ord. No. 95-26, 3-14-95; Ord. No. 97-60, 6-24-97, effective 7-1-97; Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 06-59, 6-27-06; Ord. No. 13-23, Attch., 6-4-13)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE IV. - DOG LICENSE

* * *

Sec. 4-43. - When license tax due and payable.

The license tax imposed on dogs by section 4-42 shall be due and as follows~~:~~

(1) On or before January 1 and not later than January 31 of each year, the owner of any dog ~~six~~ four months old or older shall pay such tax.

(2) If a dog shall become ~~six~~ four months of age or if a dog over ~~six~~ four months of age unlicensed by this county shall come into the possession of any person between January 1 and October 31 of any year, the license tax for the current calendar year shall be paid by the owner no later than 30 days after the dog has reached the age of four months, or no later than 30 days after an owner acquires a dog four months of age or older ~~forthwith~~.

(3) If a dog shall become ~~six~~ four months of age or if a dog over ~~six~~ four months of age unlicensed by this county shall come into possession of any person between November 1 and December 31 of any year, the license tax for the succeeding calendar year shall be paid the license tax for the current calendar year shall be paid by the owner no later than 30 days after the dog has reached the age of four months, or no later than 30 days after an owner acquires a dog four months of age or older. ~~forthwith by the owner and~~ sSuch license shall protect the dog from the date of payment of the license tax to the end of the succeeding calendar year.

(Code 1965, § 3-8)

State Law reference— Similar provisions, Code of Virginia, § ~~3.1-796.88.~~ 3.2-6530

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4

Animals and Fowl

* * *

ARTICLE IV. - DOG LICENSE

* * *

Sec. 4-44. - Failure to pay tax when due.

It shall be unlawful and a Class 4 misdemeanor for the owner of any dog to fail to pay the license tax imposed by this article before February 1 for the year in which it is due. In addition to any fine imposed hereunder, the court may order confiscation and the proper disposition of any dog for which the license fee has not been paid. Payment of such license tax subsequent to a summons to appear before a court for failure to do so within the time required by this article shall not operate to relieve such owner from the penalties provided for such failure.

(Code 1965, §§ 3-9, 3-10; Ord. No. 84-613, 7-17-84)

State Law reference— Similar provisions, Code of Virginia, ~~§ 3.1-796.128~~ 3.2-6587.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 4.5

Bad Checks

* * *

ARTICLE III. - PAYMENT OF OTHER SUMS

* * *

Sec. 4.5-5. - Bad check for payment of other sums.

Any person who utters, publishes or passes any check or draft or order for the payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, or because such check, draft, or order was returned because a stop-payment order placed in bad faith on the check, draft or order by the drawer, shall incur a bad check fee in the amount of ~~$35.00~~ $50.00. Such amount shall be added to the sum due, and shall be in addition to other penalties as provided by law.

(Ord. No. 93-17, 4-29-93; Ord. No. 11-29, Attch., 7-19-11)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 5

Buildings and Building Regulations

* * *

ARTICLE IV. – UNSAFE BUILDINGS AND STRUCTURES

* * *

Sec. 5-75. - Recovery of costs if building official, building maintenance official or fire marshal removes, repairs or secures; lien.

(a) If the building official, building maintenance official or fire marshal removes, repairs or secures a building, wall or other structure pursuant to section 5-74, or as otherwise permitted under the Virginia Uniform Statewide Building Code in the event of an emergency, the cost or expenses thereof shall be chargeable to and paid by the owner of the property.

(b) Every charge authorized by this section may be collected by the county as taxes are collected.

(c) Every charge authorized by this section with which the owner of the property has been assessed and which remains unpaid shall constitute a lien against the property. The lien shall rank on a party with liens for unpaid local real estate taxes and shall be enforceable in the same manner as provided in Virginia Code §§ 58.1-3940 et seq. and 58.1-3965 et seq.

(Ord. No. 08-32, 5-6-08)

Editor's note— Ord. No. 08-32, adopted May 6, 2008 repealed § 5-75, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 5-75 pertained to hearing before board and derived from Ord. No. 81-16-23, adopted May 19, 1981; Ord. No. 84-787, adopted Oct. 9, 1984; Ord. No. 86-128, adopted Aug. 5, 1986 and Ord. No. 88-74, adopted Jun. 7, 1988.

State Law reference— Code of Virginia, § 15.2-906

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

(Pursuant to Chapter 502 2015 session)

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE I. – IN GENERAL

* * *

Sec. 13-6. - Exemptions for operators of emergency vehicles.

(a) The driver of any emergency vehicle, when such vehicle is being used in the performance of public services and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

(1) Disregard speed limits, while having due regard for safety of persons and property;

(2) Proceed past any steady or flashing red signal, traffic light, stop sign or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;

(3) Park or stop notwithstanding the other provisions of this chapter;

(4) Disregard regulations governing a direction of movement of vehicles turning in specified directions, so long as the operator does not endanger life or property;

(5) Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

(6) Pass or overtake, with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; and

(7) Pass or overtake, with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

(b) The exemptions granted to emergency vehicles by subsection (a)(1), (a)(3), (a)(4), (a)(5), and (a)(6) of this section shall apply only when the operator of such vehicle displays a flashing, blinking or alternating emergency light or lights as provided in section 13-131, and sounds a siren, exhaust whistle or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision (a)(2) shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating

emergency light or lights as provided in section 13-131 and either (i) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (ii) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection (a) shall apply only when there is in force and effect for such vehicle either:

(1) Standard motor vehicle liability insurance covering injury or death to any person in the sum of at least $100,000.00 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of $300,000.00 because of bodily injury to or death of two or more persons in any one accident; or

(2) A certificate of self-insurance issued pursuant to Code of Virginia, § 46.2-368, as amended.

(c) The exemptions granted by this section shall not protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

(d) For the purposes of this section, the term "emergency vehicle" shall mean:

(1) Any law enforcement vehicle operated by or under the direction of a federal, state, or local law enforcement officer, (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation, (ii) in response to an emergency call, (iii) in testing the accuracy of speedometers of such vehicles, or (iv) in testing the accuracy of speed measuring devices specified in Code of Virginia, § 46.2-882, as amended;

(2) Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

(3) Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

(4) Any ~~ambulance, rescue, or life-saving~~ emergency medical services vehicle designed or used for the principal purpose of ~~supplying resuscitation or emergency relief~~ providing emergency medical services where human life is endangered;

(5) Any Virginia Department of Emergency Services vehicle or office of emergency medical services vehicle, when responding to an emergency call or operating in an emergency situation;

(6) Any Virginia Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law enforcement officer; and

(7) Any vehicle authorized to be equipped with alternating blinking, or flashing red or red and white secondary warning lights under the provisions of Code of Virginia, § 46.2-1029.2 or section 13-133.1 of this chapter.

(8) Any Virginia National Guard Civil Support Team vehicle when responding to an emergency.

(e) Any law enforcement vehicle operated by or under the direction of a federal, state, or local law enforcement officer may disregard speed limits, while having due regard for safety of persons and property, (i) in testing the speedometers of such vehicles, (ii) in testing the accuracy of speed measuring devices pursuant to Code of Virginia, § 46.2-882, or (iii) in following another vehicle for the purpose of determining its speed.

(f) A department of environmental quality vehicle, while en route to an emergency and with due regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. These department of environmental quality vehicles shall not be required to sound a siren or any device to give automatically intermittent signals, but shall display red or red and white warning lights when performing such maneuvers.

(g) Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting himself to criminal prosecution:

(1) Disregard speed limits, while having due regard for safety of persons and property;

(2) Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard for the safety of persons and property;

(3) Park or stop notwithstanding the other provisions of this chapter;

(4) Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property; or

(5) Pass or overtake, with due regard for the safety of persons and property, another vehicle.

Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a siren or any device to give automatically intermittent signals.

(Code 1965, § 12.1-119; Ord. No. 85-86, 8-6-85; Ord. No. 89-168, 12-19-89; Ord. No. 94-40, 6-28-94; Ord. No. 95-46, 6-27-95; Ord. No. 00-42, 6-27-00, effective 7-1-00, Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 05-43, 6-28-05; Ord. No. 07-49, 6-26-07; Ord. No. 11-29, Attch., 7-19-11; Ord. No. 14-30, Attch., 6-17-14)

Editor's note— Former § 13-298 was deleted and the provisions thereof incorporated into § 13-6 with the codification of Ord. No. 89-168.

State Law reference— Similar provisions, Code of Virginia, § 46.2-920.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE I. – IN GENERAL

* * *

Sec. 13-6.1. - Operation of tow trucks under certain circumstances.

When operating at or en route to or from the scene of a traffic accident or similar emergency when specifically directed by a law enforcement officer present at the scene of a motor vehicle crash or similar incident, tow truck operators may:

(1) Operate on a highway in a direction opposite that otherwise permitted for traffic;

(2) Cross medians of divided highways;

(3) Use cross-overs and turn-arounds otherwise reserved for use only by authorized vehicles;

(4) Drive on a portion of the highway other than the roadway;

(5) Stop or stand on any portion of the highway; and

(6) Operate in any other manner as directed by a law enforcement officer at the scene.

When operating at, en route to, or from the scene of a traffic accident or similar emergency, a vehicle operated pursuant to a Virginia Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in this subsection, with due regard to the safety of persons and property and without direction of law enforcement, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. For purposes of this subsection, "safety service patrol program" means a program or service sponsored or operated by the Virginia Department of Transportation that assists stranded motorists and provides traffic control during traffic incidents, including traffic accidents and road work, and "traffic incident management services" means services provided in response to any event or situation on or affecting the Department of Transportation right-of-way that impedes traffic or creates a temporary safety hazard.

Nothing in this section, however, shall (i) immunize the driver of any tow truck from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property or (ii) release the driver of any tow truck from any civil liability for failure to use care in operations permitted in this section.

(Ord. No. 94-40, 6-28-94; Ord. No. 12-27, Attch., 6-5-12, effective 7-1-12)

State Law reference— Similar provisions, Code of Virginia, § 46.2-920.1

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE I. – IN GENERAL

* * *

Sec. 13-21. - Identification of for-hire vehicles.

