

CODE
Town of
LEBANON, VIRGINIA
Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of April 4, 2022.

See the Code Comparative Table for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.



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P.O. Box 2235 Tallahassee, FL 32316

THE CODE OF THE
TOWN OF
LEBANON, VIRGINIA

Published by Order of the Town Council

Adopted: December 13, 1993
Effective: December 13, 1993

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P.O. Box 2235 Tallahassee, FL 32316

OFFICIALS
of the
TOWN OF
LEBANON, VIRGINIA
AT THE TIME OF THIS CODIFICATION

James A. Combs
Mayor

Joseph Gillespie
Vice-Mayor

H. M. "Pete" Harless
Clifford "Jack" Monk
James Hassell Kegley
Clint Sykes
Town Council

Michael L. Duty
Town Manager

Nancy C. Dickenson
Town Attorney

O. Jefferson Sword
Town Clerk

PREFACE

This Code constitutes a complete recodification of the general and permanent ordinances of the Town of Lebanon, Virginia.

Source materials used in the preparation of the Code were the 1977 Code and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1977 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections or even whole chapters can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 10-1 and 10-2 is desired to be added, such new section would be numbered 10-1.5. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case

of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix.

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The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Mary Rose DiMarco, Supervising Editor, and Ron McLaughlin, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Nancy Dickenson, Town Attorney, and Michael Duty, Town Manager, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code which will make the active law

of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

ADOPTING ORDINANCE

ORDINANCE NO. 93-3

An Ordinance Adopting and Enacting a New Code for the Town of Lebanon, Virginia; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Town Council of the Town of Lebanon:

Section 1. The Code entitled "The Code of the Town of Lebanon, Virginia," published by Municipal Code Corporation consisting of Chapters 1 through 78, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before November 9, 1992, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished as follows:

- (1) Whenever an act or offense, or the failure to do any act, is declared to be a class I misdemeanor, such act or offense shall be punished by a fine of not more than \$2,500.00 or confinement in jail for not more than 12 months, or both such fine and imprisonment.
- (2) Whenever an act or offense, or the failure to do any act, is declared to be a class II misdemeanor, such act or offense shall be punished by a fine of not more than \$1,000.00 or confinement in jail for not more than six months, or both such fine and imprisonment.
- (3) Whenever an act or offense, or the failure to do any act, is declared to be a class III misdemeanor, such act or offense shall be punished by a fine of not more than \$500.00.
- (4) Whenever an act or offense, or the failure to do any act, is declared to be a class IV misdemeanor, such act or offense shall be punished by a fine of not more than \$250.00.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of license or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the Town to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after November 9, 1992, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective December 13, 1993.

Passed and adopted by the Town Council this 13th day of December, 1993.

/s/

James A. Combs, Mayor

/s/

O. Jefferson Sword, Town
Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Town Council of the Town of Lebanon held on the 13th day of December, 1993.

/s/ O. Jefferson Sword, Clerk

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(This checklist will be updated with the
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

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CDi:60.1	12		

SUPPLEMENT HISTORY TABLE

;The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances and legislation that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances and legislation that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code will be able to gain a more complete picture of the Code's historical evolution.

Ordinance Number	Date Adopted	Included/Omitted	Supplement Number
09-1	7-13-09	Included	10
10-01	6-14-10	Included	10
10-03	7- 1-10	Included	10
70-26	4- 9-12	Included	10
12-01	7- 2-12	Included	10
12-2	7-16-12	Included	10
12-3	10- 9-12	Included	10
Mo. of	10-9-12	Included	11
12-4	12-10-12	Included	11
13-01	6-17-13	Included	11
13-2	7- 8-13	Included	11
Mo. of	8-12-13	Included	11
Ord. (Policy) of	11-12-13	Included	11
14-1	5-12-14	Included	11
Ord. (Policy) of	10-14-14	Included	11
Ord. (Policy) of	10- 3-16	Included	11
Court Order (Case No. CL 16-317)	12- 8-16	Included	11
Court Order (Case No. CL 16-318)	12- 8-16	Included	11
Court Order (Case No. CL 16-319)	12- 8-16	Included	11
2017-01	1-18-17	Included	11
2016-01	2-13-17	Included	11
2016-02	2-13-17	Included	11
Mo. of	9-11-17	Included	11
Ord. of	11-13-18	Included	12
Ord. of	3-11-19	Included	12
Ord. of	4- 4-22	Included	12

PART I
THE CHARTER*

- Sec. 1. Body politic and corporate, designation; powers under Constitution, etc.; boundaries.
- Sec. 2. Vesting of administration and government; composition of council; election and term of mayor and councilmen; vacancies.
- Sec. 3. Compensation of mayor, councilmen, etc.
- Sec. 4. Meetings of council.
- Sec. 5. Quorum for transaction of business of council.
- Sec. 6. Appointment, etc., of clerk, treasurer, sergeant, town attorney, etc.
- Sec. 7. Powers and duties of sergeant.
- Sec. 8. Powers and duties of mayor; appointment, etc., of vice-mayor and police justice.
- Sec. 9. Appointment, etc., of justices of the peace.
- Sec. 10. Power of town as to waterworks and systems for supply of water; rates for water service generally.
- Sec. 11. Power of town as to sanitary sewer lines and systems; fees and rates for sewer connections and sewer service generally.
- Sec. 12. Further provisions as to fees, rates and charges for use, etc., of public water system or sewage disposal system.
- Sec. 13. Power of town as to acquisition, etc., of property for proper purposes of town and rights of way to certain town property and as to sale of town property.
- Sec. 14. Power of town as to motor vehicles carrying passengers or freight for hire, taxicab, etc., fares, motor traffic and parking of motor vehicles.
- Sec. 15. Power of town as to holding of shows, carnivals, etc., and license taxes on businesses, trades, etc.
- Sec. 16. Power of town as to buildings and building and as to comprehensive plan concerning subdivision of lands.
- Sec. 17. Power of town as to protection of public or private property, as to minors in poolrooms, etc., and as to compelling persons sentenced to jail for ordinance violation to work on streets.
- Sec. 18. Power of town as to encroachments on streets, etc.
- Sec. 19. Power of town as to poles and wires for electric, etc., service and as to laying any kinds of pipes in streets and alleys.
- Sec. 20. Power of town as to exercise of police powers, power of council as to ordinances, etc., carrying into effect enumerated powers conferred by Charter.
- Sec. 21. Town manager; control and supervision of police force.
- Sec. 22. Continuance in effect of ordinances.

***Editor's note**—Printed herein is the charter, as contained in an Act of the General Assembly of Virginia, approved March 29, 1958 (Acts of 1958, ch. 343). Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Sec. 1. Body politic and corporate, designation; powers under Constitution, etc.; boundaries.

The inhabitants of the territory embraced within the present limits of the Town of Lebanon, as hereinafter defined, or as the same may be hereafter altered or established by law, shall constitute and continue a body politic and corporate, to be known and designated as the Town of Lebanon, and as such shall have and may exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia as fully and as completely as though all such powers were specifically enumerated herein. The territory embraced within the present limits of the Town of Lebanon is included and bounded by metes and bounds as follows:

BEGINNING at an angle point in the former corporate limits of Lebanon, Virginia, said angle point being a stake in the property of G.H. Dickenson; thence from the point of beginning N 80°39'37" E 5650.82 feet to a point in the property of Frank Ketron; thence S 24°31'25" E 2167.99 feet to a point on the east side of a private road in the Gilmer property; thence S 70°48'45" W 6208.43 feet to a point on the south bank of Cedar Creek in the Con Fields property; thence S 76°11'50" W 1318.26 feet to a point on the south bank of Cedar Creek in the Ferguson property; thence N 31°11'22" W 985.72 feet to a point in the aforementioned Ferguson property; thence S 67°47'43" W 1362.98 feet to a point in the aforementioned Ferguson property; thence N 09°56'08" W 642.86 feet to a point on the south bank of Cedar Creek in the aforementioned Ferguson property; thence S 52°53'37" W 5912.12 feet to a point on the east side of State Route No. 660, said point being 15.0 feet from the centerline of the aforementioned road; thence N 44°43'26" W 1217.48 feet to a point on the south right-of-way line of Federal Route No. 19, said point being 33.0 feet from the centerline of the aforementioned road, thence N 34°51'53" W 2498.63 feet to a point witnessed by the corner common to the Bundy and Garrett properties; thence N 45°48'24" E 6139.56 feet to a steel marker in the center of State Route No. 82, thence S 73°54'23" E 3262.35 feet to a point witnessed by the corner common to the Russell County School Board and Hendricks properties; thence S 82°13'54" E 2033.45 feet to an angle point in the former corporate lines of the Town of Lebanon, said angle point being a stake in the lands of G.H. Dickenson, at the beginning.

Editor's note—A current description of the boundaries of the town is on file in the town hall.

Sec. 2. Vesting of administration and government; composition of council; election and term of mayor and councilmen; vacancies.

The administration and government of the town shall be vested in a council composed of a mayor and six councilmen, all of whom shall be qualified electors of the town.

- (a) The mayor and six councilmen shall be elected by the qualified voters of the town on the first Tuesday in May, 1992. The three members of council, each of whom has received more votes in such election than the other three members, shall serve as members of the council for terms of four years each. The remaining three members shall serve for terms of two years each. At the regular municipal election to be held on the first Tuesday in May 1994, and every two years thereafter, three councilmen

shall be elected, each for a term of four years beginning on July 1 next following their election. Each councilman elected as provided in this section shall serve for the term stated or until his successor has been elected and qualified. At the regular municipal election to be held on the first Tuesday in May of 1992, and every four years thereafter, the qualified voters shall elect a mayor to serve for a term of four years or until his successor has been elected and qualified. The mayor and council in office on the effective date of this act shall continue in office until expiration of their terms and until their successors shall have qualified.

- (b) Vacancies in the office of mayor or council shall be filled for the unexpired term by a majority vote of the remaining members.

(Ord. of 12-28-89, § 2; Bill of 1-13-92)

Sec. 3. Compensation of mayor, councilmen, etc.

The council shall fix the compensation of the mayor, members of the council, and all appointed officers and employees of said town, at a sum not to exceed any limitations placed thereon by the laws and Constitution of the Commonwealth of Virginia.

State law reference—Salaries of mayor and councilmen may not be increased during the incumbent's term in office, Code of Virginia, §§ 15.1-827, 15.1-827.1.

Sec. 4. Meetings of council.

The council shall, by ordinance, fix the time for its regular meetings. Special meetings shall be called by the clerk of the council upon the written request of the mayor or three councilmen. Not less than twelve hours' written notice shall be given to the members of the council, of the purpose, place and time of any such special meeting. Special meetings may also be held at any time without notice, provided all members of the council are present. No business shall be transacted at any such special meeting which is not stated in the notice calling the same, unless all members of the council attend the meeting or waive notice thereof in writing.

Sec. 5. Quorum for transaction of business of council.

The mayor and four members of the council, or five members of the council shall constitute a quorum for the transaction of business.

Sec. 6. Appointment, etc., of clerk, treasurer, sergeant, town attorney, etc.

The council shall appoint a clerk, a treasurer and a sergeant and may appoint a town attorney and such other officers as it deems necessary or proper, prescribe their duties and functions and fix their compensation. Such officers shall hold office at the pleasure of the council and shall give such bonds as the council requires. The same person may be appointed to fill two or more such offices, in the discretion of the council

Sec. 7. Powers and duties of sergeant.

The sergeant shall be a conservator of the peace, and shall have the same powers and perform the same duties within the corporate limits of the town and to a distance of one mile beyond the same, as are enumerated in Article 2 of Chapter 17, Title 15, of the Code of Virginia.

Editor's note—The state law reference above has been changed to Code of Virginia, § 15.1-796.

Sec. 8. Powers and duties of mayor; appointment, etc., of vice-mayor and police justice.

The mayor in addition to his other duties shall be a conservator of the peace, and shall, unless and until a police justice is appointed as hereinafter provided, have power to issue warrants and summon witnesses; have exclusive original jurisdiction to try cases involving violations of town ordinances, or the collection of town taxes or assessments, or any other form of debts owing to the town; and shall have like powers in the matter of collecting fines and costs imposed by him, as are vested by law in the judges of county courts. The fees and costs in connection with such cases shall be the same as are authorized by law to be charged, taxed and collected by county courts for similar services, and such fees or costs and all fines collected by the mayor shall be promptly paid by him into the town treasury, unless the council by ordinance directs some other disposition thereof. The council may, by resolution duly adopted, appoint any one of its members vice-mayor to act in the place and stead of the mayor in the trial and disposition of any warrant charging a violation of a town ordinance, in the event of the mayor's absence, sickness or disqualification. The council may appoint a police justice for the town, who shall be a qualified voter of the town, shall give such bond as the council requires, shall serve at the pleasure of the council, and shall receive such compensation as the council prescribes.

Such police justice shall have, during such time as he serves, and to the exclusion of the mayor, the same powers and jurisdiction as are hereinabove conferred upon and vested in the mayor, and shall exercise the same in like manner as they are above authorized and directed to be exercised by the mayor in that capacity.

Editor's note—Code of Virginia, § 16.1-70, provides that the authority of existing city and town courts, created by the provisions of a municipal charter, is continued. Such courts shall be designated as police courts.

Sec. 9. Appointment, etc., of justices of the peace.

The judge of the circuit court of Russell County may appoint one or more persons as justices of the peace for the town, who shall have power to issue warrants, commit persons to jail and to admit to bail persons charged with violation of the ordinances of the town. The term of the office of the justices of the peace shall be at the pleasure of the judge of the circuit court of Russell County. No justice of the peace who receives a salary from the town, as a justice of the peace, shall receive any fee for admitting any person to bail or for any services whatever

rendered by him in any criminal case. The council shall have the authority to fix the compensation of justices of the peace appointed hereunder.

Editor's note—The office of justice of the peace was abolished, effective January 1, 1974, Code of Virginia, § 19.2-30 et seq. Code of Virginia, § 19.2-32, provides that references in law to justices of the peace shall be deemed to apply to magistrates "unless other provisions of chapters 3 and 4 of this title shall render such reference inapplicable."

Sec. 10. Power of town as to waterworks and systems for supply of water; rates for water service generally.

The town is empowered to acquire, establish, enlarge, maintain and operate such waterworks and systems as the council deems necessary for the purpose of providing an adequate supply of water to consumers within the corporate limits of the town and within such adjacent territory as the council deems it expedient or proper to serve, at such rates as the council prescribes.

The town may discontinue serving water to any consumer who defaults in payment for such service within the time prescribed by the council for payment thereof, for so long as such default continues.

Sec. 11. Power of town as to sanitary sewer lines and systems; fees and rates for sewer connections and sewer service generally.