(a) It shall be unlawful for any person to operate or cause to be operated, or to permit the operation of, a for-hire motor vehicle, except one falling within the gross weight group of 10,000 pounds and less, over or on the highways of the county, unless the legal name or trade name of the motor carrier as defined in VA. Code Ann. §46.2-2000 et seq or §46.2-2100 et seq. operating the vehicle is plainly displayed ~~and address of the owner of such vehicle plainly appears~~ on both sides of such vehicle, in letters of such size, shape and color as to be readily legible during daylight hours from a distance of 50 feet while the vehicle is not in motion. Such display shall be kept and maintained in such manner as to remain so legible and may be accomplished through the use of a removable device so prepared as to otherwise meet the identification and legibility requirements of this section.

(b) The provisions of this section shall not apply to any motor vehicle the use of which is restricted to wedding~~, ambulance~~ or funeral services, nor to any motor vehicle rented without a chauffeur and operated under a valid lease agreement which provides that the lessee of such vehicle shall have exclusive control thereof, nor which is used exclusively as an emergency medical services vehicle.~~.; but this exemption shall not include motor vehicles leased to common or contract carriers of persons or property which operate or should operate under certificates or permits issued by the state corporation commission or the interstate commerce commission.~~

(c) The provisions of this section shall also apply to tow trucks used in providing service to the public for hire. For the purposes of this section, "tow truck" means any motor vehicle which is constructed and used primarily for towing, lifting, or otherwise moving disabled vehicles.

(d) No person shall drive on the highways in the county a pickup or panel truck, tractor trailer or semi-trailer bearing any name other than that of the vehicle's owner or lessee. However, the provisions of this subsection shall not apply to advertising material for another, displayed pursuant to a valid contract.

(Code 1965, § 12.1-30; Ord. No. 89-168, 12-19-89).

Cross reference— Identification of vehicles used by commercial refuse removers, § 22-39; identifying markings on taxicabs, § 27-116.

State Law reference— Similar provisions, Code of Virginia, § 46.2-1076~~(E)~~.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE II. - STATE REGISTRATION AND LICENSING OF VEHICLES

* * *

Sec. 13-41. - Attachment and display of license plates.

(a) It shall be unlawful for any person to operate, or for the owner thereof to knowingly permit the operation of, upon a highway in the county, any motor vehicle, trailer or semi-trailer without having attached thereto and displayed thereon the license plates and decals assigned thereto by the division for the current registration year, whenever such license plates and decals are required by state law.

(b) License plates assigned to a motor vehicle, other than a motorcycle, tractor truck, trailer or semi-trailer, or to persons licensed as motor vehicle dealers or transporters of unladen vehicles, shall be attached to the front and the rear of the vehicle. The license plate assigned to a motorcycle, trailer or semi-trailer shall be attached to the rear of the vehicle. The license plate assigned to a tractor truck shall be attached to the rear of the vehicle. The license plates issued to licensed motor vehicle dealers and to persons licensed as transporters of unladen vehicles shall consist of one plate for each set issued, and shall be attached to the rear of the vehicle to which it is assigned.

(c) Every license plate shall be securely fastened to the motor vehicle, trailer or semi-trailer to which it is assigned, so as to prevent the plate from swinging, in a position to be clearly visible and in a condition to be clearly legible. No colored glass, colored plastic, or any other type of covering shall be placed, mounted, or installed on or over any license plat if such glass, plastic, or other type of covering in any way alters or obscures (i) the alpha-numeric information, (ii) the color of the license plate, (iii) the name or abbreviated name of the state wherein the vehicle is registered, or (iv) any character or characters, decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. No insignia, emblems or trailer hitches or couplings shall be mounted in such a way as to hide or obscure any portion of the license plate or render any portion of the plate illegible.

(d) For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

(Code 1965, § 12.1-39; Ord. No. 86-101, 7-1-86; Ord. No. 86-123, 8-4-86; Ord. No. 89-168, 12-19-89; Ord. No. 01-46, 6-19-01, effective 7-1-01; Ord. No. 12-27, Attch., 6-5-12, effective 7-1-12)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-715, 46.2-716.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. - VEHICLE EQUIPMENT

DIVISION 1. – GENERALLY

* * *

Sec. 13-87. - Use of defective or unsafe equipment.

It shall be unlawful for any person to use or have as equipment on a motor vehicle operated on a highway in this county any device or equipment mentioned in section 13-86 which is defective or in unsafe condition.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

(Code 1965, § 12.1-226; Ord. No. 89-168, 12-19-89)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1003.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. - VEHICLE EQUIPMENT

DIVISION 1. – GENERALLY

* * *

Sec. 13-99. - Obstructions to windshield or windows.

(a) Except as otherwise provided in this section, Code of Virginia, §§ 46.2-1052—46.2-1058, or permitted by federal law, it shall be unlawful for any person to operate a motor vehicle on a highway with any sign, poster, colored or tinted film, sun-shading material, or other colored material on the front windshield, front or rear side windows, or rear windows of such motor vehicle. This provision shall not apply to any certificate or other paper required by law or permitted by the superintendent to be placed on a motor vehicle's windshield or window.

(b) Notwithstanding the provisions of subsection (a), of this section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle, so located as to reflect to the driver of such vehicle a view of the highway for at least 200 feet to the rear of such vehicle, any or all of the following shall be lawful:

(1) To drive a motor vehicle equipped with one optically grooved clear plastic right-angle view lens attached to one rear window of such motor vehicle, not exceeding 18 inches in diameter, in the case of a circular lens, or not exceeding 11 inches by 14 inches, in the case of a rectangular lens, which enables the driver of the motor vehicle to view below the line of sight, as viewed through the rear window.

(2) To have affixed to the rear side windows, rear window or windows of a motor vehicle any sticker or stickers, regardless of size.

(3) To have affixed to the rear side windows, rear windows or windows of a motor vehicle any sun-shading material of a type approved by the superintendent of the state police.

(4) To drive a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.

(c) Except as provided in section 13-99.1, but not withstanding the foregoing provisions of this section, no sun-shading or tinting film may be applied or affixed to any window of a motor vehicle unless such motor vehicle is equipped with a mirror on each side of such motor vehicle, so located as to reflect to the driver of the vehicle a view of the highway for at least

200 feet to the rear of such vehicle, and the sunshading or tinting film is affixed in accordance with the following:

(1) No sun-shading or tinting films may be applied or affixed to the rear side windows or rear window or windows of any motor vehicle operated on the highways of the county that reduce the total light transmittance of such windows to less than 35 percent;

(2) No sun-shading or tinting films shall be applied or affixed to the front side windows of any motor vehicle operated on the highways of the county that reduce total light transmittance of such window to less than 50 percent;

(3) No sun-shading or tinting films shall be applied or affixed to any window of a motor vehicle that (i) have a reflectance of light exceeding 20 percent or (ii) produce a holographic or prism effect;

(4) Any person who operates a motor vehicle on the highways of the county with sun-shading or tinting films that (i) have a total light transmittance less than that required by subdivisions (1) and (2) of this subsection, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects shall be guilty of a traffic infraction but shall not be awarded any demerit points by the commissioner for the violation;

(5) Any person or firm who applies or affixes to the windows of any motor vehicle in the county sun-shading or tinting films that (i) reduce the light transmittance to levels less than that allowed in subdivisions (1) and (2) of this subsection, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects shall be guilty of a Class 3 misdemeanor for the first offense and a Class 2 misdemeanor for any subsequent offense.

(d) The Virginia Division of Purchases and Supply, pursuant to Code of Virginia, § 2.2-1112, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meets the standards established by the division. Such measurements made by law enforcement officers shall be given a tolerance of minus seven percentage points.

(e) No film or darkening material may be applied to the windshield except to replace the sunshield in the uppermost area as installed by the manufacturer of the vehicle.

(f) Nothing in this section shall prohibit the affixing to the rear window of a motor vehicle of a single sticker, no larger than 20 square inches if such sticker is totally contained in the lower five inches of the glass of the rear window, nor shall subsection (b), of this section apply to a motor vehicle to which but one such sticker is so affixed.

(g) Nothing in this section shall prohibit applying to the rear side windows or rear window of any multi-purpose passenger vehicle or pickup truck sun-shading or tinting films that reduce the total light transmittance of such window or windows below 35 percent.

(h) As used in this section: "front side windows" means those windows located adjacent to and forward of the driver's seat; "holographic effect" means a picture or image that may remain constant or change as the viewing angle is changed; "rear side windows" means those windows located to the rear of the driver's seat; "rear window" or "rear windows" means those windows which are located to the rear of the passenger compartment of a motor vehicle and

which are approximately parallel to the windshield; "multi-purpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than ten persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use; "prism effect" means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle.

(i) Notwithstanding the foregoing provisions of this section, sun-shading material which was applied or installed prior to July 1, 1987, in a manner and on which windows not then in violation of Virginia Law, shall continue to be lawful, provided that it can be shown by appropriate receipts that such material was installed prior to July 1, 1987.

(j) Where a person is convicted within one year of a second or subsequent violation of this section involving the same vehicle having a tinted or smoked windshield, the court, in addition to any other penalty, may order the person so convicted to remove such tinted or smoked windshield from the vehicle.

(k) The provisions of this section shall not apply to law enforcement vehicles.

(l) The provisions of this section shall not apply to the rear windows or rear side windows of any ~~ambulance, rescue equal vehicle, or any other~~ emergency medical services vehicle used to transport patients.

(m) The provisions of subsection (c)(1), of this section shall not apply to sight-seeing carriers as defined in Code of Virginia, § 46.2-2000 and contract passenger carriers as defined in Code of Virginia, § 46.2-2000.

(n) For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

(Code 1965, § 12.1-203; Ord. No. 85-80, 7-9-85; Ord. No. 86-101, 7-1-86; Ord. No. 87-60, 7-7-87; Ord. No. 89-168, 12-29-89; Ord. No. 91-86, 7-2-91; Ord. No. 94-40, 6-28-94; Ord. No. 97-60, 6-24-97, effective 7-1-97; Ord. No. 98-566, 6-23-98, effective 7-1-98; Ord. No. 99-42, 6-22-99, effective 7-1-99; Ord. No. 04-39, 6-22-04, effective 7-1-04; Ord. No. 08-58, 6-24-08)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1052.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. - VEHICLE EQUIPMENT

DIVISION 1. – GENERALLY

* * *

Sec. 13-99.1. - Equipping certain motor vehicles with sun-shading or tinting films and applications.

Notwithstanding the provisions of section 13-99, a motor vehicle operated by or regularly used to transport any person with a medical condition which renders him susceptible to harm or injury from exposure to sunlight or bright artificial light may be equipped, on its windshield and any or all of its windows, with sun-shading or tinting films or applications which reduce the transmission of light into the vehicle to levels of not less than 35 percent. Such sun-shading or tinting film when applied to the windshield of a motor vehicle shall not cause the total light transmittance to be reduced to any level less than 70 percent except for the upper five inches or the AS-1 line, whichever is closer to the top of the windshield. Vehicles equipped with such sun-shading or tinting films shall not be operated on any highways unless, while being so operated, the driver or an occupant of the vehicle has in his possession a certificate issued by the superintendent in accordance with the provisions of Code of Virginia, § 46.2-1053, authorizing such operation. The Virginia Division of Purchases and Supply, pursuant to Code of Virginia, § 2.1-446, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the division. Such measurements made by law enforcement officers shall be given a tolerance of minus seven percentage points.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

(Ord. No. 94-40, 6-28-94)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1053.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-127. - Lights on bicycles, electric power-assisted bicycles and mopeds.

(a) Every bicycle, <u>electric personal assistive mobility device, electric personal delivery device as defined in Code of Virginia, § 46.2-100,</u> electric power-assisted bicycle and moped, when in use between sunset and sunrise, shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflectors shall be of types approved by the superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

(b) Every bicycle, or its rider shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 miles per hour or greater. Any such taillight shall be of a type approved by the superintendent of state police

(Code 1965, § 12.1-174; Ord. No. 84-613, 7-17-84; Ord. No. 89-168, 12-19-89; Ord. No. 01-46, 6-19-01, effective 7-1-01; Ord. No. 04-39, 6-22-04, effective 7-1-04; Ord. No. 05-43, 6-28-05)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1015.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-131.1. - Flashing red or red and white warning lights.

Fire apparatus, forest warden vehicles, emergency medical services vehicles ~~ambulances, rescue and life-saving vehicles~~, vehicles of the Virginia Department of Emergency Management, vehicles of county, city or town departments of emergency management, vehicles of the office of emergency medical services, animal warden vehicles, vehicles of the Virginia National Guard Civil Support Team when responding to an emergency, and vehicles used by security personnel of Huntington Ingalls Incorporated, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to Code of Virginia, §§ 19.2-13 and 19.2-17, as amended, may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the superintendent of the state police. Such warning lights may be of types constructed within turn signal housing or motorcycle headlight housings, subject to approval by the superintendent.

(Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 08-58, 6-24-08; Ord. No. 09-41, 6-23-09; Ord. No. 14-30, Attch., 6-17-14)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1023.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-131.2. - Flashing or steady-burning red or red and white warning lights.

Any member of a fire department, volunteer fire company, or volunteer emergency medical services agency ~~rescue squad~~, ~~any ambulance driver employed by a privately owned ambulance service~~, and any police chaplain may equip one vehicle owned by him with no more than two flashing or steady-burning red or red and white combination warning ~~lights~~ light units of types approved by the superintendent of the state police. Warning ~~lights~~ light units permitted by this section shall be lit only when answering emergency calls. A vehicle equipped with ~~lighting devices~~ warning light units as authorized in this section shall be operated by a police chaplain only if he has successfully completed a course of training in the safe operation of a motor vehicle under emergency conditions and a certificate attesting to such successful completion, signed by the course instructor, is carried at all times in the vehicle when operated by the police chaplain to whom the certificate applies.

(Ord. No. 03-47, 6-24-03, effective 7-1-03)

State Law reference— Similar provisions, Code of Virginia § 46.2-1024.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-131.3. - Flashing amber, purple, or green warning lights.

(a) The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the superintendent of state police:

(1) Vehicles use[d] for the principal purpose of towing or servicing disabled vehicles;

(2) Vehicles used in constructing, maintaining, or repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;

(3) Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;

(4) Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;

(5) Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection;

(6) Vehicles used by individuals for emergency snow-removal purposes;

(7) Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;

(8) Fire apparatus and emergency medical services ~~ambulances, and rescue and life-saving~~ vehicles, provided the amber lights are used in addition to lights permitted under Code of Virginia, § 46.2-1023 and section 13-131 of this chapter and are so mounted or installed as to be visible from behind the vehicle;

(9) Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is operated on a public highway;

(10) Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;

(11) Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;

~~(11)~~(12) Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in Code of Virginia § 46.2-1175.1, as amended, is in operation;

~~(12)~~ (13) Vehicles used by law enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

~~(13)~~ (14) Government-owned law enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is being in motion;

~~(14)~~ (15) Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

~~(15)~~ (16) Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

~~(16)~~ (17) Vehicles owned and used by construction companies operating under Virginia contractor's licenses;

~~(17)~~ (18) Vehicles used to lead or provide escorts for bicycle races authorized by the Virginia Department of Transportation or the locality in which the race is being conducted;

~~(18)~~ (19) Vehicles used by radio or television stations for remote broadcasts, provided the amber lights are not lit while the vehicle is in motion;

~~(19)~~ (20) Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subsection, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

~~(20)~~ (21) Vehicles used as pace cars, security vehicles, or fire-fighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

~~(21)~~ (22) Vehicles used in patrol work by members of neighborhood watch groups approved by the chief of police in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;

~~(22)~~ (23) Vehicles that are not tow trucks, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing recovery site; and

~~(23)~~ (24) Vehicles used or operated by federally licensed amateur radio operators, provided that the amber lights are not lit while the vehicle is in motion, (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or

(ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted; and

~~(24)~~ (25) Publicly owned or operated transit buses.

(b) Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

(c) Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle.

(d) Vehicles used by police, fire-fighting, or rescue personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the superintendent of state police. Such lights shall not be activated while the vehicle is operating upon the highway.

(Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 05-43, 6-28-05; Ord. No. 10-28, Attch., 6-22-10; Ord. No. 11-29, Attch., 7-19-11; Ord. No. 14-30, Attch., 6-17-14; Ord. No. 15-35, Attch., 6-23-15; Ord. No. 16-22, Attch., 6-21-16, effective 7-1-16)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-1025 and 46.2-1300.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-131.5. - Warning lights on certain demonstrator vehicles.

Dealers or businesses engaged in the sale of fire, ~~rescue~~ emergency medical services, or law enforcement vehicles or ambulances may, for demonstration purposes, equip such vehicles with colored warning lights.

(Ord. No. 03-47, 6-24-03, effective 7-1-03)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1027.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-132. - Auxiliary lights on fire-fighting and other emergency vehicles.

Any fire-fighting vehicle, ~~ambulance, rescue or life-saving vehicle~~ emergency services vehicle, Virginia Department of Transportation vehicle or wrecker may be equipped with clear auxiliary lights which shall be used exclusively for lighting emergency scenes. Such lights shall be of a type approved by the superintendent and shall not be used in a manner which may blind or interfere with the vision of the drivers of approaching vehicles. In no event shall such lights be lighted while the vehicle is in motion.

(Ord. No. 89-168, 12-19-89; Ord. No. 96-55, 6-25-96, effective 7-1-96)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1028.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 2 - LIGHTING EQUIPMENT

* * *

Sec. 13-133.1. - Certain vehicles may be equipped with secondary warning lights.

In addition to other lights authorized by this article and (i) fire apparatus, (ii) government-owned vehicle operated on official business by a local fire chief or other local fire official, and (iii) ~~rescue squad vehicle, ambulance, or any other~~ emergency medical services vehicles may be equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted inside the vehicle's taillights or marker lights of a type approved by the superintendent of state police.

(Ord. No. 03-47, 6-24-03, effective 7-1-03)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1029.2.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE IV. – VEHICLE EQUIPMENT

DIVISION 4 – TIRES

* * *

Sec. 13-168. - Protuberances.

(a) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery having protuberances which will not injure the highway and to use tire chains of reasonable proportions when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid. It shall also be permissible to use, upon any vehicle whose gross weight does not exceed 10,000 pounds, tires with studs which project not more than 1/16 -inch beyond the tread of the traction surface of the tire when compressed and which cover not more than three percent of the traction surface of the tire. The use of such studded tires shall be permissible only from October 15 to April 15. The provisions of this subsection shall not apply to any (i) law enforcement vehicle operated by or under the direction of a federal, state or local law-enforcement officer; (ii) vehicle used to fight fire, including publicly owned state forest warden vehicles; (iii) ~~ambulance, rescue, or life-saving~~ emergency medical services vehicle; or (iv) vehicle owned or operated by the Virginia Department of Transportation or its contractors in maintenance and emergency response operations.

(b) No person shall sell, within the county, a tire which has on its periphery any block, stud, flange, cleat or spike or any other protuberance, of any material other than rubber, which projects beyond the tread of the traction surface of the tire, except that farm machinery having protuberances which will not injure the highway and tire chains of reasonable proportions may be sold and except that it shall be permissible to sell studded tires whose use is permitted under the provisions of subsection (a) of this section.

(c) Violation of this section shall constitute a Class 1 misdemeanor.

(Code 1965, § 12.1-213; Ord. No. 89-168, 12-19-89; Ord. No. 09-41, 6-23-09)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-1044, 46.2-1045.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE V. - VEHICLE SIZE, WEIGHT AND LOAD; COMBINATIONS OF VEHICLES

* * *

Sec. 13-180. - Maximum width.

No vehicle, including any load thereon, but excluding the mirror required by section 13-96 and any warning device installed on a school bus pursuant to Code of Virginia, § 46.2-1090, shall exceed a total outside width as follows:

(1) Passenger bus operated in the county, when authorized pursuant to Code of Virginia, § 46.2-1300, 102 inches.