The town is empowered to establish, construct, enlarge, and maintain such sanitary sewer lines and systems as the council deems necessary or expedient, and to require owners or occupiers of real estate within the corporate limits of the town, which fronts or abuts on any such sewer line, to make connection with and use the same; and shall have power to assess and collect reasonable fees and rates for making sewer connections and for sewer service. Sewer service may be discontinued for default in payment for such service, within the time prescribed by the council for payment thereof, for so long as such default continues.

Sec. 12. Further provisions as to fees, rates and charges for use, etc., of public water system or sewage disposal system.

In the event the fees, rents or charges, charged for the use and service of the public water system or sewage disposal system, by, or in connection with, any real estate shall not be paid when due, interest shall accrue thereon at the rate of not more than one percent per month. Such fees, rents and charges, and the interest due thereon may be recovered by the Town of Lebanon by action at law, or suit in equity, and shall constitute a lien against the property, of equal dignity as liens for unpaid town or county taxes.

Sec. 13. Power of town as to acquisition, etc., of property for proper purposes of town and rights of way to certain town property and as to sale of town property.

Subject to the provisions of the Code of Virginia, § 25-233, the town is empowered to acquire by condemnation or otherwise, property, real or personal, or any interest or estate therein, either within or without its corporate limits, for any of its proper purposes, including

that of providing playgrounds, parks, golf courses and other recreational facilities, and to make reasonable charges for the use of such facilities, and to otherwise handle and deal with such properties in such manner as the council deems proper or expedient; and shall have power to acquire by condemnation or otherwise, rights of way from the town to any property acquired by it under any of the provisions of this Charter, which lies without its corporate limits, and to construct and maintain upon such rights of way, such roads or bridges as may be reasonably necessary for the full enjoyment thereof; and shall also have power to sell such properties or any of them, or any other property owned by the town, whenever the council deems it expedient to do so.

Sec. 14. Power of town as to motor vehicles carrying passengers or freight for hire, taxicab, etc., fares, motor traffic and parking of motor vehicles.

To the extent not expressly prohibited by general law, the town is empowered:

- (a) To control and regulate the operation of motor vehicles carrying passengers or freight for hire upon its streets and alleys, and to require the owners or operators of such carriers to provide and maintain within the town, suitable terminals for the convenient loading and unloading of passengers and freight;
- (b) To regulate the fares to be charged by operators of taxicabs or other motor vehicles operating from established stands within the town, for carrying passengers within its corporate limits, and to require that the drivers of such vehicles be of such moral character as conforms to standards set by the council; and
- (c) To prescribe rules and regulations with respect to motor traffic of all kinds, within the town, and the parking of motor vehicles on its streets and alleys.

Sec. 15. Power of town as to holding of shows, carnivals, etc., and license taxes on businesses, trades, etc.

The town is empowered:

- (a) To regulate the holding of shows, carnivals, fairs and other similar public exhibitions, or to prohibit the holding of same, or any of them, within its corporate limits;
- (b) Except as prohibited by general law, to impose and collect such license tax as the council may determine for the privilege of engaging within the town in any business, trade, profession or calling upon which the state imposes a license tax; provided that the town may, unless expressly prohibited by general law, impose a higher license tax on any such activity, than that imposed by the state on the same activity.

Sec. 16. Power of town as to buildings and building and as to comprehensive plan concerning subdivision of lands.

The town is empowered:

- (a) To provide a Building Code for the town; to provide for the orderly and safe construction of houses and other buildings; to prescribe setback lines on designated streets; to

designate standards to be observed in the construction of dwellings and business houses on designated streets and in designated sections; and

- (b) To adopt a comprehensive plan concerning the subdivision of lands within the corporate limits of the town or within two miles thereof.

State law reference—Uniform Statewide Building Code, Code of Virginia, § 36-98.

Sec. 17. Power of town as to protection of public or private property, as to minors in poolrooms, etc., and as to compelling persons sentenced to jail for ordinance violation to work on streets.

The town is empowered:

- (a) To enact such ordinances as may be necessary for the protection of public or private property within the town and to prescribe penalties for violations; provided, however, that no punishment so prescribed shall be greater than that permitted by the general laws of the commonwealth for like offenses;
- (b) To prohibit minors from frequenting or loitering in public poolrooms, billiard parlors or bowling alleys, and prescribe punishment therefor, and to punish the proprietors of such places, or their agents in charge, for permitting the same; and
- (c) To compel persons sentenced to confinement in jail for violations of town ordinances, to work on the streets or other public places of the town.

Sec. 18. Power of town as to encroachments on streets, etc.

The town is empowered to prohibit encroachments upon the streets or alleys, or upon parks or other public places of the town by any fence, building, porch, or other projection; and any such encroachment made without such consent shall be deemed a nuisance, which the town may compel to be abated and removed by and through appropriate court action or proceeding, against which right of the town no statute of limitation shall run.

Sec. 19. Power of town as to poles and wires for electric, etc., service and as to laying any kinds of pipes in streets and alleys.

The town is empowered to permit and regulate, or to prohibit, the erection of poles and wires for electric, telegraph or telephone service or the laying of any kinds of pipes in the streets or alleys of the town, and to prescribe, assess and collect annual or other periodical charges for the doing of any such things under permits hereafter granted, and the power to require the owners or operators of any such electric light, telephone or telegraph lines to change the location of any of their poles whenever the council deems any such change expedient; and to require all wires or cables carrying electric current, whether heretofore or hereafter installed, to be placed in suitable conduits, underground, in the discretion of the council; provided that none of the powers above enumerated shall be exercised in a manner inconsistent with the provisions of any franchise granted by the town.

Sec. 20. Power of town as to exercise of police powers, power of council as to ordinances, etc., carrying into effect enumerated powers conferred by Charter.

The town is empowered to exercise all such police powers as the council deems reasonably necessary for the promotion and protection of the health, morals and safety of the inhabitants of the town, for the protection of the property of the town and its inhabitants, for the preservation of peace and good order, and for the general welfare; and the council is empowered to make ordinances and bylaws for the purpose of carrying into effect the enumerated powers conferred upon the town by this Charter, including police powers, and to prescribe punishments for violations thereof, provided that no such punishment shall exceed the maximum punishment prescribed by general law for a misdemeanor; and provided further, that all ordinances, bylaws and resolutions made and adopted by the council shall become effective thirty days after their passage, unless a different date is specified in any such ordinance, bylaws or resolution, upon which the same shall become effective.

Sec. 21. Town manager; control and supervision of police force.

The council may appoint a town manager who shall be the chief administrative officer of the town and shall be chosen solely on the basis of his executive and administrative qualifications, and shall have such knowledge of civil, mechanical and electrical engineering as, in the opinion of the council, shall be requisite to the efficient discharge of his duties. During his term of office he shall reside within the corporate limits of the town, and shall be appointed for such term as he and the council agree upon, not to exceed two years, but in any event, to end with the term of the council making the appointment. The town manager may be suspended or removed by the council for any cause it deems sufficient, provided that no suspension or removal shall be effected until after he shall have been given at least five days' notice in writing, stating the cause for such suspension or removal and fixing a day when he may be heard thereon. The action of the council in suspending or removing the town manager shall be final. The council, in its discretion, may place the control and supervision of the police force of the town under either the mayor or the town manager.

Except as otherwise provided in this Charter, the town manager may, with the consent of the council, appoint or employ, and remove or discharge, such officers, employees and assistants as he deems necessary to carry on the work of such departments of the town as are committed to him by the council in an efficient manner. The salary or compensation, and the terms of office of employment of such officers, employees and assistants shall be fixed by the town manager, subject to approval by the council; and his actions in all respects shall be subject to review by the council.

Sec. 22. Continuance in effect of ordinances.

All ordinances now in force in the Town of Lebanon, not inconsistent with this Charter, shall be and remain in full force and effect until altered, amended or repealed by the council of the town, after the effective date of this Act (Charter).

Chapter 96, Acts of Assembly of 1872-73, in force February 21, 1873, and all amendments thereto, are repealed.

An emergency exists and this Act (Charter) is in force from its passage.

CHARTER COMPARATIVE TABLE

ACTS

This table shows the location of the sections of the basic Charter and any state acts amendatory thereof.

Acts of	Chapter	Section	Section this Charter
1958	343	1-22	1-22
1-13-92(Bill)			2

CHARTER COMPARATIVE TABLE

ORDINANCES

This table shows the location of the ordinances amending the basic Charter.

Date	Section	Section this Charter
12-28-89	2	2

PART II

THE CODE

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Rules of construction and definitions.
- Sec. 1-3. Severability of parts of Code.
- Sec. 1-4. Provisions considered as continuations of existing ordinances.
- Sec. 1-5. Catchlines of sections.
- Sec. 1-6. Supplementation of Code.
- Sec. 1-7. Certain ordinances not affected by Code.
- Sec. 1-8. General penalty; continuing violations.
- Sec. 1-9. Issuance and service of summons in place of warrant.
- Sec. 1-10. When search warrants required.

Sec. 1-1. How Code designated and cited.

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

(Code 1977, § 1-1)

State law reference—Authority of town to codify ordinances, Code of Virginia, § 15.1-37.3.

Sec. 1-2. Rules of construction and definitions.

In the construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed, unless they are inconsistent with the manifest intent of the council or the context clearly requires otherwise:

Bond. When a bond is required an undertaking in writing with such surety, if any, as the council may direct, shall be sufficient.

Computation of time. When a statute or rule of court requires a notice to be given, or any other act to be done, a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding, but the day on which such notice is given, or such act is done, may be counted as part of the time; but when a statute or rule of court requires a notice to be given or any other act to be done within a certain time after any event or judgment, that time shall be allowed in addition to the day on which the event or judgment occurred.

State law reference—"Computation of time," Code of Virginia, § 1-13.3.

Council. The words "council" or "the council" mean the council of the Town of Lebanon, Virginia.

County. The words "county" or "the county" mean the County of Russell in the State of Virginia.

Following. The word "following," when used by way of reference to any section, means next following that in which such reference is made.

State law reference—"Following," Code of Virginia, § 1-13.6.

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

State law reference—"Gender," Code of Virginia, § 1-13.7.

Health officer. The term "health officer" means the director of public health of the county or his authorized representative.

In the town. The words "in the town" mean any territory jurisdiction for which the exercise of its regulatory power has been conferred on the town by public or private law.

Month. The word "month" means a calendar month.

State law reference—Similar provisions, Code of Virginia, § 1-13.13.

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

State law reference—"Number," Code of Virginia, § 1-13.15.

Oath. The word "oath" includes an affirmation in all cases in which by law an affirmation may be substituted for an oath.

State law reference—Similar provisions, Code of Virginia, § 1-13.16.

Occupant or tenant. The word "occupant" or "tenant," when applied to a building or land, means any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

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

Owner. The word "owner," when applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" extends and is applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

State law reference—Similar provisions, Code of Virginia, § 1-13.19.

Preceding. The word "preceding," when used by way of reference to any section, means next preceding that in which such reference is made.

State law reference—Similar provisions, Code of Virginia, § 1-13.23.

Property. The word "property" means real, personal or mixed property.

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

Shall. The word "shall" is mandatory.

Sidewalk. The word "sidewalk" means any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature, subscription. The words "signature" and "subscription" include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State. The word "state" or "the state" means the State of Virginia.

Street. The word "street" includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town,

and means the entire width thereof between abutting property lines. It includes a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Swear, sworn. The word “swear” or “sworn” is equivalent to the word “affirm” or “affirmed” in all cases in which by law an affirmation may be substituted for an oath.

State law reference—Similar provisions, Code of Virginia, § 1-13.28.

Town. The words “town” or “the town” mean the Town of Lebanon, in the County of Russell and State of Virginia.

Written, in writing. The words “written” and “in writing” include typewriting, printing on paper and any other mode of representing words and letters.

(Code 1977, § 1-2)

Sec. 1-3. Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1977, § 1-3)

Sec. 1-4. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the 1977 Code and the ordinances of the town included in this Code, shall be considered as continuations thereof and not as new enactments.

(Code 1977, § 1-4)

Sec. 1-5. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1977, § 1-5)

State law reference—Similar provisions, Code of Virginia, § 1-13.9.

Sec. 1-6. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially

obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-7. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;
- (3) Any contract or obligation assumed by the town;
- (4) Any right or franchise granted by the town;
- (5) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way in the town;

- (6) Any ordinance establishing or prescribing grades for streets in the town;
- (7) Any appropriation ordinance or ordinances providing for the levy of taxes or for adopting an annual budget;
- (8) Any ordinance relating to local improvements and assessments therefor;
- (9) Any ordinance annexing territory to the town or discontinuing territory as a part of the town;
- (10) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (11) Any ordinance establishing or amending personnel rules or regulations;
- (12) Ordinances prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no parking areas, truck routes, stop intersections, intersections where traffic to be controlled by signals, etc.;
- (13) Any ordinance establishing or amending zoning or land use regulations or the zoning map or rezoning property;
- (14) Any ordinance or resolution calling municipal elections or prescribing the manner of conducting the election in accordance with state law;
- (15) Any ordinance prescribing any fee or payment of money to the town;
- (16) Any ordinance prescribing the number, classification, benefits or compensation of any town officers or employees, not inconsistent herewith;
- (17) Any ordinance which is temporary although general in effect;
- (18) Any ordinance which is special although permanent in effect;
- (19) Any ordinance containing any administrative provisions;
- (20) The zoning ordinance;
- (21) Any ordinance relating to the regulation of trailers;

and all such ordinances shall remain in effect and are on file in the town clerk's office.

Sec. 1-8. General penalty; continuing violations.

(a) Whenever in this Code, or in any ordinance of the town or rule or regulation promulgated by an officer, board or commission or agency thereof under authority vested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the violation of any such provision of

this Code, ordinance, rule or regulation shall be punished as follows, except as otherwise provided in subsection (b) of this section:

- (1) Whenever an act or offense, or the failure to do any act, is declared to be a class I misdemeanor, such act or offense shall be punished by a fine of not more than \$2,500.00 or confinement in jail for not more than 12 months, or both such fine and imprisonment.
- (2) Whenever an act or offense, or the failure to do any act, is declared to be a class II misdemeanor, such act or offense shall be punished by a fine of not more than \$1,000.00 or confinement in jail for not more than six months, or both such fine and imprisonment.
- (3) Whenever an act or offense, or the failure to do any act, is declared to be a class III misdemeanor, such act or offense shall be punished by a fine of not more than \$500.00.
- (4) Whenever an act or offense, or the failure to do any act, is declared to be a class IV misdemeanor, such act or offense shall be punished by a fine of not more than \$250.00.

(b) Whenever a provision in this Code or other ordinance of the town prescribes punishment by stating that the act or offense, or the failure to do any act, is a misdemeanor, or that it is punishable as provided for in subsection (a) of this section, or no specific penalty is provided therefor, the act or offense, or failure to do any act, shall be deemed to be a class I misdemeanor. Acts or offenses, or failure to do any act, defined by the various provisions of this Code, for which punishment is prescribed without specification as to the class of the offense, act, or failure to act, shall be punished according to the provisions prescribing the punishment.

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

(Code 1977, § 1-6)

Cross reference—Offenses and miscellaneous provisions, ch. 34.

State law references—Power of town to prescribe fines and other punishment for violation of ordinances, Code of Virginia, § 15.1-13; authority of town to impose penalty specified herein for violation of ordinances, Code of Virginia, § 15.1-901; penalties for misdemeanors generally, Code of Virginia, §§ 18.2-11, 18.2-12.

Sec. 1-9. Issuance and service of summons in place of warrant.

(a) Whenever any person is detained by or in the custody of an arresting officer for a violation of any town ordinance or of any provision of this Code, except as otherwise provided in Code of Virginia, title 46.2 or § 18.2-266, as amended, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

(b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial

officer or other person qualified to admit to bail having jurisdiction, who shall proceed according to provisions of Code of Virginia, § 19.2-82.

(c) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be guilty of a misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

(d) Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this section, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail in lieu of issuing the summons, who shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he may determine proper.

(e) Notwithstanding the above, if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, the officer may take such person before a magistrate or other issuing authority of the county and request the issuance of a warrant.

(Code 1977, § 1-7)

State law reference—Similar provisions, Code of Virginia, § 19.2-74.

Sec. 1-10. When search warrants required.

(a) No officer of the law or any other person shall search any place, thing or person except by virtue of and under a warrant issued by a proper officer. Any officer or other person searching any place, thing or person otherwise than by virtue of and under a search warrant shall be guilty of a misdemeanor. Any officer or person violating the provisions of this section shall be liable to any person aggrieved thereby in both compensatory and punitive damages. Any officer found guilty of a second offense under this section shall, upon conviction thereof, in addition to any penalty provided, immediately forfeit his office, and such conviction shall be deemed to create a vacancy in such office to be filled according to law.

(b) Any officer empowered to enforce the game laws may without a search warrant enter, for the purpose of enforcing such laws, any freight yard or room, passenger depot, baggage room or warehouse, storage room or warehouse, train, baggage car, passenger car, express car, pullman car or freight car of any common carrier, or any boat, automobile or other vehicle; but nothing contained in this proviso shall be construed to permit a search of any occupied berth or compartment on any passenger car or boat of any baggage, bag, trunk, box or other closed container without a search warrant.

(Code 1977, § 1-8)

State law reference—Similar provisions, Code of Virginia, § 19.2-59.

Chapter 2

ADMINISTRATION*

Article I. In General

- Sec. 2-1. Annual audit.
- Sec. 2-2. Deposit of funds.
- Sec. 2-3. Execution of deeds for conveyances or exchange of town property, other instruments requiring use of seal.
- Sec. 2-4. Town hall closed on holidays.
- Sec. 2-5. Capitalization policy limit.
- Sec. 2-6. Purchasing policy.
- Secs. 2-7—2-30. Reserved.

Article II. Town Council

- Sec. 2-31. Regular meetings.
- Sec. 2-32. Town employees prohibited from serving as mayor or member of town council.
- Sec. 2-33. Remote attendance of council meetings by mayor or council members.
- Secs. 2-34—2-50. Reserved.

Article III. Officers and Employees

Division 1. Generally

- Secs. 2-51—2-60. Reserved.

Division 2. Town Manager

- Sec. 2-61. Establishment of office; appointment and term.
- Sec. 2-62. Powers and duties.
- Sec. 2-63. Supervisory functions.
- Secs. 2-64—2-75. Reserved.

Division 3. Town Attorney

- Sec. 2-76. Attendance at council meetings.
- Sec. 2-77. Annual report.
- Sec. 2-78. Compensation generally.
- Sec. 2-79. Reimbursement for expenses.
- Secs. 2-80—2-90. Reserved.

Division 4. Treasurer

- Sec. 2-91. Bond.

***Cross references**—Elections, ch. 18; law enforcement, ch. 30; parks and recreation, ch. 38; park and recreation board, § 38-31 et seq.; personnel, ch. 42; planning and development, ch. 46; town planning commission, § 46-26 et seq.; procurement, ch. 50; taxation, ch. 66.

LEBANON TOWN CODE

- Sec. 2-92. Town money in hands of treasurer to be safely kept.
- Sec. 2-93. Books for receipts, disbursements and accounts.
- Sec. 2-94. Record of checks issued; monthly report as to outstanding checks.
- Sec. 2-95. Monthly financial statement.
- Sec. 2-96. Annual settlement generally; collection of balance due.
- Sec. 2-97. Annual audit and settlement of accounts; report to council.
- Sec. 2-98. Certification of claims allowed and ordered paid; drawing of checks generally.
- Sec. 2-99. Execution of checks generally.
- Sec. 2-100. Checks for salaries and legal fees.
- Secs. 2-101—2-110. Reserved.

Division 5. Clerk

- Sec. 2-111. Attendance at council meetings.
- Sec. 2-112. Journal of council proceedings; attestation and publication of ordinances, etc., ordered published.
- Sec. 2-113. Transmission to council of reports of town officers.
- Sec. 2-114. Additional books and records.
- Sec. 2-115. Examination of books and papers.
- Sec. 2-116. Notice of coming town elections.
- Sec. 2-117. Ordinance book—Entering ordinances.
- Sec. 2-118. Same—Notation of amending or repealing ordinances.
- Sec. 2-119. Numbering of ordinances.

ARTICLE I. IN GENERAL**Sec. 2-1. Annual audit.**

There shall be an annual audit of the financial and administrative affairs of the town by a qualified and competent certified public accountant.

(Code 1977, § 2-1)

Sec. 2-2. Deposit of funds.

All money belonging to the town shall be deposited in the banks located in the county by the treasurer in the name of the town.

(Code 1977, § 2-2)

Sec. 2-3. Execution of deeds for conveyances or exchange of town property, other instruments requiring use of seal.

All deeds for the conveyance or exchange of the property of the town and all agreements or other instruments requiring the seal of the town to be affixed thereto shall, when authorized by the council, be authenticated in the name of the town by the mayor and the seal of the town shall be affixed thereto and attested by the clerk.

(Code 1977, § 2-3)

Charter reference—Power of town as to acquisition, etc., of property for proper purposes of town and rights-of-way to certain town property and as to sale of town property, § 13.

Sec. 2-4. Town hall closed on holidays.

The town hall shall be closed on all legal state holidays.

(Code 1977, § 2-4)

Sec. 2-5. Capitalization policy limit.

The capitalization policy limit is hereby increased from \$1,000.00 to \$5,000.00.

(Mo. 10-9-12)

Sec. 2-6. Purchasing policy.

(a) Any purchase not exceeding \$5,000.00 for each item shall be approved by the town manager.

(b) Any purchase exceeding \$5,000.00 but less than \$30,000.00 for each item shall require two written quotes for each item. One of the required quotes shall be from eVa web site should that item be listed. Purchase shall be preapproved by council majority for each item and shall not require procurement.

(c) Any purchase exceeding \$30,000.00 but less than \$100,000.00 for each item shall require three (3) written quotes for each item. One of the required quotes shall be from eVa web site should that item be listed. Purchase shall be preapproved by council majority for each item and shall not require procurement.

(d) Any purchase exceeding \$100,000.00 for each item shall require public procurement, public notice in the local Lebanon newspaper, regional Bristol newspaper and State internet web site for 14 consecutive days before awarding.

(e) Any professional service not exceeding \$60,000.00 for each service shall be preapproved by council majority for each service and shall not require procurement.

(f) Any purchase declared an emergency by the town manager and a meeting of the council is not possible shall be preapproved by council majority by telephone or verbal polling without procurement.

(Ord. No. 2017-01, 1-18-17)

Secs. 2-7—2-30. Reserved.

ARTICLE II. TOWN COUNCIL*

Sec. 2-31. Regular meetings.

The council shall hold its regular monthly meeting on the second Monday of each month at 6:00 p.m.

(Code 1977, § 2-5)

Charter reference—Meetings of council, § 4.

Sec. 2-32. Town employees prohibited from serving as mayor or member of town council.

(a) No employee of the Town of Lebanon shall be eligible to serve as mayor or as a member of the town council.

(b) Any existing employee of the town who is elected as mayor or as a member of the town council shall be deemed to have resigned his/her employment with the Town of Lebanon, upon the commencement of his/her term of office, and his/her employment shall be thereby terminated.

(Ord. No. 14-1, 5-12-14)

Sec. 2-33. Remote attendance of council meetings by mayor or council members.

If, on or before the date of a council meeting, the mayor or a council member notifies the presiding officer of the meeting or the town manager that he or she is unable to attend the meeting due to an emergency or personal matter, he or she may participate in such meeting remotely under the following terms or conditions:

- (1) The presiding officer of the meeting or the town manager must be notified of the absent member's request at least one hour prior to the meeting.

***Charter references**—Election of town council, composed of a mayor and six councilmen, terms of office and filing of vacancies in council, § 2; compensation of town officers and employees, § 3; quorum for transaction of council business, § 5.

- (2) The presiding officer or the town manager must be told with specificity the nature of the emergency or personal matter which prevents the member from attending, and the remote location from which the absent member will be participating in the meeting.
 - (3) The minutes of the meeting shall record the specific nature of the emergency or personal matter, and the remote location from which the member participated.
 - (4) Arrangements must be made for the voice of the member attending remotely to be heard by all persons at the primary or central meeting location.
 - (5) A quorum of the town council must be physically assembled at the primary or central meeting location.
 - (6) Such remote participation is limited to two meetings per member, each calendar year.
 - (7) Provided the terms and conditions of this policy are met, the absent member shall be permitted to participate in such meeting remotely. If the absent member is not permitted to participate remotely, the minutes of the meeting shall reflect with specificity the reasons why remote participation was not allowed.
- (Ord.(Policy) of 10-14-14)

Secs. 2-34—2-50. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Secs. 2-51—2-60. Reserved.

DIVISION 2. TOWN MANAGER

Sec. 2-61. Establishment of office; appointment and term.

The town manager, assistant town manager, treasurer, deputy treasurer, public works director, chief of police, town engineer, and the zoning administrator shall be appointed by the council and shall hold office at the will and pleasure of the council.

(Code 1977, § 2-6; Mem. of 8-30-99)

Sec. 2-62. Powers and duties.

The powers and duties of the town manager shall be as provided by the council.

(Code 1977, § 2-7)

***Cross references**—Chief of police, § 30-2; resisting town officers, § 34-4.

Sec. 2-63. Supervisory functions.

The town manager shall be solely responsible for directing the work of his subordinates. Neither the council nor any of its members nor the mayor shall give orders to any of the town manager's subordinates, either publicly or privately.

(Code 1977, § 2-8)

Secs. 2-64—2-75. Reserved.

DIVISION 3. TOWN ATTORNEY*

Sec. 2-76. Attendance at council meetings.

The town attorney shall attend all council meetings when requested to do so by the mayor, council or town manager.

(Code 1977, § 2-9; Min. of 8-26-91)

Sec. 2-77. Annual report.

The town attorney shall make an annual report to the council, giving a condensed statement of the business done in his office for the town in the year immediately preceding such report. This report shall contain a list of deeds, contracts, etc., to which the town was a party. Such report shall also contain a statement of the unfinished business in the hands of the town

***Charter reference**—Appointment of town attorney, § 6.

attorney with such suggestions with reference to the interest of the town as he may deem pertinent.

(Code 1977, § 2-10)

Sec. 2-78. Compensation generally.

In addition to the annual retainer paid the town attorney by way of salary, he shall have additional compensation for all special services rendered the council, in such amount as may be agreed upon by the town attorney and the council.

(Code 1977, § 2-11)

Sec. 2-79. Reimbursement for expenses.

From time to time, the town attorney shall present for payment any actual outlay or expense which the performance of his duties has entailed.

(Code 1977, § 2-12)

Secs. 2-80–2-90. Reserved.

DIVISION 4. TREASURER*

Sec. 2-91. Bond.

Before entering on the duties of his office, the treasurer shall execute an official bond, with satisfactory sureties, in such penalty as the council may prescribe.

(Code 1977, § 2-13)

Sec. 2-92. Town money in hands of treasurer to be safely kept.

All money belonging to the town collected by the treasurer or paid over to him shall be safely kept, as provided in section 2-2.

(Code 1977, § 2-14)

Sec. 2-93. Books for receipts, disbursements and accounts.

It shall be the duty of the treasurer to keep suitable books in which all receipts and disbursements shall be properly entered and in which the accounts of all persons accountable to the town shall be kept. Each fund shall be separated. All accounts of the town shall be kept correctly and plainly.

(Code 1977, § 2-15)

Sec. 2-94. Record of checks issued; monthly report as to outstanding checks.

The treasurer shall open and keep in a methodical manner, in a book kept for the purpose, an account of all town checks issued by him showing number, date, to whom issued, on what account, amount and date of payment by the treasurer, and shall, each month, transmit to the

*Charter reference—Appointment of treasurer, § 6.

council a statement of aggregate amount of checks outstanding and unpaid at the close of the preceding month.

(Code 1977, § 2-16)

Sec. 2-95. Monthly financial statement.

The treasurer shall, each month, make out a full statement to the town council of all receipts, disbursements and expenditures for the month preceding, which shall also show the liabilities and resources of the town and the balance, if any, in his hands at that time, as well as all other things necessary to show the true financial condition of the town.

(Code 1977, § 2-17)

Sec. 2-96. Annual settlement generally; collection of balance due.

The treasurer shall, on August 31 of each year, make with the committee on finance a settlement of his account as treasurer for the year, at which time he shall have credit for his list of uncollected taxes and delinquents. If, upon such final settlement, the treasurer fails to account for any balance ascertained to be due by him, it shall be the duty of the mayor to proceed to collect the same in the manner governing proceedings against county treasurers under similar circumstances.

(Code 1977, § 2-18)

Sec. 2-97. Annual audit and settlement of accounts; report to council.

The committee on finance of the town council shall, on June 30 of each year, examine into and make settlement of the treasurer's annual accounts of receipts and disbursements and his list of uncollected taxes and delinquents, and shall make a report of same to the council at its meeting in July, with such corrections as are found necessary and proper.

(Code 1977, § 2-19)

Sec. 2-98. Certification of claims allowed and ordered paid; drawing of checks generally.

The treasurer shall duly certify all claims allowed and ordered to be paid by the council, and shall draw the check of the town in favor of the owner or legal holder of such claim for the amount thereof.

(Code 1977, § 2-20)

Sec. 2-99. Execution of checks generally.

All checks drawn against any account of the town shall be signed by the treasurer and countersigned by either the mayor or the clerk.

(Code 1977, § 2-21)

Sec. 2-100. Checks for salaries and legal fees.