(2) School buses, 100 inches wide.

(3) Commercial vehicles, when authorized pursuant to Code of Virginia, § 46.2-1109, 102 inches, excluding turn signal lights, handholds for cab entry and egress, splash suppressant devices and load-induced tire bulge. Safety devices, with the exception of rearview mirrors, shall not extend more than three inches on each side of a vehicle.

(4) Other vehicles, 102 inches.

Notwithstanding the foregoing, a travel trailer as defined in Code of Virginia, § 46.2-~~1900~~1500, or a motor home may exceed 102 inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For the purposes of this subsection, "appurtenance" includes (i) an awning and its support hardware and (ii) any appendage that is installed by the manufacturer or dealer intended to be an integral part of a motor home or travel trailer, but does not include any item that is temporarily attached to the exterior of the vehicle by the vehicle's owner for the purposes of transporting the item from one location to another.

(Code 1965, § 12.1-230; Ord. No. 86-101, 7-1-86; Ord. No. 89-168, 12-19-89; Ord. No. 94-40, 6-28-94; Ord. No. 96-55, 6-25-96, effective 7-1-96; Ord. No. 01-46, 6-19-01, effective 7-1-01)

Editor's note— Former subsection (4), which pertained to the maximum width of recreational vehicles, was deleted by Ord. No. 96-55, adopted by the board of supervisors on June 25, 1996.

State Law reference— Similar provisions, Code of Virginia, § 46.2-1105.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE V. - VEHICLE SIZE, WEIGHT AND LOAD; COMBINATIONS OF VEHICLES

* * *

Sec. 13-182.2. - Length of automobile or watercraft transporters; operation on certain highways.

~~(a) Automobile or watercraft~~ Watercraft transporters shall not exceed a length of 65 feet when operated on any interstate highway or on any highway as designated by the Commonwealth Transportation Board. Stinger-steered ~~automobile or~~ watercraft transporters shall not exceed a length of 75 feet when operated on any interstate highway or on any highway designated by the commonwealth transportation board. In addition, watercraft may be transported on a truck/trailer combination no more than 65 feet long when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board. Any such vehicle shall display a sign of a size and type approved by the ~~commonwealth transportation board~~ Commissioner of Highways warning that the vehicle is an over-length vehicle. However, an additional three-foot overhang shall be allowed beyond the front and a four-foot overhang shall be allowed beyond the rear of the vehicle. Such combinations shall have reasonable access to terminals, facilities for food, fuel, repairs, and rest as designated by the Commissioner of Highways. ~~commonwealth transportation board.~~

(b) Automobile transporters shall not exceed a length of 65 feet when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board and stinger-steered automobile transporters shall not exceed a length of 80 feet when operated on the national network of interstate and primary highways as defined in 23 CFR 658.5, as amended. Any such vehicle shall display a sign of a size and type approved by the Commissioner of Highways warning that the vehicle is an over-length vehicle. Notwithstanding the provisions of Section 13-184, a four-foot overhang shall be allowed beyond the front and a six-foot overhang shall be allowed beyond the rear of the vehicle. Such combinations shall have reasonable access to terminals, facilities for food, fuel, repairs, and rest as designated by the Commissioner of Highways.

(Ord. No. 05-43, 6-28-05)

State Law reference— Code of Virginia, § 46.2-1114, §46.2-1114.1

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE V. - VEHICLE SIZE, WEIGHT AND LOAD; COMBINATIONS OF VEHICLES

* * *

Sec. 13-182.5 - Commercial delivery of towaway trailers.

(a) For the purposes of this section:
   (1) "Towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporting towing unit and two trailers or semitrailers that carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.
   (2) "Trailer transporting towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(b) Notwithstanding the provisions of sections 13-186 and 13-182.3, a towaway trailer transporter combination may operate with a length of not more than 82 feet and a gross weight of not more than 26,000 pounds. When operating on a highway other than an interstate highway, the operator shall comply with flashing high-intensity amber warning light requirements of section 13-131.4 if such combination exceeds 75 feet long.

State Law reference— Similar provisions, Code of Virginia, § 46.2-1117.1.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE VI. - OPERATION OF VEHICLES GENERALLY

* * *

Sec. 13-207. - General duty to drive on right side of highway.

On all highways of sufficient width, the driver of a vehicle shall drive on the right half of the highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle, subject to the limitations applicable in overtaking and passing set forth in this article. A violation of this section is punishable by a fine of $100.

(Code 1965, § 12.1-95; Ord. No. 89-168, 12-19-89)

State Law reference— Similar provisions, Code of Virginia, § 46.2-802.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE VI. - OPERATION OF VEHICLES GENERALLY

* * *

Sec. 13-210. - Driving on highways laned for traffic.

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

(1) Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel, except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section.

(2) A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely.

(3) Except as provided in subsection (4) below, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn, or unless such center lane is, at the time, allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction, regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such device.

(4) Wherever a highway is marked with double traffic lanes consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line, if the solid line is on the right of the broken line, except (i) when turning left for the purpose of entering or leaving a public, private or commercial road or entrance or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left turn or holding lane and it shall be lawful to drive to the left of such line, if the solid line is on the right of the broken line, turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet.

(5) Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid lines, no vehicle shall be driven to the left of such lines, except (i) when turning left or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely.

(6) Whenever a highway is marked with double traffic lines consisting of two immediately adjacent solid white lines, no vehicle shall cross such lines.

(7) For the purposes of this section, "traffic lines" shall include any temporary traffic control devices used to emulate the lines and markings in subdivisions 5 and 6.

A violation of this section is punishable by a fine of $100.

(Code 1965, § 12.1-98; Ord. No. 85-80, 7-9-85; Ord. No. 89-168, 12-19-89; Ord. No. 13-23, Attch., 6-4-13; Ord. No. 15-35, Attch., 6-23-15)

State Law reference— Similar provisions, Code of Virginia, § 46.2-804.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE VI. - OPERATION OF VEHICLES GENERALLY

* * *

Sec. 13-229. - Following or parking near fire apparatus or rescue squad vehicle.

It shall be unlawful for the driver of any vehicle, other than one on official business, to follow any fire apparatus or ~~rescue squad~~ emergency medical services vehicle traveling in response to a fire alarm or emergency call at any distance closer than 500 feet to such apparatus or emergency services ~~rescue squad~~ vehicle.

(Code 1965, § 12.1-120; Ord. No. 84-613, 7-17-84)

State Law reference— Similar provisions, Code of Virginia, § 46.2-921.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE VII. - STATE DRIVER'S LICENSE

* * *

Sec. 13-254. - Driving while license, permit or privilege to drive suspended or revoked.

(a) In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of section 13-248 of this chapter (or Code of Virginia, § 46.2-301.1) may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of Code of Virginia, §§ 18.2-36.1, 18.2-51.4, 18.2-266 (or section 13-240 of this chapter), or § 46.2-341.24, or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication is based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of Code of Virginia, §§ 46.2-391.2 or 13-248.1 of this chapter. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

(b) Except as otherwise provided in the Code of Virginia, §§ 46.2-304, 46.2-320 and 46.2-357 no resident or nonresident, (i) whose driver's license or learner's permit has been suspended or revoked, or (ii) who has been directed not to drive by any court or by the commonwealth transportation commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in this state, shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in this county, unless and until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restrict license is issued pursuant to subsection (e). A clerk's notice of suspension of license for failure to pay fines or costs given in accordance with Code of Virginia, § 46.2-395 shall be sufficient notice for the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

(c) A violation of subsection (b) is a Class 1 misdemeanor. A third or subsequent offense occurring within a ten-year period shall include a mandatory minimum term of confinement

in jail of ten days which shall not be suspended in whole or in part. However, the court shall not be required to impose a mandatory minimum term of confinement in any case where a motor vehicle is operated in violation of this section in a situation of apparent extreme emergency which requires such operation to save life or limb.

(d) Upon a violation of subsection (b), the court shall suspend the person's license or privilege to drive a motor vehicle for the same period for which it had been previously suspended or revoked. In the event the person violated subsection (b) by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed 90 days to commence upon the expiration of the previous suspension or revocation, or to commence immediately if the previous suspension or revocation has expired~~.~~; however, in the event that the person violated subsection (b) by driving during a person of suspension imposed pursuant to Code of Virginia §46.2-395, the additional 90-day suspension imposed pursuant to this subsection shall run concurrently with the suspension imposed pursuant to Code of Virginia §46.2-395 in accordance with subsection F of Code of Virginia §46.2-395.

(e) Any person who is otherwise eligible for a restricted license may petition each court that suspended his license pursuant to subsection (d) for authorization for a restricted license, provided that the period of time for which the license was suspended by the court pursuant to subsection (d), if measured from the date of conviction, has expired, even though the suspension itself has not expired. A court may, for good cause shown, authorize the department of motor vehicles to issue a restricted license for any of the purposes set forth in subsection E of Code of Virginia, § 18.2-271.1. No restricted license shall be issued unless each court that issued a suspension of the person's license pursuant to subsection (d) authorizes the department of motor vehicles to issue a restricted license. Any restricted license issued pursuant to this subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection (d), except that it shall automatically terminate upon the expiration, cancellation, suspension, or revocation of the person's license or privilege to drive for any other cause. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in Code of Virginia, § 46.2-341.1, et seq. (the Commercial Driver's License Act). The court shall forward to the commissioner of the department of motor vehicles a copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the commissioner of a restricted license. A copy of the restricted license issued by the commissioner shall be carried at all times while operating a motor vehicle.

(f) Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection (e) above is not guilty of a violation of this section but is guilty of a violation of Code of Virginia, § 18.2-272 and/or section 13-247 of the County Code.