The treasurer or his designee shall issue town checks for the salaries of town officers and employees and for legal fees.

(Code 1977, § 2-22)

Secs. 2-101–2-110. Reserved.

DIVISION 5. CLERK*

Sec. 2-111. Attendance at council meetings.

The clerk shall attend every meeting of the council.

(Code 1977, § 2-23)

Sec. 2-112. Journal of council proceedings; attestation and publication of ordinances, etc., ordered published.

The clerk shall keep an accurate journal of the proceedings of the council. He shall file and preserve all papers which may come into his hands as clerk, and shall attest and publish, as clerk, all ordinances or other papers or proceedings required by the council to be published.

(Code 1977, § 2-24)

Sec. 2-113. Transmission to council of reports of town officers.

The clerk shall transmit to the council, monthly, the reports of town officers.

(Code 1977, § 2-25)

Sec. 2-114. Additional books and records.

In addition to the books of account and records provided for in this division, the clerk shall keep such other books and records as may be necessary to the discharge of the functions of his office.

(Code 1977, § 2-26)

Sec. 2-115. Examination of books and papers.

The books and papers of the clerk shall, at all times, be subject to examination by the mayor, any member of the council or any committee of the council.

(Code 1977, § 2-27)

Sec. 2-116. Notice of coming town elections.

The clerk shall notify the mayor and all members of the council of a coming town election at least 65 days prior to such town election.

(Code 1977, § 2-28)

*Charter reference—Appointment of clerk, § 6.

Sec. 2-117. Ordinance book—Entering ordinances.

The clerk shall enter in a book copies of all ordinances passed by the town council. The book in which ordinances are thus entered shall be known as the “Ordinances of the Town of Lebanon, Virginia,” and shall be indexed.

(Code 1977, § 2-29)

Sec. 2-118. Same—Notation of amending or repealing ordinances.

The clerk shall write on the first page of every ordinance entered in the book mentioned in section 2-117, if the same has been amended or repealed, as the case may be, the words “amended” or “repealed,” with a reference to the page of the ordinance book where the amending or repealing ordinance can be found.

(Code 1977, § 2-30)

Sec. 2-119. Numbering of ordinances.

All ordinances of the town shall be consecutively numbered in annual series, the number of a particular ordinance to consist of the year in which passed and the consecutive number of the ordinance.

(Code 1977, § 2-31)

Chapters 3–5

RESERVED

Chapter 6

ANIMALS*

Article I. In General

- Sec. 6-1. Abandonment of animals.
- Sec. 6-2. Livestock at large.
- Sec. 6-3. Poultry at large.
- Sec. 6-4. Keeping hogs.
- Sec. 6-5. Cruelty to animals.
- Sec. 6-6. Noisy animals and fowl.
- Sec. 6-7. Permitting livestock on street right-of-way.
- Secs. 6-8—6-30. Reserved.

Article II. Dogs

- Sec. 6-31. Impoundment of unlicensed dogs.
- Sec. 6-32. Running at large.
- Sec. 6-33. Creation of unreasonable disturbance.
- Sec. 6-34. Rabid dogs; quarantine.
- Secs. 6-35—6-55. Reserved.

Article III. Birds

- Sec. 6-56. Town as sanctuary.
- Sec. 6-57. Signs.
- Sec. 6-58. Molesting, etc., birds.

***Cross references**—Offenses and miscellaneous provisions, ch. 34; solid waste, ch. 54; streets and sidewalks, ch. 58.

ARTICLE I. IN GENERAL**Sec. 6-1. Abandonment of animals.**

Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a class 3 misdemeanor.

(Code 1977, § 3-1)

Cross reference—Streets and sidewalks, ch. 58.

State law reference—Similar provisions, Code of Virginia, §§ 18.2-403.2(3), 3.1-796.73, 3.1-796.122.

Sec. 6-2. Livestock at large.

It shall be unlawful for the owners of horses, cattle or other livestock to allow such animals to roam at large.

(Code 1977, § 3-2)

Sec. 6-3. Poultry at large.

It shall be unlawful for the owners of chickens or other poultry to allow such poultry to roam at large.

(Code 1977, § 3-3)

Sec. 6-4. Keeping hogs.

It shall be unlawful for any person within the town to keep a hog in a pen or any other enclosure, except it be in a lot of at least one-half acre or more in extent; provided, however, there is excluded from this exception all lots or enclosures that have a frontage on any street having a width of at least 30 feet.

(Code 1977, § 3-4)

Sec. 6-5. Cruelty to animals.

Any person who:

- (1) Overrides, overdrives, overloads, tortures, ill treats or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another, or deprives any animal of necessary sustenance, food or drink, or causes any of the above things, or being the owner of such animal permits such acts to be done by another;
- (2) Wilfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or
- (3) Shall carry or cause to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal or inhuman manner, so as to produce torture or unnecessary suffering;

shall be guilty of a misdemeanor; but nothing in this section shall be construed to prohibit the dehorning of cattle. The word "animal," as used in this section shall be construed to include birds and fowl.

(Code 1977, § 3-5)

Cross reference—Offenses and miscellaneous provisions, ch. 34.

State law reference—Cruelty to animals, Code of Virginia, § 3.1-796.122.

Sec. 6-6. Noisy animals and fowl.

No person shall have or keep any animal or fowl which, by making or causing frequent or long continued and unreasonable noise, shall disturb the comfort and repose of any person in the vicinity. Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in charge of such animal or fowl and order the discontinuance of the disturbance. It shall be unlawful to fail to comply with such order.

(Code 1977, § 3-6)

Sec. 6-7. Permitting livestock on street right-of-way.

No person shall pasture or graze, or cause to be pastured or grazed, or otherwise permit to be on any right-of-way of any street in the town, except as otherwise provided in this chapter, any livestock, unless such animal be securely tied or held by chain or rope so as to prevent such animal from getting on the traveled portion of the street; provided, however, that this section shall not apply when such livestock are being driven along such road or right-of-way while under the control of a responsible driver.

(Code 1977, § 3-7)

Cross reference—Streets and sidewalks, ch. 58.

State law reference—Similar provisions, Code of Virginia, § 33.1-210.

Secs. 6-8–6-30. Reserved.

ARTICLE II. DOGS

Sec. 6-31. Impoundment of unlicensed dogs.

Any unlicensed dog found in the town shall be seized and confined in the county dog pound and redemption of such dog shall be subject to county ordinances and regulations.

(Code 1977, § 3-8)

Sec. 6-32. Running at large.

It shall be unlawful for any dog to run at large in any portion of the town. A dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits

his dog to run at large shall be deemed to have violated the provisions of this section and such action shall be unlawful.

(Ord. of 4-7-80)

State law reference—Authority of town to prohibit dogs from running at large, Code of Virginia, § 3.1-796.93.

Sec. 6-33. Creation of unreasonable disturbance.

It shall be unlawful for any person to keep any dog within the town which, by habitually barking, biting or by running after people in the streets in a vicious manner, or by other conduct, unreasonably disturbs the peace or the quiet of any person.

(Code 1977, § 3-9)

Sec. 6-34. Rabid dogs; quarantine.

The mayor shall have authority to proclaim the existence of an emergency by publication of proclamation in a newspaper published in the county upon proof that a rabid dog is at large and has bitten other dogs in or near the town. Upon such publication, all owners and custodians of all dogs in the town shall be required to keep the same confined on their premises unless muzzled in such manner that persons or animals will not be subject to the danger of being bitten thereby. Such period shall not exceed 30 days unless renewed by the town council.

(Code 1977, § 3-10)

State law reference—Authority of town to adopt ordinances which parallel Code of Virginia, § 3.1-796.98 concerning rabid dogs and cats, Code of Virginia, § 3.1-796.94.

Secs. 6-35–6-55. Reserved.

ARTICLE III. BIRDS

Sec. 6-56. Town as sanctuary.

The town, within its corporate limits, shall be a bird sanctuary for the protection of all birds protected by the Migratory Bird Treaty Act, adopted by the Congress of the United States of America, not including starlings, English sparrows or pigeons.

(Code 1977, § 3-11)

Sec. 6-57. Signs.

Signs stating that the town is a bird sanctuary may be erected in the town. Such signs shall be of such type and erected at such public places as may be approved by the town manager.

(Code 1977, § 3-12)

Sec. 6-58. Molesting, etc., birds.

It shall be unlawful for any person to shoot missiles of any description from any bow, sling, bean shooter, air rifle, spring gun, pistol, shotgun or other instrument or weapon at any of the birds for which a bird sanctuary is provided in this article or otherwise destroy such birds, their nests or eggs.

(Code 1977, § 3-13)

Chapters 7–9

RESERVED

Chapter 10

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 10-1. Dangerous buildings, structures—Prohibited.
- Sec. 10-2. Same—Repair, removal, etc.
- Sec. 10-3. Blasting; permit required.
- Secs. 10-4—10-30. Reserved.

Article II. Building Code

- Sec. 10-31. Enforcement.
- Sec. 10-32. Permits required.
- Secs. 10-33—10-60. Reserved.

Article III. Derelict Buildings

- Sec. 10-61. Violations.
- Sec. 10-62. Definitions.
- Sec. 10-63. Enforcement.
- Sec. 10-64. Notice of declaration of derelict building.
- Sec. 10-65. Submittal of work plan by owner; approval by town manager.
- Sec. 10-66. Remedies.
- Sec. 10-67. Additional remedies of the town.

***Charter reference**—Authority of town to regulate the building of houses, § 16.

Cross references—Fire prevention and protection, ch. 22; floods, ch. 26; planning and development, ch. 46; procurement, ch. 50; gates and doors upon sidewalks, § 58-7; open cellarways, areas, etc., to be guarded, § 58-8; throwing or depositing dirt, lumber, etc., in the street, alley or sidewalk, § 58-11; placing building materials upon street, alley or sidewalk, § 58-12; subdivisions, ch. 62; design standards for subdivisions, § 62-81 et seq.; utilities, ch. 74.

State law reference—Authority of town to promulgate regulations concerning the building of houses, Code of Virginia, § 15.1-15(1).

ARTICLE I. IN GENERAL**Sec. 10-1. Dangerous buildings, structures—Prohibited.**

It shall be unlawful for any person knowingly to have, own, occupy, keep, maintain or permit any building, porch, awning, wall, chimney, pole, wire or any other structure owned, occupied or controlled by him, to be or remain in such condition as to render any street, alley or other public way or any public place dangerous for travel or other public use by the citizens of the town or any other person lawfully using such streets, alleys or other public ways or places.

(Code 1977, § 4-1)

Sec. 10-2. Same—Repair, removal, etc.

(a) The owners of property in the town shall, at such time or times as the town council may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town.

(b) The town council, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town, wherein the owner of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure.

(c) In the event the town council, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.

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

(Code 1977, § 4-2)

State law reference—Similar provisions, Code of Virginia, § 15.1-11.2.

Sec. 10-3. Blasting; permit required.

No person shall blast or carry on any blasting operations without having first secured therefor a permit from the town manager. Blasting or blasting operations conducted pursuant to a permit shall be carried on subject to such conditions as may be expressed in the permit.

(Code 1977, § 7-4)

Cross reference—Fire prevention and protection, ch. 22.

State law reference—Authority of town to regulate possession, use, etc., of explosives, Code of Virginia, § 15.1-865.

Secs. 10-4—10-30. Reserved.

ARTICLE II. BUILDING CODE*

Sec. 10-31. Enforcement.

As the town council is responsible for the enforcement of the Virginia Uniform Statewide Building Code by hiring building officials, or by contracting with other localities for the enforcement thereof, if the necessary contractual arrangements shall be made, the county may enforce the Virginia Uniform Statewide Building Code in the town.
(Code 1977, § 4-3)

Sec. 10-32. Permits required.

It shall be unlawful for any person to begin any construction of buildings or other structures within the town without first providing to the town manager a copy of the building or other permit obtained from the county for such construction.
(Code 1977, § 4-4)

Secs. 10-33—10-60. Reserved.

ARTICLE III. DERELICT BUILDINGS†

Sec. 10-61. Violations.

Unless specified, any person violating any provision of this article shall be guilty of a class 2 misdemeanor punishable by a fine not to exceed \$1,000.00. Each day a violation continues shall be deemed a new and separate violation.
(Ord. No. 2016-02, § 1.1, 2-13-2017)

Sec. 10-62. Definitions.

For purposes of this article, the following terms shall have the following definitions:

Derelict building means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety or welfare, or for a continuous period in excess of six months has been (i) unoccupied; (ii) boarded up; (iii) not lawfully connected to electric service from a utility service provider, or not lawfully connected to any water or sewer service from a utility service provider; or (iv) not eligible for a certificate of occupancy.

Person means any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant, or other legal entity.

***State law reference**—Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97.

†**Cross reference**—Nuisances, § 34-71 et seq.

Town manager means the town manager or his designee.
(Ord. No. 2016-02, § 1.2, 2-13-2017)

Sec. 10-63. Enforcement.

The town manager is hereby vested with the authority to require the abatement of derelict buildings pursuant to the provisions of this article and other applicable codes, laws, and regulations.

(Ord. No. 2016-02, § 1.3, 2-13-2017)

Sec. 10-64. Notice of declaration of derelict building.

(a) Whenever it shall come to the knowledge of the town manager that there exists upon land in the town any derelict building, he shall notify the owner of the derelict building that the owner must submit a work plan within 90 calendar days to either demolish the derelict building or renovate the derelict building so that lawful use and occupancy of the building or structure is possible.

(b) The notice of declaration of derelict building shall be sent by certified mail to the owner at the address in the real estate tax assessment records. If the owner's address on the real estate tax assessment records is the address of the derelict building, the town manager may also post a copy of the notice on the derelict building.

(c) Any person sent a notice of declaration of derelict building pursuant to this section who shall fail to comply with the time specified for submitting a work plan shall be guilty of a class 2 misdemeanor.

(d) Nothing in this article shall prohibit an owner from requesting that their building or structure be evaluated for a declaration of derelict building.

(e) Appeal. Should anyone disagree with the determination by the town manager of a derelict building, he or she shall have the right to file an appeal of the declaration of derelict building with the Lebanon Town Council. Such appeal shall be in writing, and shall be filed in the Town Hall within ten days of the date of the declaration of derelict building. The appeal shall be heard at the next regularly scheduled council meeting. The enforcement process hereunder shall be stayed until such time as the town council makes a determination to confirm or overturn the declaration of derelict building.

In the event that the condition leading to the declaration of derelict building creates an imminent risk to life or health, the appeal shall be heard at a special called meeting of the town council, with notice provided to the owner of the time and date of such meeting.

(Ord. No. 2016-02, § 1.4, 2-13-2017)

Sec. 10-65. Submittal of work plan by owner; approval by town manager.

(a) The work plan required to be submitted by the owner shall be on a form prescribed by the town manager. The work plan must provide a proposed time within which the plan must be commenced and completed. The work plan may include one or more adjacent properties

of the owners, whether or not all have been declared to contain a derelict building. The contents of the plan and the proposed schedule shall be subject to approval by the town manager and shall be deemed noncompliant until such plan is approved.

(b) Once the town manager approves the work plan, the contents of the work plan and the schedule for commencement and completion of the work plan shall be binding on the owner. Failure to comply with the contents of the approved work plan or the dates for commencement and completion shall constitute a class 2 misdemeanor.

(Ord. No. 2016-02, § 1.5, 2-13-2017)

Sec. 10-66. Remedies.

(a) In the event that the owner of a derelict building fails to comply with this article, the town council, through its agents and employees, may remove, repair or secure any building declared to be a derelict building, after reasonable notice to the owner and a reasonable time to comply with this article has elapsed.

(b) In the event the town council, its agents or employees, removes, repairs or secures any derelict building after complying with the notice provisions of this section, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.

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

(Ord. No. 2016-02, § 1.6, 2-13-2017)

Sec. 10-67. Additional remedies of the town.

Notwithstanding the provisions of this article, the town may proceed to make repairs, secure the derelict building, demolish the derelict building, abate the nuisance, or exercise any and all other remedies, pursuant to the Code of Virginia. Title 15-2, the Uniform Statement Building Code, and the Town Code of the Town of Lebanon.

(Ord. No. 2016-02, § 1.7, 2-13-2017)

Chapter 11

CABLE TELEVISION

Article I. In General

Secs. 11-1—11-20. Reserved.

Article II. Rates and Charges

Sec. 11-21. Regulation generally.

ARTICLE I. IN GENERAL

Secs. 11-1–11-20. Reserved.

ARTICLE II. RATES AND CHARGES

Sec. 11-21. Regulation generally.

(a) The town will follow the FCC rate regulations in its regulations of the basic service rates and charges of the company and any other cable television system operating in the town, notwithstanding any different or inconsistent provisions in the franchise.

(b) In accordance with such regulation, the town will ensure a reasonable opportunity for consideration for the views of interested parties.

(c) The town manager, or his or her designee, is authorized to execute on behalf of the town and file with the FCC any instruments as are now or may hereafter be required by the FCC rate regulations in order to enable the town to regulate basic service rates and charges. (Ord. No. 94-2, §§ 1–3, 3-14-94)

Chapters 12, 13

RESERVED

Chapter 14

BUSINESS, PROFESSIONAL AND OCCUPATION LICENSE TAX REGULATIONS*

- Sec. 14-1. Overriding conflicting ordinances.
- Sec. 14-2. Definitions.
- Sec. 14-3. License requirement.
- Sec. 14-4. Situs of gross receipts.
- Sec. 14-5. Limitations and extension.
- Sec. 14-6. Appeals and rulings.
- Sec. 14-7. Recordkeeping and audits.
- Sec. 14-8. Exclusions and deductions from "gross receipts."
- Sec. 14-9. License fee and tax.

***Editor's note**—Ord. of Feb. 10, 1997, amended the Code by adding provisions designated as a new Ch. 14. Former Ch. 14 pertained to businesses. See the Code Comparative Table.

Charter reference—Power of town as to holding of shows, carnivals, etc., and license taxes on businesses, trades, etc., § 15.

Cross references—Junkyards, § 54-91 et seq.; taxation, ch. 66; vehicles for hire, ch. 78.

State law reference—Local license taxes generally, Code of Virginia, § 58.1-3700 et seq.

Sec. 14-1. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by this governing body, whether or not compiled in the Code of this jurisdiction, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within this locality.

(Ord. of 2-10-97, A)

Sec. 14-2. Definitions.

For the purpose of this chapter, unless otherwise required by the context:

Affiliated group means:

- (1) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:
 - a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and
 - b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and
 - b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official means the town manager (or his designee) of this jurisdiction.

Base year means the calendar year preceding the license year, except for contractors subject to the provision of § 58.1-3715.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Contractor shall have the meaning prescribed in § 58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this chapter.

Broker shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

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Commodity shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.

Dealer for purposes of this chapter shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Security for purposes of this chapter shall have the same meaning as in the Securities Act (§ 13.1-1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables

Chattel mortgage financing

Consumer financing

Credit card services

Credit unions

Factors

Financing accounts receivable

Industrial loan companies

Installment financing

Inventory financing

Loan or mortgage brokers

Loan or mortgage companies

Safety deposit box companies

Security and commodity brokers and services

Stockbroker

Working capital financing "gross receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this chapter, or rendered in any other business or occupation not specifically classified in this chapter unless exempted from local license tax by Title 58.1 of the Code of Virginia.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to 58.1-3701 of the Code of Virginia. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Real estate services shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this chapter, and such services include, but are not limited to, the following:

Appraisers of real estate

Escrow agents, real estate

Fiduciaries, real estate

Lessors of real property

Real estate agents, brokers and managers

Real estate selling agents

Rental agents for real estate

Retailer or retail merchant shall mean any person or merchant who sell goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Services shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

Wholesaler or wholesale merchant shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and

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merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of quantity, price, or other terms indicate that they are consistent with sales at wholesale.
(Ord. of 2-10-97, B)

Sec. 14-3. License requirement.

(a) Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this chapter, unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in this jurisdiction, (ii) such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this chapter shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in §§ 58.1-3717, 58.1-3718, or 58.1-3728, respectively of the Code of Virginia, or is a contractor subject to § 58.1-3715 of the Code of Virginia, or is a public service corporation subject to § 58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensing in this jurisdiction on or before January 1 of the license year, or not later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If, the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1 of each year.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(e) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both

penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days the treasurer [or other collecting official] may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e. g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this chapter from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under § 58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in the event of such adjustment, provided the refund or the late payment is made not more than 30 days from (i) the date of the payment that created the refund, or (ii) the due date of the tax, whichever is later.

(Ord. of 2-10-97, C)

Sec. 14-4. Situs of gross receipts.

(a) *General rule.* Whenever the tax imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within this jurisdiction.

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In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

- (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715 of the Code of Virginia.
- (2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
- (3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.
- (4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in § 58.1-3709 of the Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of the businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

(Ord. of 2-10-97, D)

Sec. 14-5. Limitations and extension.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903 of the Code of Virginia, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940 of the Code of Virginia, two years after the date of assessment if this period for assessment has been extended pursuant to this subdivision, two years after the final determination of an appeal for which collection has been stayed pursuant to the following subsection 14-5(b) or 14-6(d) of this chapter, or two years after the final decision in a court application pursuant to § 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

(Ord. of 2-10-97, E)

Sec. 14-6. Appeals and rulings.

(a) Any person assessed with a licensing tax under this chapter as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of

the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation on the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(b) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 14-3(f) of this chapter, but not further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a license tax under this chapter as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection 14-6(a) above to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821 of the Code of Virginia, and the tax commissioner may issue an order correction such assessment pursuant to § 58.1-1822 of the Code of Virginia. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to § 58.1-3984 of the Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the tax commissioner is erroneous. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the tax commissioner under subsection 14-6(c) above, the assessing official shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 14-3(f), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection 14-6(b) above.

(e) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis on an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law of the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the

law, a court decision, or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Ord. of 2-10-97, F)

Sec. 14-7. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(Ord. of 2-10-97, G)

Sec. 14-8. Exclusions and deductions from "gross receipts."

(a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

- (1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.
- (2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e. g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).
- (3) Any amount representing returns and allowance granted by the business to its customer.
- (4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.
- (5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

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- (6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.
 - (7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.
 - (8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.
- (b) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:
- (1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.
 - (2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.
- (Ord. of 2-10-97, H)

Sec. 14-9. License fee and tax.

Every person or business subject to licensure under this chapter shall be assessed and required to pay annually:

- (1) Except as may be otherwise provided in §§ 58.1-3712, 58.1-3712.1 and 58.1-3713 of the Code of Virginia, every such person or business shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable as provided in this chapter at a rate set forth below for the class of enterprise listed:
 - a. For contractors and persons constructing for their own account for sale, a flat rate of \$30.00.

- b. For retailers, a base rate of \$20.00 for the first \$2,000.00 of gross sales, plus \$1.00 per \$1,000.00 for each additional \$1,000.00 of gross sales.
- c. For real and professional services, a base rate of \$20.00 for the first \$2,000.00 of gross receipts, plus an additional \$2.50 for each additional \$1,000.00 of gross receipts.
- d. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, a base rate of \$20.00 for the first \$2,000.00 of gross receipts, plus an additional \$1.00 for each additional \$1,000.00 of gross receipts.
- e. For wholesalers, a base rate of \$20.00 for the first \$2,000.00 of gross receipts, plus an additional \$0.50 for each additional \$1,000.00 of gross receipts.
- f. For carnivals, circuses and speedways, \$25.00 for each performance held in this jurisdiction (see § 58.1-3728 of the Code of Virginia for limitations);
- g. For itinerant merchants or peddlers, \$500.00 per year (see limitation in § 58.1-3717 of the Code of Virginia);
- h. For photographers with no regularly established place of business in the commonwealth, \$25.00 per year (see limitation in § 58.1-3727);
- i. For direct sellers as defined in § 58.1-3719.1 of the Code of Virginia with total annual sales in excess of \$4,000.00, a base rate of \$20.00 for the next \$2,000.00 of gross receipts, plus an additional \$1.00 for each additional \$1,000.00 of gross receipts;
- j. For coin operated amusement machines, a fee of \$200.00 for the operation of ten or more coin operated amusement machines. For the operation of nine machines or less, a fee of \$100.00. The fee shall not apply to amusement operators who operate less than three machines (see Virginia Code § 58.1-3721).

(Ord. of 2-10-97, I; Ord. No. 98-2, 6-8-98)

Chapters 15–17

RESERVED

Chapter 18

ELECTIONS*

Sec. 18-1. Voting place.

*Cross reference—Administration, ch. 2.

Sec. 18-1. Voting place.

The voting place for the town elections shall be the town fire and police station located in the town.

(Ord. of 1-30-89)

Chapters 19–21

RESERVED

Chapter 22

FIRE PREVENTION AND PROTECTION*

Article I. In General

- Sec. 22-1. Duties of chief of police at fires generally.
- Sec. 22-2. Establishment and maintenance of fire lines.
- Sec. 22-3. Charge for out-of-town fire calls.
- Secs. 22-4–22-30. Reserved.

Article II. Fireworks

- Sec. 22-31. Sale, use, etc.
- Sec. 22-32. Special displays.
- Sec. 22-33. Exceptions to application of article.

***Cross references**—Buildings and building regulations, ch. 10; blasting, § 10-3; resisting town officers, § 34-4; streets and sidewalks, ch. 58; subdivisions, ch. 62; direction of traffic by officers of the fire department, § 70-15; utilities, ch. 74.

ARTICLE I. IN GENERAL**Sec. 22-1. Duties of chief of police at fires generally.**

The chief of police or his designee shall attend all fires in the town and shall so direct traffic and enforce traffic regulations in the vicinity of the fire as to expedite the approach and work of the fire department. He shall also safeguard property during the progress of the fire.
(Code 1977, § 7-1)

Cross references—Law enforcement, ch. 30; chief of police, § 30-2.

Sec. 22-2. Establishment and maintenance of fire lines.

The chief of the volunteer fire department shall establish fire lines where needed during any fire and the chief of police shall be responsible for maintaining such lines until the emergency has passed.
(Code 1977, § 7-2)

Sec. 22-3. Charge for out-of-town fire calls.

A minimum charge, set from time to time by the town council, plus actual expenses will be charged on all out-of-town fire calls.
(Code 1977, § 7-3)

Secs. 22-4–22-30. Reserved.**ARTICLE II. FIREWORKS*****Sec. 22-31. Sale, use, etc.**

Subject to the provisions of this article, it shall be unlawful for any person to sell, offer for sale, expose for sale, or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, Roman candle or other substance or thing, of whatever form or construction, intended or commonly known as fireworks, within the town.
(Code 1977, § 7-5)

Sec. 22-32. Special displays.

The mayor may order the special display of fireworks by properly qualified individuals under the direct supervision of experts in the handling of fireworks. Such display shall be of such a character, so located, discharged or fired, as in the opinion of the mayor shall not be hazardous to surrounding property and endanger any person.
(Code 1977, § 7-6)

***Cross reference**—Offenses and miscellaneous provisions, ch. 34.

State law reference—Authority of town to prohibit the sale, storage, use, possession, or manufacture of fireworks, Code of Virginia, § 59.1-148.

Sec. 22-33. Exceptions to application of article.

This article shall not apply to sparklers, fountains, Pharaoh's serpents, caps for pistols, nor shall it apply to pin wheels commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of such property.

(Code 1977, § 7-7)

State law reference—Similar provisions, Code of Virginia, § 59.1-147.

Chapters 23–25

RESERVED

Chapter 26

FLOODS AND FLOODPLAIN DISTRICTS*

Article I. In General

- Sec. 26-1. Statutory authorization and purpose.
- Sec. 26-2. Applicability.
- Sec. 26-3. Compliance and liability.
- Sec. 26-4. Abrogation and greater restrictions.
- Sec. 26-5. Severability.
- Sec. 26-6. Penalty for violations.
- Sec. 26-7. Definitions.
- Secs. 26-8—26-30. Reserved.

Article II. Districts

Division 1. Establishment

- Sec. 26-31. Description of districts.
- Sec. 26-32. District boundary changes.
- Sec. 26-33. Interpretation of district boundaries.
- Sec. 26-34. Submitting technical data.
- Secs. 26-35—26-40. Reserved.

Division 2. District Provisions

- Sec. 26-41. Permit and application requirements.
- Sec. 26-42. General standards.
- Sec. 26-43. Specific standards.
- Sec. 26-44. Standards for the floodway district.
- Sec. 26-45. Standards for the special floodplain district.
- Sec. 26-46. Standards for approximated floodplain district.
- Sec. 26-47. Standards for subdivision proposals.
- Sec. 26-48. Variances, factors to be considered.
- Sec. 26-49. Existing structures in floodplain areas.

***Editor's note**—Ordinance No. 10-01, adopted June 14, 2010, enacted provisions establishing floodplain districts. Said provisions not being specifically amendatory of an ordinance adopted March 19, 1987, from which ch. 26 derived, have been treated as superseding §§ 26-1—26-9 and 26-36—26-49, at the discretion of the editor, and codified to read as herein set out. The original ordinance designations have been retained in the history note following each section.

Cross references—Buildings and building regulations, ch. 10; streets and sidewalks, ch. 58; subdivisions, ch. 62.

ARTICLE I. IN GENERAL**Sec. 26-1. Statutory authorization and purpose.**

This chapter is adopted pursuant to the authority granted to localities by Code of Virginia, § 15.2-2280. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (a) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (b) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (c) Requiring all those uses, activities, and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage; and
- (d) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(Ord. No. 10-01, Art. I, § 1.1, 6-14-10)

Sec. 26-2. Applicability.