(Code 1965, § 12.1-46; Ord. No. 86-101, 7-1-86; Ord. No. 89-168, 12-19-89; Ord. No. 92-61, 6-23-92; Ord. No. 94-65, 10-4-94; Ord. No. 95-46, 6-27-95; Ord. No. 00-42, 6-27-00, effective 7-1-00; Ord. No. 04-39, 6-22-04, effective 7-1-04; Ord. No. 09-41, 6-23-09)

State Law reference— Similar provisions, Code of Virginia, § 46.2-301.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE X. - STOPPING, STANDING AND PARKING GENERALLY

* * *

Sec. 13-313. - Stopping on highway generally.

(a) No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or mechanical breakdown. In the event of such an emergency, accident or breakdown, the emergency flashing lights of such vehicle shall be turned on, if the vehicle is equipped with such lights and such lights are operating. <u>If the driver is capable of safely doing so, the vehicle is movable, and there are no injuries or deaths resulting from the emergency, accident, or breakdown, the driver shall move the vehicle from the roadway to prevent obstructing the regular flow of traffic.</u> A report of the vehicle's location shall be made to the nearest police officer as soon as practicable and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If such vehicle is not promptly removed, such removal may be ordered by a police officer, at the expense of the owner, if the disabled vehicle creates a traffic hazard.

(b) No vehicle shall be stopped except close to and parallel to the right edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left curb or edge of the roadway on one-way streets or may be parked at an angle in cul-de-sacs and where angle parking is otherwise permitted.

(c) No vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident or other area of emergency, in such a manner as to create a traffic hazard or interfere with police, fire fighters, rescue workers or others whose duty it is to deal with such emergencies. Any vehicle found unlawfully parked in the vicinity of such fire, accident or area of emergency may be removed by order of a police officer or, in the absence of a police officer, by order of the uniformed fire or rescue officer in charge, at the risk and expense of the owner, if such vehicle creates a traffic hazard or interferes with the necessary procedures of police, fire fighters, rescue workers or others whose assigned duty it is to deal with such emergencies. The charge for such removal shall not exceed the actual and necessary cost. Vehicles being used by accredited information services, such as press, radio and television, when being used for the gathering of news, shall be exempted from the provisions of this subsection, except when actually obstructing the police, fire fighters and rescue workers dealing with such emergencies.

(d) The provisions of this section shall not apply to any vehicle owned or controlled by the state department of transportation or the county, while actually engaged in the construction, reconstruction or maintenance of highways.

(Code 1965, § 12.1-131; Ord. No. 85-86, 8-6-85; Ord. No. 89-36, 3-21-89; Ord. No. 89-168, 12-19-89; Ord. No. 97-60, 6-24-97, effective 7-1-97)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-888—46.2-891.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE XVI. - ACCIDENTS

* * *

Sec. 13-450. - Authority to provide for removal and disposition of cargoes of vehicles involved in accidents.

(a) As a result of a motor vehicle accident or incident, the chief of police and/or his designee may, in conjunction with other public safety agencies, without the consent of the owner or carrier, remove:

(1) A cargo, which may include a vehicle or vehicles or other personal property, that has been damaged (i) damaged or spilled within the right-of-way or any portion of a roadway in the state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

(2) Cargo or personal property that the Virginia Department of Transportation, Virginia Department of Emergency Services, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste or regulated substance as defined by the Virginia Waste Management Act (Code of Virginia, §§ 10.1-1400, et seq., a hazardous waste or regulated substance as defined by the Hazardous Materials Transportation Act (49 U.S.C. §§ 1808, et seq.) or the State Water Control Law (Code of Virginia, §§ 62.1-44, et seq.), if the Virginia Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Virginia Department of Emergency Services or the fire officer in charge.

(b) The Virginia Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of Code of Virginia §46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of Code of Virginia §46.2-920.1, the Virginia Department of State Police, Virginia Department of Emergency Services, the chief of police, and other local public safety agencies and their officers, employees and agents, and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation shall not be held responsible for any damages or claims that may result from the failure to exercise any authority granted under this section provided they are acting in good faith.

(c) The owner and carrier, if any, of the cargo, which may include one or more vehicles or personal property, removed or disposed of under the authority of this section shall reimburse

the Virginia Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of §46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in 46.2-920.1, the, Virginia Department of State Police, Virginia Department of Emergency Services, the chief of police, and other county public safety agencies for all costs incurred in the removal and subsequent disposition of such property.

(Ord. No. 97-60, 6-24-97, effective 7-1-97)

State Law reference— Similar provision, Code of Virginia, § 46.2-1212.1.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 13

Motor Vehicles and Traffic

* * *

ARTICLE XIX. - ENFORCEMENT OF PARKING RESTRICTIONS ON PRIVATE PROPERTY

* * *

Sec. 13-500. - Vehicle storage.

(a) All towing companies engaged in the business of towing vehicles from private property without the consent of the vehicle owner, shall have an appropriately zoned, fenced-in secured lot for storage/impound of vehicles towed pursuant to this article.

(b) All vehicles towed under this article must be taken to and stored in such approved lot immediately after being towed.

(c) All towing companies shall post signs at their main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating (a) the maximum charges allowed by this chapter for all their fees for towing, recovery, and storage services and (b) complaints about towing services can be addressed to the Prince William County Police Department and the Virginia Board of Towing and Recovery Operators. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered or stored without his consent.

(d) At the time a vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, shall provide a written receipt that provides a telephone number or website available for customer complaints.

(e) All towing companies shall allow vehicle owners, custodians or agents access to their vehicle, whether or not it has been or will be released, for the purpose of the removal of personal items during the towing company's normal business hours. For the purposes of this section, personal property shall not include any parts of the vehicle or property physically attached to the vehicle. However, any child restraint device in or attached to the vehicle shall be immediately released to the owner or agent upon request.

(f) Any tow truck driver who removes or tows a vehicle that is occupied by an unattended companion animal as defined in Code of Virginia §3.2-6500 shall, upon such removal, immediately notify the Prince William County Police Department's Animal Control Bureau.

(Ord. No. 92-62, 6-23-92; Ord. No. 94-40, 6-28-94; Ord. No. 03-47, 6-24-03, effective 7-1-03; Ord. No. 09-35, 6-2-09)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-1231, 46.2-1233 and 46.2-1233.1.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 16

Miscellaneous Offenses

* * *

Sec. 16-7. - Calling ambulance or fire-fighting apparatus without cause; malicious activation of fire alarm in public building.

(a) Any person who, without just cause therefor, calls or summons, by telephone or otherwise, any ambulance or fire-fighting apparatus shall be guilty of a Class 1 misdemeanor.

(b) Any person who maliciously activates a manual or automatic fire alarm in any building ~~used for public assembly or for other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas,~~ regardless of whether fire apparatus responds or not, shall be guilty of a Class 1 misdemeanor.

(Code 1965, § 13.1-9)

Cross reference— Emergency medical service vehicles, §§ 7-16 et seq.; fire prevention and protection, Ch. 9; authority of fire marshal to make arrest for violation of above section, with respect to calling fire apparatus without cause, § 9-26.

State Law reference— Similar provisions, Code of Virginia, § 18.2-212.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 16

Miscellaneous Offenses

* * *

Sec. 16-56. - Graffiti prevention and removal.

(a) *Definition.* "Defacement" shall mean the unauthorized application by any means of any writing, painting, drawing, etching, scratching or marking of an inscription, word, mark, figure or design of any type.

(b) *Graffiti declared a nuisance.* Damage to or defacement of property within the county is expressly declared a public nuisance, and is subject to the removal and abatement procedures specified in this article.

(c) *Graffiti prohibited; criminal penalty; order of restitution.*

(1) It shall be unlawful for any person to willfully or maliciously damage or deface any public building, facility or personal property or any private building, facility or personal property. Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor. The punishment for any such violation in which the defacement is (i) more than 20 feet off the ground, (ii) on a railroad or highway overpass, or (iii) committed for the benefit of, at the direction of, or in association with any criminal street gang, as that term is defined by Code of Virginia, § 18.2-46.1, shall include a mandatory minimum fine of $500.00.

(2) Upon a finding of guilt in any case tried before the court without a jury, in the event the violation constitutes a first offense which results in property damage or loss, the court, without entering a judgment of guilt, upon motion of the defendant, may defer further proceedings and place the defendant on probation pending completion of a plan of community service work. If the defendant fails or refuses to complete the community service as ordered by the court, the court may make final disposition of the case and proceed as otherwise provided. If the community service work is completed as the court prescribes, the court may discharge the defendant and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying the ordinance in subsequent proceedings.

(3) Any community service ordered by the court shall, to the extent feasible, include the repair, restoration or replacement of any damage or defacement to property within the county and may include cleanup, beautification, landscaping or other appropriate community service within the county. The chief of police or his designee shall supervise the performance of any community service work required and to report thereon to the court imposing such requirement. At or before the time of sentencing under the ordinance, the court shall receive and consider any plan for making restitution or performing community service submitted by defendant. The court shall also receive and consider the recommendations of the court's supervisor of community services concerning the plan.

(4) The court may order any person convicted of unlawfully defacing any public building, wall, fence or other structure or any private building, wall, fence or other structure to pay full or partial restitution to the county for costs incurred by the county in removing or repairing the defacement. An order of restitution pursuant to this section shall be docketed as provided in Code of Virginia, § 8.01-446 when so ordered by the court or upon written request of the county and may be enforced by the county in the same manner as a judgment in a civil action.

(5) Notwithstanding any other provision of law, no person convicted of a violation of this section shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or is compelled to perform community services, or both in accordance with Code of Virginia, § 19.2-305.1, as it may be amended from time to time.

(d) *Parental liability.* In the event any public property is willfully or maliciously destroyed or damaged by a minor who is living with either or both parents or a legal guardian, the county may institute an action and recover from the parents of the minor, or either of them, or from the legal guardian the costs for damages. The action by the county shall be subject to any limitation of the amount of recovery set forth in Code of Virginia, § 8.01-43 or other applicable state law.

(e) *Removal of graffiti; notice.*

(1) The director of public works or his designee is authorized to undertake or contract for the removal or repair of the defacement of any public or private building, wall, fence or other structure on occupied property where such defacement is visible from any public right-of-way. Prior to such removal or repair, the director of public works or his designee shall issue to the property owner not less than seven days' notice that the property has been defaced; that the owner must remove or repair the defacement; and that if the defacement is not removed within the time period set forth in the notice, the county will remove or repair it.