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Lebanon and identified as being floodprone.

(Ord. No. 10-01, Art. I, § 1.2, 6-14-10)

Sec. 26-3. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.

(b) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

(c) Records of actions associated with administering this chapter shall be kept on file and maintained by the town manager.

(d) This chapter shall not create liability on the part of the Town of Lebanon or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 10-01, Art. I, § 1.3, 6-14-10)

Sec. 26-4. Abrogation and greater restrictions.

This chapter supersedes any ordinance currently in effect in floodprone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(Ord. No. 10-01, Art. I, § 1.4, 6-14-10)

Sec. 26-5. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this chapter. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this chapter are hereby declared to be severable.

(Ord. No. 10-01, Art. I, § 1.5, 6-14-10)

Sec. 26-6. Penalty for violations.

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Town of Lebanon shall be guilty of a misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Town of Lebanon to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. No. 10-01, Art. I, § 1.6, 6-14-10)

Sec. 26-7. Definitions.

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

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation. The Federal Emergency Management Agency designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this chapter, the 100-year flood or one percent annual chance flood.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Board of zoning appeals. The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this chapter.

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building. A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or flooding.

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are proximately caused by flooding as defined in paragraph (1)b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)a. of this definition.

Flood insurance rate map (FIRM). An official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a digital flood insurance rate map (DFIRM).

Flood insurance study (FIS). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Federal Code 44 CFR § 60.3.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after January 16, 1987, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area. The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 26-32 of this chapter.

Start of construction. For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L.-97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in [Federal Code 44 CFR] § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 10-01, Art. II, 6-14-10)

Secs. 26-8—26-30. Reserved.

ARTICLE II. DISTRICTS

DIVISION 1. ESTABLISHMENT

Sec. 26-31. Description of districts.

(a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the flood insurance study (FIS) and the flood insurance rate maps (FIRM) for Russell County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 29, 2010, and any subsequent revisions or amendments thereto.

The boundaries of the special flood hazard area and floodplain districts are established as shown on the flood insurance rate map which is declared to be a part of this chapter and which shall be kept on file at the Town of Lebanon offices.

- (1) *Floodway district.* The floodway district is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in the above-referenced flood insurance study and shown on the accompanying flood insurance rate map.
 - (2) *Special floodplain district.* The special floodplain district shall be those areas identified as an AE zone on the maps accompanying the flood insurance study for which 100-year flood elevations have been provided.
 - (3) *Approximated floodplain district.* The Approximated floodplain district shall be those areas identified as an A or A99 zone on the maps accompanying the flood insurance study. In these zones, no detailed flood profiles or elevations are provided, but the 100-year floodplain boundary has been approximated. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.
- (b) *Overlay concept.*
- (1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
 - (2) If there is any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
 - (3) In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(Ord. No. 10-01, Art. III, § 3.1, 6-14-10)

Sec. 26-32. District boundary changes.

The delineation of any of the floodplain districts may be revised by the Town of Lebanon where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Ord. No. 10-01, Art. III, § 3.2, 6-14-10)

Sec. 26-33. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Ord. No. 10-01, Art. III, § 3.3, 6-14-10)

Sec. 26-34. Submitting technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(Ord. No. 10-01, Art. III, § 3.4, 6-14-10)

Secs. 26-35—26-40. Reserved.

DIVISION 2. DISTRICT PROVISIONS

Sec. 26-41. Permit and application requirements.

(a) *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Lebanon subdivision regulations. Prior to the issuance of any such permit, the town manager shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no

circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(b) *Site plans and permit applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- (1) The elevation of the base flood at the site.
 - (2) The elevation of the lowest floor (including basement).
 - (3) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
 - (4) Topographic information showing existing and proposed ground elevations.
- (Ord. No. 10-01, Art. IV, § 4.1, 6-14-10)

Sec. 26-42. General standards.

The following provisions shall apply to all permits:

- (a) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions (a) through (h) above, in all special flood hazard areas, these additional provisions shall apply:

- (i) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
 - (j) The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- (Ord. No. 10-01, Art. IV, § 4.2, 6-14-10)

Sec. 26-43. Specific standards.

In all special flood hazard areas where base flood elevations have been provided in the flood insurance study or generated according section 26-46, the following provisions shall apply:

- (a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above the base flood level.
- (b) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level. Buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by town manager.
- (c) *Elevated buildings.* Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - (1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum

necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

- (2) Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;
 - (3) Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (d) *Standards for manufactured homes and recreational vehicles.*
- (1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in section 26-42(a) and (b) and section 26-43(a).
 - (2) All recreational vehicles placed on sites must either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

- c. Meet all the requirements for manufactured homes in sections 26-42 and 26-43(d).

(Ord. No. 10-01, Art. IV, § 4.3, 6-14-10)

Sec. 26-44. Standards for the floodway district.

The following provisions shall apply within the floodway district:

- (a) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town manager. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the Town of Lebanon endorsement, for a conditional flood insurance rate map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
 - (b) If section 26-46(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 26-41 through 26-47.
 - (c) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
- (Ord. No. 10-01, Art. IV, § 4.4, 6-14-10)

Sec. 26-45. Standards for the special floodplain district.

The following provisions shall apply within the special floodplain district:

- (a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the flood insurance rate map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Lebanon.
- (b) Development activities in Zones A1-30, AE, and AH, on the Town of Lebanon's flood insurance rate map which increase the water surface elevation of the base flood by

more than one foot may be allowed, provided that the applicant first applies, with the Town of Lebanon's endorsement, for a conditional flood insurance rate map revision, and receives the approval of the Federal Emergency Management Agency.
(Ord. No. 10-01, Art. IV, § 4.5, 6-14-10)

Sec. 26-46. Standards for approximated floodplain district.

The following provisions shall apply with the approximate floodplain district:

- (a) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town manager.
- (b) The town manager reserves the right to require a hydrologic and hydraulic analyses for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level. During the permitting process, the town manager shall obtain:
 - (1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
 - (2) If the structure has been floodproofed in accordance with the requirements of sections 26-41 through 26-47, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

(Ord. No. 10-01, Art. IV, § 4.6, 6-14-10)

Sec. 26-47. Standards for subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

(Ord. No. 10-01, Art. IV, § 4.7, 6-14-10)

Sec. 26-48. Variances, factors to be considered.

(1) Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the board of zoning appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the board of zoning appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(2) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the board of zoning appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

(3) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(4) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (e) The importance of the services provided by the proposed facility to the community.

- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (j) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- (l) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (m) Such other factors which are relevant to the purposes of this chapter.

(5) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(6) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

(7) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief.

(8) The board of zoning appeals shall notify the applicant for a variance, in writing and signed by title of appropriate public official, that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

(9) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.
(Ord. No. 10-01, Art. V, 6-14-10)

Sec. 26-49. Existing structures in floodplain areas.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- (a) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- (b) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value shall conform to the VA USBC.
- (c) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with this chapter and shall require the entire structure to conform to the VA USBC.

(Ord. No. 10-01, Art. VI, 6-14-10)

Chapters 27–29

RESERVED

Chapter 30

LAW ENFORCEMENT*

- Sec. 30-1. Control and supervision of police force.
- Sec. 30-2. Chief of police.

***Charter references**—Police powers of town, generally, § 20; control and supervision of police force by town manager, § 21.

Cross references—Administration, ch. 2; duties of chief of police at fires generally, § 22-1; offenses and miscellaneous provisions, ch. 34; resisting town officers, § 34-4.

State law reference—Powers and duties of police force, generally, Code of Virginia, § 15.1-138.

Sec. 30-1. Control and supervision of police force.

The mayor or his designee shall have control and supervision of the police force of the town.

(Code 1977, § 2-36)

Sec. 30-2. Chief of police.

The office of chief of police is hereby established. The chief of police shall be appointed by the council and shall hold office at the pleasure of the council. He shall perform such duties as may be required of him by the mayor in the exercise of his control and supervision of the police force of the town.

(Code 1977, § 2-37)

Cross references—Officers and employees, § 2-51 et seq.; duties of chief of police at fires generally, § 22-1.

Chapters 31–33

RESERVED

Chapter 34

OFFENSES AND MISCELLANEOUS PROVISIONS*

Article I. In General

- Sec. 34-1. Use of county jail.
- Sec. 34-2. Skateboarding.
- Sec. 34-3. Reserved.
- Sec. 34-4. Resisting town officers, etc.
- Sec. 34-5. Malicious mischief—Public property.
- Sec. 34-6. Same—Trees on streets and public grounds.
- Sec. 34-7. Minors prohibited in poolrooms, etc.
- Sec. 34-8. Loitering, etc.—Generally.
- Sec. 34-9. Same—Obstruction of sidewalks.
- Sec. 34-10. Designation of police department as "person lawfully in charge thereof" for purposes of enforcing trespass laws.
- Secs. 34-11—34-30. Reserved.

Article II. Offenses Against Public Peace

- Sec. 34-31. Disorderly conduct in public places.
- Sec. 34-32. Loudspeakers, etc.—Prohibited generally; certain permits authorized.
- Sec. 34-33. Same—Transient, itinerant advertising, etc.
- Sec. 34-34. Noise disturbances.
- Secs. 34-35—34-55. Reserved.

Article III. Weapons

- Sec. 34-56. Carrying concealed; exceptions.
- Sec. 34-57. Discharging air gun, bow, etc.
- Sec. 34-58. Discharging firearms.
- Sec. 34-59. Urban archery—Hunting in town.
- Secs. 34-60—34-70. Reserved.

Article IV. Nuisances

Division 1. Generally

- Sec. 34-71. Definitions.
- Sec. 34-72. Prohibition.
- Secs. 34-73—34-90. Reserved.

Division 2. Abatement

- Sec. 34-91. Powers and duties of town manager.
- Sec. 34-92. Abatement procedure.

***Cross references**—General penalty, § 1-8; animals, ch. 6; cruelty to animals, § 6-5; sale, use, etc., of fireworks, § 22-31; law enforcement, ch. 30.

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Sec. 34-93. Appeal.

Secs. 34-94—34-110. Reserved.

Article V. Alcoholic Beverages

Sec. 34-111. Sale of mixed alcoholic beverages by restaurants.

Sec. 34-112. Sale of alcoholic beverages, other than beer and wine not produced by farm wineries.

Sec. 34-113. Sunday sales.

ARTICLE I. IN GENERAL**Sec. 34-1. Use of county jail.**

The town shall have the use of the county jail to aid town authorities in maintaining peace and good order, and generally for the enforcement of its ordinances, unless for good cause the judge of the circuit court of the county shall prohibit such use.

(Code 1977, § 11-1)

State law reference—Similar provisions, Code of Virginia, § 53.1-73.

Sec. 34-2. Skateboarding.

The use of skateboards, roller skates, roller blades, or foot-powered scooters or any other similar device on the property of the town, including public sidewalks and roadways, is prohibited. There shall be a \$25.00 fine for the violation of this section.

(Ord. No. 89-5, 2-13-89; Ord. No. 13-2, 7-8-13)

Cross reference—Streets and sidewalks, ch. 58.

Sec. 34-3. Reserved.

Editor's note—A court order of Dec. 8, 2016, Case. No. CL16-319, has been treated by the editor as superseding and repealing former § 34-3, which pertained to the prohibition of the sale of alcoholic beverages between the hours of 12:00 midnight of each Saturday and 6:00 a.m. of each Monday.

State law reference—Authority of town to adopt ordinances prohibiting the sale of wine and beer during certain hours, Code of Virginia, § 4-97.

Sec. 34-4. Resisting town officers, etc.

It shall be unlawful for any person to resist, intimidate or interfere with or to attempt to resist, intimidate or interfere with any police officer, firefighter or officer or employee of the town in the performance of his duties.

(Code 1977, § 11-22)

Cross references—Officers and employees, § 2-51 et seq.; fire prevention and protection, ch. 22; law enforcement, ch. 30.

Sec. 34-5. Malicious mischief—Public property.

It shall be unlawful for any person wantonly to carry away, destroy, cut, mark or in any way injure or deface any public property.

(Code 1977, § 11-15)

Charter reference—Power of town to enact ordinances necessary for the protection of public or private property within the town, § 17(a).

State law reference—Injuries to public property, buildings, monuments, etc., Code of Virginia, §§ 18.2-137, 18.2-138.

Sec. 34-6. Same—Trees on streets and public grounds.

Any person who shall wilfully injure in any way any tree on any street or in the public grounds of the town shall be guilty of a class 3 misdemeanor.

(Code 1977, § 11-16)

State law reference—Similar provisions, Code of Virginia, § 18.2-141.

Sec. 34-7. Minors prohibited in poolrooms, etc.

(a) No minor shall frequent, play in or loiter in any public poolroom or billiard room operated in conjunction with any establishment licensed under the Alcoholic Beverage Control Act.

(b) Any such minor or any such proprietor or agent violating the provisions of this section shall be guilty of a class 3 misdemeanor.

(Code 1977, § 11-20; Mins. of 10-28-91)

Charter reference—Power of town to enact ordinances to prohibit minors from frequenting or loitering in public poolrooms, etc., § 17(6).

State law reference—Authority of town to prohibit minors from frequenting, playing in, or loitering in poolrooms, Code of Virginia, § 18.2-432.

Sec. 34-8. Loitering, etc.—Generally.

No person shall loaf, loiter or lurk on the streets and sidewalks of the town nor sit or lounge in front of any church, poolroom, bowling alley, barbershop or any other public place of business, or any private residence or in the doorways or entrance ways of such places.

(Code 1977, § 15-11)

Sec. 34-9. Same—Obstruction of sidewalks.

It shall be unlawful for any person to loiter on the sidewalks of the town in such manner as in any way to obstruct or inconvenience pedestrians in the use of the same.

(Code 1977, § 15-12)

Cross reference—Streets and sidewalks, ch. 58.

Sec. 34-10. Designation of police department as "person lawfully in charge thereof" for purposes of enforcing trespass laws.

Any owner of real property may, in writing on a form prescribed by the chief of police, designate the Town of Lebanon Police Department as a "person lawfully in charge thereof" as those terms are used in Virginia Code Section 18.2-119, as amended, for the purpose of forbidding another to go or remain upon the lands, buildings or premises of such owner.

Such designation shall include a description of the land, buildings or premises to which it applies; shall state the period of time which it is in effect; and shall be kept on file subject to public view in the office of the Town of Lebanon Police Department.

(Ord. No. 00-2, 9-11-00)

Editor's note—Ord. No. 00-2, adopted Sept. 11, 2000, did not specifically amend the Code; hence, inclusion herein as § 34-10 was at the discretion of the editor.

State law reference—Similar provisions, § 15.2-1717.1.

Secs. 34-11—34-30. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC PEACE

Sec. 34-31. Disorderly conduct in public places.

(a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) In any street, highway, public building or public place, or while in or on a public conveyance, engages in conduct having a direct tendency to cause acts of violence by the person at whom such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
- (2) Wilfully, or being intoxicated whether wilfully or not, disrupts any meeting of the town council or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person at whom such disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter.

(b) The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

(c) A person violating any provision of this section shall be guilty of a class 1 misdemeanor.

(Code 1977, § 11-8)

State law reference—Authority of town to adopt ordinance prohibiting and punishing disorderly conduct in public places, Code of Virginia, § 18.2-415.

Sec. 34-32. Loudspeakers, etc.—Prohibited generally; certain permits authorized.

Subject to section 34-33, it shall be unlawful for any person to have any electrical or mechanical amplifier or loudspeaker placed or located on the outside of any premises or sidewalks for the purpose of transmitting radio music, records or other means of transmission through such loudspeaker, megaphone or equipment; provided, that the mayor may

issue permits to churches for the broadcasting of religious programs, and may issue to establishments within the business district a permit to broadcast appropriate Christmas music, without advertising, between Thanksgiving Day and January 2 of the year following, and may also issue permits to duly licensed auctioneers. Such permits shall prescribe the hours and manner of broadcasting and may be modified or revoked by the mayor.
(Code 1977, § 11-17)

Sec. 34-33. Same—Transient, itinerant advertising, etc.

Nothing contained in section 34-32 shall be construed to prevent transient, itinerant advertising over such system as referred to in section 34-32 or to prevent the broadcasting of any special occurrence or news through such systems. No such broadcast shall be given unless there shall first have been secured a permit from the mayor.
(Code 1977, § 11-18)

Sec. 34-34. Noise disturbances.

(a) *Prohibited generally.* It shall be a Class 2 misdemeanor and a public nuisance for any person to willfully make, permit, continue or cause to be made, permitted or continue any noise disturbance, whether located on public or private property.

(b) *Specific prohibitions.* Subject to the exceptions provided in paragraph (c), any of the following acts, or the causing or permitting thereof, among others, is declared to be a noise disturbance constituting a Class 2 misdemeanor and a public nuisance, but such enumeration shall not be deemed to be exclusive:

- (1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, amplifier, television, record, tape or compact disc player, drum, musical instrument or similar device:
 - a. Between the hours of 11:00 p.m. and 8:00 a.m. in such a manner as to permit sound to be heard across a real property boundary;
 - b. When the sound source is located within a motor vehicle in or upon public right-of-way or public property and the sound can be heard more than fifty (50) feet from its source.
- (2) *Yelling, shouting, etc.* Yelling, shouting, whistling or singing between the hours of 11:00 p.m. and 8:00 a.m. so as to create a noise disturbance across a residential real property boundary or on a public right-of-way or public property.
- (3) *Schools, public buildings, churches and hospitals.* The creation of any noise disturbance within any school, court, public building, church or hospital or on the grounds thereof.

(c) *Exemptions.* Paragraphs (a) and (b) shall have no application to any sound generated by any of the following:

- (1) Any speech of any kind, not in conflict with provisions of paragraph (b).

- (2) Activities on or in municipal and school athletic facilities and on or on publicly owned property and facilities, provided that such activity has been authorized by the owner of such property or facilities or its agent.
- (3) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.

(d) [*Severability.*] It is the intent of the town council that this section shall be construed to secure for the people of this town freedom from any noise disturbance as described herein without violating any of the rights secured by the Constitution to the people. In the event that any provision hereof should ever be determined invalid for any reason, it is the intent of the town council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, this section is declared severable.

(Ord. No. 93-2, 10-12-93)

Secs. 34-35—34-55. Reserved.

ARTICLE III. WEAPONS

Sec. 34-56. Carrying concealed; exceptions.

(a) Any person who shall carry about his person, hid from common observation, any pistol, dirk, Bowie knife, switchblade knife, razor, slung shot, metal knucks, or any weapon of like kind, shall be guilty of a class 1 misdemeanor. Such pistol, dirk, Bowie knife, switchblade knife, razor, slung shot, metal knucks, or weapon of like kind shall, by order of the court, be forfeited to the town 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, and the remainder shall be destroyed by the officer having them in charge.

(b) This section shall not apply to any police officers, sergeants, sheriffs, officers or guards of the penitentiary or other institutions or camps of the state corrections system, conservators of the peace other than notaries public, or to carriers of the United States mail in the rural districts, or to any collecting officer while in the discharge of his official duty. No person shall be punishable under this section who has been granted permission to carry concealed weapons in accordance with state law.

(Code 1977, § 11-31)

State law reference—Similar provisions, Code of Virginia, § 18.2-308.

Sec. 34-57. Discharging air gun, bow, etc.

No person shall, anywhere within the town, discharge an arrow, shot, stone, gravel, bullet or any similar thing from any air gun, bow, gravel shooter or other similar instrument.

This section shall not, however, be construed to prohibit the use of any such instrument on or within private property with permission of the owner or legal possessor of the property when conducted with reasonable care to prevent a projectile from crossing the boundaries of the property, pursuant to the Code of Virginia 1950, as amended, § 15.2-915.4.
(Code 1977, § 11-32; Mo. of 9-11-17)

Sec. 34-58. Discharging firearms.

It shall be unlawful for any person, without necessity, to fire or discharge any firearm of any kind within the town.

(Code 1977, § 11-33)

State law reference—Similar provisions, Code of Virginia, § 18.2-280.

Sec. 34-59. Urban archery—Hunting in town.

(a) It shall be unlawful for any person to hunt with firearms or other weapons at any time within the town, unless specifically enumerated herein.

(b) Bow and arrow (archery) hunting shall be permitted within the corporate limits of the Town of Lebanon during an approved Virginia Department of Game and Inland Fisheries Urban Archery Deer Season. Crossbow is considered a bow under legal definition and is therefore also allowed under this section for hunting during the archery deer seasons described in this section. Antlerless deer only can be taken during the urban archery deer season. In addition to the urban archery deer season, bow and arrow deer hunting is also allowed during early archery deer season, general firearms deer season, and the late archery deer season. Licensed bow and arrow deer hunters "hunters" must abide by all applicable sections of the Virginia Code and Virginia Hunting Regulations (including bag limits and tagging/checking requirements), with the property owners "owner" and the hunter abiding by the following terms and conditions set forth by this section:

- (1) Hunter shall possess a valid Virginia Hunting License and Archery License;
- (2) Owner shall provide the chief of police or designee with the following information:
 - a. Copy of tax map or deed with physical address of property to be hunted.
 - b. The name, address and telephone number of any hunter utilizing a subject parcel for bow and arrow (archery) hunting.
 - c. Certification from the property owner that the boundary to be hunted is a minimum of five (5) acres of land.
- (3) Hunting is prohibited within one hundred (100) yards of any school or residence property.

(Ord. of 11-13-18)

Secs. 34-60—34-70. Reserved.

ARTICLE IV. NUISANCES*

DIVISION 1. GENERALLY

Sec. 34-71. 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.

Designated town official as used in this article means the town manager or his designee.

Nuisance as used in this article means and includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released, or which have been allowed to accumulate in or on any place, the accumulation of weeds or grass over 18 inches in height, overgrowth of shrubs and trees, the accumulation of snow on sidewalks, the accumulation in public view of household and/or building debris, appliances, interior furniture, automobile tires, nonoperational recreational vehicles or motorized vehicles, decrepit signage or the accumulation of offensive, unwholesome, unsanitary or unhealthy substances in or on any place or premises, and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public.

Responsible party as used in this article means and includes, but is not limited to, the owner, occupier, or possessor of the premises where a nuisance as defined above is located. The owner or agent of the owner of the material which escaped, spilled or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Ord. No. 2016-01, § 1.1, 2-13-17)

***Cross reference**—Derelict buildings, § 10-61 et seq.

Sec. 34-72. Prohibition.

(a) It shall be unlawful for any responsible party to create or allow to be maintained within the town any activity or condition which constitutes a nuisance as previously defined in this article.

(b) Violation of this section shall be punishable by a fine not to exceed \$1,000.00. Each day's continuance of a nuisance after notice to abate shall constitute a separate offense.
(Ord. No. 2016-01, § 1.2, 2-13-17)

Secs. 34-73—34-90. Reserved.

DIVISION 2. ABATEMENT

Sec. 34-91. Powers and duties of town manager.

When a designated town official shall declare any condition or activity in the town to be a nuisance, the town manager is hereby vested with the authority to require the abatement or removal of all nuisances, employing all methods of abatement allowable by law.
(Ord. No. 2016-01, § 1.3, 2-13-17)

Sec. 34-92. Abatement procedure.

(a) Whenever a nuisance is found by a designated town official to exist on premises in the town, it shall be his duty to provide reasonable notice to abate to the responsible party who created or maintained the nuisance. The responsible party shall cause such nuisance to be abated within 30 days of proper reasonable notice being given, and if he fails to do so, the same may be abated, razed or removed by the town at the expense of the responsible party. All costs of said abatement, razing or removal will be collected in any manner provided by law for the collection of state or local taxes.

(b) If the identity of such responsible party cannot be ascertained, the written notice to abate may be posted in a conspicuous location upon the property on which the nuisance is located and by publication of the said notice in a local newspaper having general circulation within the town.

(c) Every charge of abatement which is assessed to the owner of any such property to which a nuisance is sought to be abated shall constitute a lien against such property, and all such liens shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner as provided by state law. The town may waive such liens in order to facilitate the sale of the property; however, such liens may only be waived as to a purchaser 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.

(d) Notwithstanding the abatement procedures set forth previously herein, the town may maintain an action to compel a responsible party to abate, raze or remove a public nuisance, or to recover the costs of said abatement, razing or removal of the public nuisance.

(Ord. No. 2016-01, § 1.4, 2-13-17)

Sec. 34-93. Appeal.

Should any responsible party disagree with the determination by the designated town official of the existence of a nuisance, he or she shall have the right to file an appeal of the declaration of nuisance with the Lebanon Town Council. Such appeal shall be in writing, and shall be filed in the Town Hall within ten days of the date of the declaration of nuisance. The appeal shall be heard at the next regularly scheduled council meeting. The abatement process shall be stayed until such time as the town council makes a determination to confirm or overturn the declaration of nuisance.

(Ord. No. 2016-01, § 1.5, 2-13-17)

Secs. 34-94—34-110. Reserved.

ARTICLE V. ALCOHOLIC BEVERAGES

Sec. 34-111. Sale of mixed alcoholic beverages by restaurants.

Pursuant to § 4.1-124 of the Code of Virginia, as amended, the sale of mixed alcoholic beverages by restaurants licensed by the Alcohol Beverage Control Board be permitted in the town.

(Court Order of 12-8-16, Case No. CL 16-317)

Editor's note—Approved by the voters at a referendum held on Nov. 8, 2016.

Sec. 34-112. Sale of alcoholic beverages, other than beer and wine not produced by farm wineries.

Pursuant to § 4.1-121 of the Code of Virginia, as amended, the sale by the Alcohol Beverage Control Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be permitted in the town.

(Court Order of 12-8-16, Case No. CL 16-318)

Editor's note—Approved by the voters at a referendum held on Nov. 8, 2016.

Sec. 34-113. Sunday sales.

Pursuant to § 4.1-123 of the Code of Virginia, as amended, that the sale of wine and beer between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday shall be permitted in the town.

(Court Order of 12-8-16, Case No. CL 16-319)

Editor's note—Approved by the voters at a referendum held on Nov. 8, 2016.

Chapters 35–37

RESERVED

Chapter 38

PARKS AND RECREATION*

Article I. In General

- Sec. 38-1. Speed limit in J.S. Easterly Park.
- Sec. 38-2. Unlicensed motor vehicles in J.S. Easterly Park.
- Sec. 38-3. Charges for use of community center.
- Secs. 38-4–38-30. Reserved.

Article II. Park and Recreation Board

- Sec. 38-31. *Official name.*
- Sec. 38-32. Created; purpose.
- Sec. 38-33. Composition; term of office; vacancies.
- Sec. 38-34. Meetings; quorum; order of business.
- Sec. 38-35. Duties.
- Sec. 38-36. Budget; compensation of members.
- Sec. 38-37. Properties.
- Sec. 38-38. Officers—Generally.
- Sec. 38-39. Same—Duties.
- Sec. 38-40. Amendments to article.

***Cross references**—Administration, ch. 2; solid waste, ch. 54; streets and sidewalks, ch. 58.

State law reference—Authority of town to establish and conduct a system of public recreation and playgrounds, Code of Virginia, § 51.1-15(2).

ARTICLE I. IN GENERAL**Sec. 38-1. Speed limit in J.S. Easterly Park.**

There is hereby established a five miles per hour speed limit for motor vehicles in J.S. Easterly Park. The posting of signs advising of this speed limit is hereby authorized.

(Code 1977, § 12-1)

Cross reference—Traffic and vehicles, ch. 70.

Sec. 38-2. Unlicensed motor vehicles in J.S. Easterly Park.

No unlicensed motor vehicle shall be permitted upon the roads of the J.S. Easterly Park; nor shall any person ride an unlicensed motor vehicle in such park; nor shall any unlicensed person drive a motor vehicle in such park.

(Code 1977, § 12-2)

Cross reference—Traffic and motor vehicles, ch. 70.

Sec. 38-3. Charges for use of community center.

Persons using the community center shall pay a fee for such use. The amount of the fee to be paid by such persons shall be as set by the town council from time to time.

(Code 1977, § 12-3)

Secs. 38-4–38-30. Reserved.**ARTICLE II. PARK AND RECREATION BOARD*****Sec. 38-31. Official name.**

The name of the organization provided for in this article shall be the “Lebanon Park and Recreational Board.”

(Code 1977, § 12-4)

Sec. 38-32. Created; purpose.

(a) There is hereby established a system of public recreation and playgrounds, pursuant to the provisions of Code of Virginia, § 15.1-271.

(b) The conduct thereof is hereby delegated to the park and recreation board, which is hereby created for such purpose.

(c) The board shall operate and conduct its affairs pursuant to and in accordance with the provisions of this article.

(Code 1977, § 12-5)

***Cross reference**—Administration, ch. 2.

Sec. 38-33. Composition; term of office; vacancies.

(a) The park and recreation board shall be composed of five members, appointed by the town council, who shall serve for staggered terms of three years.

(b) No member shall serve more than two consecutive terms, but may be reappointed after one term.

(c) The recreation director is an ex-officio member of the board.

(d) In the event of resignation or death of a member of the board or of absence without an acceptable reason for three consecutive meetings, a member of the board will be dropped as a member and will be replaced by an appointment made by the town council. It will be the responsibility of the chairman to notify the council of the need for replacements.