(2) The director of public works or his designee is authorized to undertake or contract for the removal or repair of the defacement of any public or private building, wall, fence or other structure on unoccupied property where such defacement is visible from any public right-of-way. Prior to such removal or repair, the director of public works or his designee shall issue to the property owner not less than 15 days' notice that the property has been defaced; that the owner must remove or repair the defacement; and that if the defacement is not removed or repaired within the time period set forth in the notice, the county will remove or repair it.

(3) The director of public works or his designee is authorized to clean or cover the defacement of private buildings and facilities whether or not such defacement is visible from a public right-of-way. Prior to such cleaning or covering, the director of public works or his designee shall give notice to the owner and lessee, if any, of any private building or facility that has been defaced that, within 15 days of receipt of such notice, if the owner and lessee does not clean or cover the defacement or object to the removal of the defacement, the county may clean or cover the defacement at the county's expense.

(f) *How notice to be served.*

(1) Any notice required as set forth hereinabove shall be posted in a conspicuous place on the offending premises and sent by regular, or may be served by a special conservator of the peace.

(2) In the event no owner can be found to direct the notice provided for in this subsection, the county may provide the required notice by publication in a newspaper having general circulation in the county.

(g) *Assessment of costs against property owner for removal of graffiti; lien.* In addition to the foregoing, if defacement occurs on unoccupied property and is visible from the public right-of-way and the county, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes are collected. No lien shall be chargeable to the owners of such property unless the county shall have given a minimum of 15 days' notice to the property owner prior to the removal of the defacement.

Every charge authorized by this section with which the owner of any such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Code of Virginia, Ch. 39, Tit. 58.1, Arts. 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.). The county may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchase who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(h) *Other remedies.* Nothing herein shall be deemed a limitation on the rights of the county to seek and enforce the removal or obscuration of graffiti by any other means or remedies available at law or equity.

(i) *Severability.* If any part, subsection, or sentence of this section is for any reason determined by a court of law to be unconstitutional or invalid, such decision shall not affect the remaining portions of this section.

(j) *Immunity.* Agents or employees that remove or repair defacement pursuant to this section shall have any and all immunity normally provided to an employee of the county.

(Ord. No. 08-72, 7-22-08; Ord. No. 09-42, 6-23-09)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 22

Refuse

* * *

ARTICLE V. – TRASH, GARBAGE, REFUSE, LITTER AND OTHER SUBSTANCES WHICH MIGHT ENDANGER THE HEALTH OR SAFETY OF COUNTY RESIDENTS AND HEALTH AND SAFETY MEASURES

* * *

Sec. 22-138. - Billing and collection of charges; unpaid charges constitute lien on property.

(a) If trash, garbage, refuse and litter are not removed within the time required by the notice provided for in section 22-134, the director of public works shall cause such trash, garbage, refuse litter and other like substances which might endanger the health or safety of county residents, or health or safety menaces, to be removed and the cost and expense thereof assessed against the owner of such property. Such assessment shall be collected by the county as taxes and levies are collected.

(b) Every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property raking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Code of Virginia, Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, as amended. The county may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is related by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(Ord. No. 07-23, 4-3-07; Ord. No. 08-73, 7-22-08)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 26

Taxation

* * *

ARTICLE IV. – ASSESSMENT OF LAND DEDICATED TO AGRICULTURAL, HORTICULTURAL, FOREST OR OPEN SPACE USE

* * *

Sec. 26-17. - Applications for special assessment; fees.

(a) Applications for taxation of real estate on the basis of use assessment shall be submitted to the director of finance on forms provided by the Virginia Department of Taxation and supplied by the director of finance. The application shall include such additional schedules, photographs and drawings as may be required by the director of finance.

(b) Applications shall be submitted:

(1) At least 60 days preceding the tax year for which such taxation is sought; or

(2) In any year in which a general reassessment is being made, until 30 days have elapsed after the notice of increase in assessment has been mailed to the property owner in accordance with Code of Virginia, § 58.1-3330, or 60 days preceding the tax year, whichever is later.

(c) The application shall be signed by all owners of the subject property. An owner of an undivided interest in the property may apply on behalf of owners that are minors or that cannot be located, upon submitting an affidavit attesting to such facts.

(d) A separate application shall be filed for each parcel tract shown on the land book.

(e) An application fee of $10.00 shall accompany each application.

(f) An application shall be submitted whenever the use or acreage of such land previously approved changes; provided, however, that no application fee shall be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved.

(g) If any tax on the land affected by an application is delinquent when the application is filed, then the application shall not be accepted. Upon payment of all delinquent taxes, interest and penalties relating to such land, the application shall then be treated in accordance with this section.

(h) Such property owner must revalidate with the director of finance every sixth year for any application previously approved.

(j) No applicant who is a lessor of the property or a portion of the property that is the subject of an application submitted pursuant to this section shall be required to provide the lease

agreement governing the property for the purpose of determining whether the property is eligible for special assessment and taxation pursuant to this article.

(Ord. No. 90-160, 12-18-90)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3234.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 26

Taxation

* * *

ARTICLE XVII. - CERTIFIED POLLUTION CONTROL EQUIPMENT AND FACILITIES

* * *

Sec. 26-236. - Definitions.

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

Certified pollution control equipment and facilities means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the department of taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the department of taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the department of taxation by a state certifying authority. For solar photovoltaic (electric energy) systems, this exemption applies only to projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity. Such property shall not include the land on which such equipment or facilities are located.

Effective January 1, 2017, for solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in VA Code Ann. § ~~23-9.5~~ 23.1-100 or private college as defined in VA Code Ann. § ~~23-9.10:3~~§ 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization after January 1, 2015, and greater than 20 megawatts, as measured in alternating current (AC) generation capacity, for projects first in service on or after January 1, 2017; (iv) projects equaling 5 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed

with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than 5 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019. Such property shall not include the land on which such equipment or facilities are located. The exemption for solar photovoltaic (electric energy) projects greater than 20 megawatts, as measured in alternating current (AC) generation capacity, shall not apply to projects upon which construction begins after January 1, 2024. Such property shall not include the land on which such equipment or facilities are located.

State certifying authority means the state water control board, for water pollution; the state air pollution control board, for air pollution; the department of mines, minerals and energy, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

(Ord. No. 14-30, Attch., 6-17-14; Ord. No. 16-22, Attch., 6-21-16, effective 7-1-16)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 27

Taxicabs

* * *

ARTICLE V. - GENERAL VEHICLE REQUIREMENTS

* * *

Sec. 27-119. - **Repealed and Reserved.**

(Ord. No. 10-28, Attch., 6-22-10; Ord. No. 11-29, Attch., 7-19-11)

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 31

Weapons

* * *

ARTICLE I. - IN GENERAL

* * *

Sec. 31-1. - Carrying concealed weapons.

(a) If any person carries about his person, hidden from common observation:

(1) Dirk, bowie knife, switchblade knife, machete, razor, slingshot, metal knucks, blackjack; or

(2) Ballistic knife, that is any knife with a detachable blade that is propelled by a spring-operated mechanism; or

(3) A spring stick, that is a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length; or

(4) Any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nunchuck, nunchaku, shuriken, or fighting chain; or

(5) Any disc, of whatever configuration, having at least two points or pointed blades, which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or

(6) Any weapon of like kind as those enumerated in this section; he shall be guilty of a Class 1 misdemeanor ~~and such weapon shall be forfeited to the county and may be seized by an officer as forfeited, and such as may be needed for police officers and conservators of the peace shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in Code of Virginia, § 19.2-386.29.~~ For purposes of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

(b) This section shall not apply to any person while in his own place of abode or the curtilage thereof.

(c) This section shall not apply to any person while in his own place of business.

~~(c)~~(d) This section shall not apply to any law-enforcement officer, or retired law-enforcement officer pursuant to Code of Virginia, §18.2-308.016, wherever such law-enforcement officer may travel in the Commonwealth. ~~16 police officers, sergeants, sheriffs, deputy sheriffs or regular conservation police officers appointed pursuant to Code of Virginia, Title 29, Chapter 2 (§§ 29.1-200 et seq.).~~

~~(d)~~ (e) This section shall not apply to any ~~regularly enrolled member of a target shooting organization~~ person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported.

~~(e)~~ (f) This section shall not apply to any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported.

~~(f)~~ (g) This section shall not apply to any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported.

~~(g)~~ (h) This section shall not apply to any person actually engaged in lawful hunting as authorized by the ~~Commission~~ Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his weapon from those conditions.

(i) This section shall not apply to any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth.

(j) This section shall not apply to any judge or justice of the Commonwealth, wherever such judge may travel in the Commonwealth.

~~(h)~~(k) This section shall not apply to any of the following individuals while in the discharge of their official duties:

(1) Carriers of the United States mail ~~in rural districts~~;

(2) Officers or guards of any state correctional institution;

~~(3) Campus police officers appointed pursuant to Code of Virginia, Title 23, Chapter 17 (§§ 23-232 et seq.);~~

~~(4)~~ (3) Noncustodial employees of the state department of corrections designated to carry weapons by the ~~secretary of public safety of the state or the~~ director of the state department of corrections pursuant to Code of Virginia, § 53.1-29;

~~(5)~~ (4) Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a weapon without obtaining a permit as provided by state law;

a. Notaries public.

b. Registrars.

c. Drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire.

d. Commissioners in chancery.

(5) Harbormaster of the City of Hopewell

~~(i)~~(l) This section shall not apply to any person who has been granted permission to carry a concealed weapon in accordance with state law.

(Code 1965, § 13.1-61; Ord. No. 82-28-20, 10-19-82; Ord. No. 84-613, 7-17-84; Ord. No. 85-80, 7-9-85 ; Ord. No. 86-101, 7-1-86; Ord. No. 87-60, 7-7-87; Ord. No. 88-83, 7-5-88; Ord. No. 01-

46, 6-19-01, effective 7-1-01; Ord. No. 04-39, 6-22-04, effective 7-1-04; Ord. No. 07-49, 6-26-07; Ord. No. 15-35, Attch., 6-23-15)

State Law reference— Similar provisions and authority of circuit court to grant permission to carry concealed weapons, Code of Virginia, § 18.2-308.

PROPOSED CHANGES TO THE PRINCE WILLIAM COUNTY CODE

Chapter 31

WEAPONS

* * *

ARTICLE III. - BOW CONTROL

* * *

Sec. 31-40. - Definitions.

For the purpose of this article, the following words and phrases shall have the meanings ascribed to them thereby, unless the context clearly requires a different meaning:

Arrow shall mean a shaft-like projectile intended to be shot from a bow.

Bow shall mean any compound bow, crossbow, slingbow, longbow, or recurve bow having a peak draw weight of ten pounds or more. The term "bow" does not include bows ~~which~~ that have a peak draw weight of less than ten pounds or ~~which~~ that are designed or intended to be used principally as toys.

(Ord. No. 92-88, 12-8-92; Ord. No. 15-01, Attch., 1-13-15)

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 665

An Act to amend and reenact § 15.2-2311 of the Code of Virginia, relating to board of zoning appeals.

[S 1559]

Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2311 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2311. Appeals to board.

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given *and the zoning administrator's written order is sent by registered mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.* ~~A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.~~ The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

VIRGINIA ACTS OF ASSEMBLY -- 2017 RECONVENED SESSION

CHAPTER 835

An Act to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, relating to wireless communications infrastructure.

[S 1282]

Approved April 26, 2017

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, as follows:

Article 7.2.

Zoning for Wireless Communications Infrastructure.

§ 15.2-2316.3. Definitions.

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

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i);

(ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4. Zoning; small cell facilities.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

a. $100 each for up to five small cell facilities on a permit application; and

b. $50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

b. The public safety or other critical public service needs;

c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

§ 15.2-2316.5. Moratorium prohibited.

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

CHAPTER 15.1.

WIRELESS COMMUNICATIONS INFRASTRUCTURE.

§ 56-484.26. Definitions.

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

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on,

under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Districtwide permit" means a permit granted by the Department to a wireless services provider or wireless infrastructure provider that allows the permittee to use the rights-of-way under the Department's jurisdiction to install or maintain small cell facilities on existing structures in one of the Commonwealth's nine construction districts. A districtwide permit allows the permittee to perform multiple occurrences of activities necessary to install or maintain small cell facilities on non-limited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. The Department may authorize districtwide permits covering multiple districts.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 56-484.27. Access to the public rights-of-way by wireless services providers and wireless infrastructure providers; generally.

A. No locality or the Department shall impose on wireless services providers or wireless infrastructure providers any restrictions or requirements concerning the use of the public rights-of-way, including the permitting process, the zoning process, notice, time and location of excavations and repair work, enforcement of the statewide building code, and inspections, that are unfair, unreasonable, or discriminatory.

B. No locality or the Department shall require a wireless services provider or wireless infrastructure provider to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements. This shall not limit the ability of localities, their authorities or commissions

that provide utility services, or the Department to enter into voluntary pole attachment, tower occupancy, conduit occupancy, or conduit construction agreements with wireless services providers or wireless infrastructure providers.

C. No locality or the Department shall adopt a moratorium on considering requests for access to the public rights-of-way from wireless services providers or wireless infrastructure providers.

§ 56-484.28. Access to public rights-of-way operated and maintained by the Department for the installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, the Department shall issue a districtwide permit, consistent with applicable regulations that do not conflict with this chapter, granting access to public rights-of-way that it operates and maintains to install and maintain small cell facilities on existing structures in the rights-of-way. The application shall include a copy of the agreement under which the applicant has permission from the owner of the structure to the co-location of equipment on that structure. If the application is received on or after September 1, 2017, (i) the Department shall issue the districtwide permit within 30 days after receipt of the application and (ii) the districtwide permit shall be deemed granted if not issued within 30 days after receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Department shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. A districtwide permit issued for the original installation shall allow the permittee to repair, replace, or perform routine maintenance operations to small cell facilities once installed.

B. The Department may require a separate single use permit to allow a wireless services provider or wireless infrastructure provider to install and maintain small cell facilities on an existing structure when such activity requires (i) working within the highway travel lane or requiring closure of a highway travel lane; (ii) disturbing the pavement, shoulder, roadway, or ditch line; (iii) placement on limited access rights-of-way; or (iv) any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof. Upon application by a wireless services provider or wireless infrastructure provider, the Department may issue a single use permit granting access to install and maintain small cell facilities in such circumstances. If the application is received on or after September 1, 2017, (a) the Department shall approve or disapprove the application within 60 days after receipt of the application, which 60-day period may be extended by the Department in writing for a period not to exceed an additional 30 days and (b) the application shall be deemed approved if the Department fails to approve or disapprove the application within the initial 60 days and any extension thereof. Any disapproval of an application for a single use permit shall be in writing and accompanied by an explanation of the reasons for the disapproval.

C. The Department shall not impose any fee for the use of the right-of-way on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, the Department may prescribe and charge a reasonable fee not to exceed $750 for processing an application for a districtwide permit or $150 for processing an application for a single use permit.

D. The Department shall not impose any fee or require a permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the Department may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.29. Access to locality rights-of-way for installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, a locality may issue a permit granting access to the public rights-of-way it operates and maintains to install and maintain small cell facilities on existing structures. Such a permit shall grant access to all rights-of-way in the locality for the purpose of installing small cell facilities on existing structures, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) provides notice of the agreement and co-location to the locality. The locality shall approve or disapprove any such requested permit within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The permit request shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period. No such permit shall be required for providers

of telecommunications services and nonpublic providers of cable television, electric, natural gas, water, and sanitary sewer services that, as of July 1, 2017, already have facilities lawfully occupying the public rights-of-way under the locality's jurisdiction.

B. Localities shall not impose any fee for the use of the rights-of-way, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, a locality may prescribe and charge a reasonable fee not to exceed $250 for processing a permit application under subsection A.

C. Localities shall not impose any fee or require any application or permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the locality may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.30. Agreements for use of public right-of-way to construct new wireless support structures; relocation of wireless support structures.

Subject to any applicable requirements of Article VII, Section 9 of the Constitution of Virginia, public right-of-way permits or agreements for the construction of wireless support structures issued on or after July 1, 2017, shall be for an initial term of at least 10 years, with at least three options for renewal for terms of five years, subject to terms providing for earlier termination for cause or by mutual agreement. Nothing herein is intended to prohibit the Department or localities from requiring permittees to relocate wireless support structures when relocation is necessary due to a transportation project, the need to remove a hazard from the right-of-way when the Commissioner of Highways determines such removal is necessary to ensure the safety of the traveling public, or material change to the right-of-way, so long as other users of the right-of-way that are in similar conflict with the use of the right-of-way are required to relocate. Such relocation shall be completed as soon as reasonably possible within the time set forth in any written request by the Department or a locality for such relocation, as long as the Department or a locality provides the permittee with a minimum of 180 days' advance written notice to comply with such relocation, unless circumstances beyond the control of the Department or the locality require a shorter period of advance notice. The permittee shall bear only the proportional cost of the relocation that is caused by the transportation project and shall not bear any cost related to private benefit or where the permittee was on private right-of-way. If the locality or the Department bears any of the cost of the relocation, the permittee shall not be obligated to commence the relocation until it receives the funds for such relocation. The permittee shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation, and the Department or a locality shall have no obligation to collect such funds. If relocation is deemed necessary, the Department or locality shall work cooperatively with the permittee to minimize any negative impact to the wireless signal caused by the relocation. There may be emergencies when relocation is required to commence in an expedited manner, and in such situations the permittee and the locality or Department shall work diligently to accomplish such emergency relocation.

§ 56-484.31. Attachment of small cell facilities on government-owned structures.

A. If the Commonwealth or a locality agrees to permit a wireless services provider or a wireless infrastructure provider to attach small cell facilities to government-owned structures, both the government entity and the wireless services or wireless infrastructure provider shall negotiate in good faith to arrive at a mutually agreeable contract terms and conditions.

B. The rates, terms, and conditions for such agreement shall be just and reasonable, cost-based, nondiscriminatory, and competitively neutral, and shall comply with all applicable state and federal laws. However, rates for attachments to government-owned buildings may be based on fair market value.

C. For utility poles owned by a locality or the Commonwealth that support aerial cables used for video, communications, or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. § 224 and implementing regulations. The good faith estimate of the government entity owning or controlling the utility pole for any make-ready work necessary to enable the utility pole to support the requested co-location shall include pole replacement if necessary.

D. For utility poles owned by a locality or the Commonwealth that do not support aerial cables used for video, communications, or electric service, the government entity owning or controlling the utility pole shall provide a good faith estimate for any make-ready work necessary to enable the utility pole to support the requested co-location, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or a wireless

infrastructure provider.

E. The government entity owning or controlling the utility pole shall not require more make-ready work than required to meet applicable codes or industry standards. Charges for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other wireless services providers, providers of telecommunications services, and nonpublic providers of cable television and electric services for similar work and shall not include consultants' fees or expenses.

F. The annual recurring rate to co-locate a small cell facility on a government-owned utility pole shall not exceed the actual, direct, and reasonable costs related to the wireless services provider's or wireless infrastructure provider's use of space on the utility pole. In any controversy concerning the appropriateness of the rate, the government entity owning or controlling the utility pole shall have the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the utility pole for such period.

G. This section shall not apply to utility poles, structures, or property of an electric utility owned or operated by a municipality or other political subdivision.

CHAPTER 835

An Act to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, relating to wireless communications infrastructure.

[S 1282]

Approved April 26, 2017

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, as follows:

Article 7.2.

Zoning for Wireless Communications Infrastructure.

§ 15.2-2316.3. Definitions.

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

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i);

(ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4. Zoning; small cell facilities.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

a. $100 each for up to five small cell facilities on a permit application; and

b. $50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

b. The public safety or other critical public service needs;

c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

§ 15.2-2316.5. Moratorium prohibited.

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

CHAPTER 15.1.

WIRELESS COMMUNICATIONS INFRASTRUCTURE.

§ 56-484.26. Definitions.

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

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on,

under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Districtwide permit" means a permit granted by the Department to a wireless services provider or wireless infrastructure provider that allows the permittee to use the rights-of-way under the Department's jurisdiction to install or maintain small cell facilities on existing structures in one of the Commonwealth's nine construction districts. A districtwide permit allows the permittee to perform multiple occurrences of activities necessary to install or maintain small cell facilities on non-limited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. The Department may authorize districtwide permits covering multiple districts.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 56-484.27. Access to the public rights-of-way by wireless services providers and wireless infrastructure providers; generally.

A. No locality or the Department shall impose on wireless services providers or wireless infrastructure providers any restrictions or requirements concerning the use of the public rights-of-way, including the permitting process, the zoning process, notice, time and location of excavations and repair work, enforcement of the statewide building code, and inspections, that are unfair, unreasonable, or discriminatory.

B. No locality or the Department shall require a wireless services provider or wireless infrastructure provider to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements. This shall not limit the ability of localities, their authorities or commissions

that provide utility services, or the Department to enter into voluntary pole attachment, tower occupancy, conduit occupancy, or conduit construction agreements with wireless services providers or wireless infrastructure providers.

C. No locality or the Department shall adopt a moratorium on considering requests for access to the public rights-of-way from wireless services providers or wireless infrastructure providers.

§ 56-484.28. Access to public rights-of-way operated and maintained by the Department for the installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, the Department shall issue a districtwide permit, consistent with applicable regulations that do not conflict with this chapter, granting access to public rights-of-way that it operates and maintains to install and maintain small cell facilities on existing structures in the rights-of-way. The application shall include a copy of the agreement under which the applicant has permission from the owner of the structure to the co-location of equipment on that structure. If the application is received on or after September 1, 2017, (i) the Department shall issue the districtwide permit within 30 days after receipt of the application and (ii) the districtwide permit shall be deemed granted if not issued within 30 days after receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Department shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. A districtwide permit issued for the original installation shall allow the permittee to repair, replace, or perform routine maintenance operations to small cell facilities once installed.

B. The Department may require a separate single use permit to allow a wireless services provider or wireless infrastructure provider to install and maintain small cell facilities on an existing structure when such activity requires (i) working within the highway travel lane or requiring closure of a highway travel lane; (ii) disturbing the pavement, shoulder, roadway, or ditch line; (iii) placement on limited access rights-of-way; or (iv) any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof. Upon application by a wireless services provider or wireless infrastructure provider, the Department may issue a single use permit granting access to install and maintain small cell facilities in such circumstances. If the application is received on or after September 1, 2017, (a) the Department shall approve or disapprove the application within 60 days after receipt of the application, which 60-day period may be extended by the Department in writing for a period not to exceed an additional 30 days and (b) the application shall be deemed approved if the Department fails to approve or disapprove the application within the initial 60 days and any extension thereof. Any disapproval of an application for a single use permit shall be in writing and accompanied by an explanation of the reasons for the disapproval.

C. The Department shall not impose any fee for the use of the right-of-way on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, the Department may prescribe and charge a reasonable fee not to exceed $750 for processing an application for a districtwide permit or $150 for processing an application for a single use permit.

D. The Department shall not impose any fee or require a permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the Department may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.29. Access to locality rights-of-way for installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, a locality may issue a permit granting access to the public rights-of-way it operates and maintains to install and maintain small cell facilities on existing structures. Such a permit shall grant access to all rights-of-way in the locality for the purpose of installing small cell facilities on existing structures, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) provides notice of the agreement and co-location to the locality. The locality shall approve or disapprove any such requested permit within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The permit request shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period. No such permit shall be required for providers

of telecommunications services and nonpublic providers of cable television, electric, natural gas, water, and sanitary sewer services that, as of July 1, 2017, already have facilities lawfully occupying the public rights-of-way under the locality's jurisdiction.

B. Localities shall not impose any fee for the use of the rights-of-way, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, a locality may prescribe and charge a reasonable fee not to exceed $250 for processing a permit application under subsection A.

C. Localities shall not impose any fee or require any application or permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the locality may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.30. Agreements for use of public right-of-way to construct new wireless support structures; relocation of wireless support structures.

Subject to any applicable requirements of Article VII, Section 9 of the Constitution of Virginia, public right-of-way permits or agreements for the construction of wireless support structures issued on or after July 1, 2017, shall be for an initial term of at least 10 years, with at least three options for renewal for terms of five years, subject to terms providing for earlier termination for cause or by mutual agreement. Nothing herein is intended to prohibit the Department or localities from requiring permittees to relocate wireless support structures when relocation is necessary due to a transportation project, the need to remove a hazard from the right-of-way when the Commissioner of Highways determines such removal is necessary to ensure the safety of the traveling public, or material change to the right-of-way, so long as other users of the right-of-way that are in similar conflict with the use of the right-of-way are required to relocate. Such relocation shall be completed as soon as reasonably possible within the time set forth in any written request by the Department or a locality for such relocation, as long as the Department or a locality provides the permittee with a minimum of 180 days' advance written notice to comply with such relocation, unless circumstances beyond the control of the Department or the locality require a shorter period of advance notice. The permittee shall bear only the proportional cost of the relocation that is caused by the transportation project and shall not bear any cost related to private benefit or where the permittee was on private right-of-way. If the locality or the Department bears any of the cost of the relocation, the permittee shall not be obligated to commence the relocation until it receives the funds for such relocation. The permittee shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation, and the Department or a locality shall have no obligation to collect such funds. If relocation is deemed necessary, the Department or locality shall work cooperatively with the permittee to minimize any negative impact to the wireless signal caused by the relocation. There may be emergencies when relocation is required to commence in an expedited manner, and in such situations the permittee and the locality or Department shall work diligently to accomplish such emergency relocation.

§ 56-484.31. Attachment of small cell facilities on government-owned structures.

A. If the Commonwealth or a locality agrees to permit a wireless services provider or a wireless infrastructure provider to attach small cell facilities to government-owned structures, both the government entity and the wireless services or wireless infrastructure provider shall negotiate in good faith to arrive at a mutually agreeable contract terms and conditions.

B. The rates, terms, and conditions for such agreement shall be just and reasonable, cost-based, nondiscriminatory, and competitively neutral, and shall comply with all applicable state and federal laws. However, rates for attachments to government-owned buildings may be based on fair market value.

C. For utility poles owned by a locality or the Commonwealth that support aerial cables used for video, communications, or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. § 224 and implementing regulations. The good faith estimate of the government entity owning or controlling the utility pole for any make-ready work necessary to enable the utility pole to support the requested co-location shall include pole replacement if necessary.

D. For utility poles owned by a locality or the Commonwealth that do not support aerial cables used for video, communications, or electric service, the government entity owning or controlling the utility pole shall provide a good faith estimate for any make-ready work necessary to enable the utility pole to support the requested co-location, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or a wireless

infrastructure provider.

E. The government entity owning or controlling the utility pole shall not require more make-ready work than required to meet applicable codes or industry standards. Charges for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other wireless services providers, providers of telecommunications services, and nonpublic providers of cable television and electric services for similar work and shall not include consultants' fees or expenses.

F. The annual recurring rate to co-locate a small cell facility on a government-owned utility pole shall not exceed the actual, direct, and reasonable costs related to the wireless services provider's or wireless infrastructure provider's use of space on the utility pole. In any controversy concerning the appropriateness of the rate, the government entity owning or controlling the utility pole shall have the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the utility pole for such period.

G. This section shall not apply to utility poles, structures, or property of an electric utility owned or operated by a municipality or other political subdivision.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 613

An Act to amend and reenact § 15.2-2232 of the Code of Virginia, relating to comprehensive plan.

[H 883]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2232 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2232. Legal status of plan.

A. Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204. Following the adoption of the Statewide Transportation Plan by the Commonwealth Transportation Board pursuant to § 33.2-353 and written notification to the affected local governments, each local government through which one or more of the designated corridors of statewide significance traverses, shall, at a minimum, note such corridor or corridors on the transportation plan map included in its comprehensive plan for information purposes at the next regular update of the transportation plan map. Prior to the next regular update of the transportation plan map, the local government shall acknowledge the existence of corridors of statewide significance within its boundaries.

B. The commission shall communicate its findings to the governing body, indicating its approval or disapproval with written reasons therefor. The governing body may overrule the action of the commission by a vote of a majority of its membership. Failure of the commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval. The owner or owners or their agents may appeal the decision of the commission to the governing body within 10 days after the decision of the commission. The appeal shall be by written petition to the governing body setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing. A majority vote of the governing body shall overrule the commission.

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless such work involves a change in location or extent of a street or public area.

D. Any public area, facility or use as set forth in subsection A which is identified within, but not the entire subject of, a submission under either § 15.2-2258 for subdivision or subdivision A 8 of § 15.2-2286 for development or both may be deemed a feature already shown on the adopted master plan, and, therefore, excepted from the requirement for submittal to and approval by the commission or the governing body; provided, that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303.

E. Approval and funding of a public telecommunications facility on or before July 1, 2012, by the Virginia Public Broadcasting Board pursuant to Article 12 (§ 2.2-2426 et seq.) of Chapter 24 of Title 2.2 or after July 1, 2012, by the Board of Education pursuant to § 22.1-20.1 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of television and radio towers and structures not necessary to house electronic apparatus. The exemption provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public Telecommunications Board prior to July 1, 1990. The Board of Education shall notify the governing body of the locality in advance of any meeting where approval of any such facility shall be acted upon.

F. On any application for a telecommunications facility, the commission's decision shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission

unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission.

G. A proposed telecommunications tower or a facility constructed by an entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 shall be deemed to be substantially in accord with the comprehensive plan and commission approval shall not be required if the proposed telecommunications tower or facility is located in a zoning district that allows such telecommunications towers or facilities by right.