(Code 1977, § 12-6)

Sec. 38-34. Meetings; quorum; order of business.

(a) All regular meetings of the park and recreation board shall be held monthly.

(b) Special meetings shall be called upon the request of the chairman or three members of the board.

(c) A quorum shall be present to transact any business at any and all meetings; and a majority of the membership shall constitute a quorum. Unless a quorum is present any business shall be tabled until more members are available to vote.

(d) The order of business of the board shall be as follows:

(1) Roll call.

(2) Reading and approval of minutes of preceding meeting.

(3) Report of the chairman.

(4) Report of the director of parks and recreation.

(5) Reports of the committees.

(6) Old business.

(7) New business.

(8) Adjournment.

(Code 1977, § 12-7)

Sec. 38-35. Duties.

(a) It shall be the duty of each member of the park and recreation board to take an active part in the recreational program and to act in whatever capacity he may be called; to be loyal in thought and deed to the welfare of recreation and to the community which it seeks to serve.

(b) The park and recreation board shall establish all parks and recreational policies; the board shall advise the director as a group rather than as individuals.

(c) The park and recreation board shall make regular tours of the playgrounds and facilities and make inspections of equipment and activities.

(d) The park and recreation board shall be responsible for assisting the director in giving necessary publicity to the recreational program.

(e) The board members shall deal officially with the recreational staff only through the director.

(f) The board members shall become familiar with the recommended standards for the leadership and facilities of a public recreation program.

(Code 1977, § 12-10)

Sec. 38-36. Budget; compensation of members.

(a) The annual budget for the fiscal year of the park and recreation board must be prepared and submitted to the town council for presentation two months before the beginning of the next fiscal year.

(b) It will be the responsibility of the board to regulate the expenditures for a fiscal year so they do not exceed amounts stipulated in the approved budget.

(c) The members of this board are to serve without compensation.

(Code 1977, § 12-11)

Sec. 38-37. Properties.

(a) The park and recreation board shall approve the acceptance of any gifts, bequests of money, real or personal property or other donations.

(b) All gifts, bequests of money, real or personal property or other donations made for permanent use for playground or recreational purposes and accepted by the board shall become the sole property of the town, to be used as designated by the park and recreation board.

(Code 1977, § 12-12)

Sec. 38-38. Officers—Generally.

(a) The officers of the park and recreation board shall consist of a chairman, a vice-chairman and a secretary, elected by and from the members of the board. The treasurer shall be the treasurer serving the town. The officers elected by the board shall serve a term of one year, which year shall end September 30 of each year.

(b) Upon the resignation or death of the chairman, vice-chairman or secretary, the board shall elect a successor.

(Code 1977, § 12-8)

Sec. 38-39. Same—Duties.

(a) *Chairman.* The chairman of the park and recreation board shall preside at all meetings and shall be an ex-officio member of all committees. The chairman shall be responsible for making annual reports to the town council and such other reports as the council may request.

(b) *Vice-chairman.* The vice-chairman of the park and recreation board shall assume the duties of the chairman in the absence of the chairman.

(c) *Secretary.* The secretary of the park and recreation board shall notify members and ex-officio members in writing of all meetings, keep minutes of all meetings of the board, shall maintain all records and correspondence properly and shall conduct such correspondence as the board may direct.

(d) *Treasurer.* The treasurer of the park and recreation board shall record all receipts and disbursements and shall maintain such other financial records as are necessary, and such records shall be available for inspection upon request. The treasurer shall be empowered by the board to make regular and ordinary disbursements which have the prior approval of the board. Disbursements of an unusual nature shall be approved individually by the board and passed to the treasurer for payment.

(Code 1977, § 12-9)

Sec. 38-40. Amendments to article.

The provisions of this article may be amended at any meeting of the town council, provided notice of the proposed amendment has been given in writing to all board members at least 14 days prior to such meeting. All amendments to this article must be approved by the town council.

(Code 1977, § 12-13)

Chapters 39–41

RESERVED

Chapter 42

PERSONNEL*

Article I. In General

- Sec. 42-1. Semiannual and annual employee bonuses.
- Sec. 42-2. Employee fraternization policy.
- Secs. 42-3—42-25. Reserved.

Article II. Pension Plan and Trust Agreement

- Sec. 42-26. Established.
- Sec. 42-27. Outline of provisions.
- Secs. 42-28—42-50. Reserved.

Article III. Grievance Procedure

- Sec. 42-51. Enabling legislation.
- Sec. 42-52. Objective.
- Sec. 42-53. Coverage of personnel.
- Sec. 42-54. Determination of grievability.
- Sec. 42-55. Determining issues qualifying for management steps.
- Sec. 42-56. Procedure.
- Sec. 42-57. Procedural noncompliance.
- Sec. 42-58. First step; immediate supervisor.
- Sec. 42-59. Second step; department head.
- Sec. 42-60. Third step; town manager.
- Sec. 42-61. Fourth step; request for panel hearing.
- Sec. 42-62. Final step; panel hearing.
- Sec. 42-63. Panel members.
- Sec. 42-64. Panel selection.
- Sec. 42-65. Communication with panel members.
- Sec. 42-66. Panel hearing date.
- Sec. 42-67. Rules for panel hearing.
- Secs. 42-68—42-90. Reserved.

Article IV. Sexual Harassment Policy

Division 1. Generally

- Sec. 42-91. Purpose.
- Sec. 42-92. Definitions.
- Sec. 42-93. Procedures.
- Sec. 42-94. Town of right of revision.
- Secs. 42-95—42-110. Reserved.

***Charter reference**—Town council to fix compensation of town officers and employees, § 3.

Cross reference—Administration, ch. 2.

LEBANON TOWN CODE

Division 2. Guidelines on Dealing Effectively with Sexual Harassment Complaints.

- Sec. 42-111. Purpose.
- Sec. 42-112. General guidelines.
- Sec. 42-113. Interviewing the complainant.
- Sec. 42-114. Interviewing the accused.
- Sec. 42-115. Interviewing witnesses.
- Sec. 42-116. Resolving the complaint.

ARTICLE I. IN GENERAL**Sec. 42-1. Semiannual and annual employee bonuses.**

(a) Pursuant to the Code of Virginia § 15.2-1508 and notwithstanding any contrary provision of law, general or special, the town council may provide for payment of monetary bonuses to its officers and employees.

(b) The payment of such bonus shall be authorized by ordinance.

(c) Any semiannual and or annual bonus shall be at the discretion of the town manager and approved as part of the annual budget by the town council.

(Ord. No. 12-4, 12-10-12)

Sec. 42-2. Employee fraternization policy.

(a) The Town of Lebanon desires to avoid misunderstandings, complaints of favoritism, possible claims of sexual harassment and the employee morale and dissension problems that can result from certain personal relationships between employees. Accordingly, employees are prohibited from fraternizing or becoming romantically involved with each other when their personal relationships create an actual conflict of interest, cause disruption, create a negative or unprofessional work environment, present problems regarding supervision, work performance, attitude, safety, security or morale, or cause other work related problems.

(b) While the town does not encourage co-employee dating or entering into consensual social relationships with other employees, the town cautions employees not to let such fraternization affect their job performance. The town allows fraternization provided: both parties mutually and voluntarily consent to the social relationship and the relationship does not affect judgment or performance of duties of involved employees or negatively impact the common good of the town. To ensure that social relationships do not adversely affect the workplace, employees who enter into such relationships must comply with the following:

- (1) Notify the town manager of the relationship;
- (2) Agree to possible reassignment if the social relationship involves a subordinate employee;
- (3) Behave professionally at all times—avoiding indiscreet behavior while at the workplace or while on town time or business including refraining from public displays of sexual affection, sexual innuendo, suggestive comments and sexually oriented joking;
- (4) Notify the town manager should the social relationship terminate.

(c) Employees found in violation of this policy will be subject to disciplinary action up to and including termination. The town reserves the right to make decisions in the best interest of the town including reassignment, transfer or separating employees where appropriate.

(d) All employees should remember that the town maintains a strict policy against unlawful harassment of any kind, including sexual harassment.

(e) This policy is not intended to prevent employees from engaging in discussions regarding their wages, hours, or working conditions with any other employee or engaging in protected concerted activity. Employees will not be disciplined or retaliated against for such discussions.

(Ord.(Policy) of 11-12-13)

Secs. 42-3—42-25. Reserved.

ARTICLE II. PENSION PLAN AND TRUST AGREEMENT*

Sec. 42-26. Established.

There is hereby established, for the benefit of the employees of the town, a pension plan as outlined in section 42-27.

(Code 1977, § 13-6)

Sec. 42-27. Outline of provisions.

A brief outline of the pension plan adopted by section 42-26 is as follows:

- (1) *Eligibility.* All employees shall be eligible to participate in the benefits of this plan on the effective date, September 1, 1973; provided, that they shall have been an employee continuously for at least 30 months and shall have attained age 23, but shall not have attained insurance age 57. Employees not eligible on the effective date shall be eligible to participate on the anniversary date of the plan following the completion of 30 months of continuous service; provided, that they shall have attained age 23, but shall not have attained insurance age 57.
- (2) *Normal retirement date.* The normal retirement date shall be the anniversary date of the plan nearest the employee's 65th birthday or ten years after entry. With the consent of the employer a participant who has attained age 55 years or has been determined disabled or incapable of performing his ordinary job, then such participant may retire prior to his normal retirement date with reduced benefits as may then be available under the contracts on his life. With the consent of the employer, a participant may continue his employment with the employer past his normal retirement age.
- (3) *Retirement benefits.* The benefit at normal retirement shall be a monthly life income, ten years certain, based on contributions equal to ten percent of your income to retirement. Adjustments in retirement benefits for increases or decreases in compensation will be made on each anniversary of the plan; provided, that such

***State law reference**—Authority of town to establish local retirement system, Code of Virginia, § 51.1-800.

increase or decrease in compensation is sufficient to cause an increase or decrease in the pension benefit of at least \$10.00 per month. However, no such adjustment will be made during the period of five years before the normal retirement date.

- (4) *Contributions.* The entire cost of the plan will be paid by the town.
- (5) *Death benefit.* If death of an insurable participant occurs prior to retirement, a death benefit in an amount equal to 100 times the monthly retirement benefit will be paid to the employee's beneficiary. For those employees found to be uninsurable, a death benefit will be a sum equal to the amount of premiums paid on an annuity contract, or the cash value of the annuity contract, whichever is greater.
- (6) *Severance or withdrawal benefits.* Should a participant leave the employ of the town for any cause except retirement or death, he shall have a vested interest as of the date of such termination of employment equal to ten percent for each full year of participation in the plan, with full vesting after ten complete years of participation in the plan.
- (7) *Administration of the plan.* The plan shall be administered by the trustees named in the trust agreement. The pension plan shall be administered under a trust agreement, and the retirement and death benefits are to be underwritten by the Equitable Life Assurance Society of the United States, assuring impartial administration, maximum flexibility, actuarial soundness and safety of funds. The trust agreement is available for inspection at any time. An employee's entrance into the plan signifies his or her acceptance of the provisions of the agreement.

(Code 1977, § 13-7)

Secs. 42-28—42-50. Reserved.

ARTICLE III. GRIEVANCE PROCEDURE*

Sec. 42-51. Enabling legislation.

Code of Virginia, § 15.1-7.1, provides that each municipality having more than 15 employees shall have a grievance procedure which affords an immediate and fair method for the resolution of disputes which arise between the municipality and employee conforming to the requirements of the state grievance procedure.

Sec. 42-52. Objective.

The general purpose of this grievance procedure is to afford an immediate and impartial method for the resolution of disputes arising between the town and employees in municipal

_____.
***State law reference**—Requirement that town adopt a grievance procedure for employees, Code of Virginia, § 15.1-7.1.

services, so that they may have an orderly resolution of complaints and grievances with complete freedom from discrimination, coercion, recrimination, restraint or reprisal, thereby creating a more efficient and harmonious work force.

Sec. 42-53. Coverage of personnel.

(a) All permanent, nonprobationary fulltime and parttime employees come under the provisions of this article. Law enforcement officers have the option to proceed under the town's grievance procedure or the law enforcement officer's procedural guarantee of Code of Virginia, § 2.1-110 et seq., but such employee may not proceed by both procedures.

(b) The following are excluded from the provisions of this article:

- (1) Probationary employees.
- (2) Appointees to boards and commissions.
- (3) Town manager.
- (4) Attorney, chief of police, clerk of council.
- (5) Department heads.
- (6) Employees who by charter serve at the will of the town.
- (7) Seasonal and temporary employees.

Sec. 42-54. Determination of grievability.

A grievance is defined as a complaint or dispute by an employee relating to his employment:

- (1) *Included*, including but not necessarily limited to:
 - a. Disciplinary actions, including dismissals, demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance.
 - b. The application or interpretation of personnel policies, procedures, rules and regulations.
 - c. Acts of reprisal as a result of the utilization of the grievance procedure or of participation in the grievance of another municipal employee.
 - d. Complaints of discrimination on the basis of race, color, creed, political affiliation, age, handicap, national origin or sex.
 - e. Acts of retaliation because the employee has complied with any law of the United States or of the commonwealth, has reported any violation of such law to a governmental authority or has sought any change in law before Congress or the General Assembly.
- (2) *Excluded*. The town reserves the exclusive right to manage the affairs and operations of the municipal government.
 - a. Establishment and revision of wages or salaries, position classification or general benefits.
 - b. Work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of the job content.

- c. The contents of ordinances, resolutions, statutes, personnel policies, procedures, rules and regulations.
- d. Failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly.
- e. The method, means and personnel by which such work activities are to be carried on.
- f. Except where such action affects an employee who has been reinstated within the previous six months as a result of the final determination of a grievance; termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force or job abolition. Any grievance brought under this exception shall be upheld upon a showing by the agency that there was a valid business reason for the action, and that the employee was notified of such reason in writing prior to the effective date of the action.
- g. The hiring, promotion, transfer, assignment and retention of employees within the town.
- h. The relief of employees from duties of this town in emergencies.

Sec. 42-55. Determining issues qualifying for management steps.

(a) When either the department head or the employee so requests in writing, the chief administrative office of the town shall decide within ten working days of the request whether or not the matter is grievable and shall notify the employee in writing of his decision. The request to determine the grievability of an issue shall be decided before the second step and prior to the panel hearing, or it shall be deemed to be waived. The town attorney or commonwealth's attorney shall not be authorized to decide the question of grievability.

(b) Decisions on grievability issues of the chief administrative officer may be appealed to the county circuit court for a hearing de novo on the issue of whether or not the grievance qualifies for a panel hearing. Proceedings for review by the circuit court shall be instituted by filing a notice of appeal with the town manager within ten calendar days from the date of receipt of the decision and giving copy thereof to all parties. Within ten calendar days thereafter the town manager shall transmit to the clerk of the circuit court a copy of the decision of the agency head, a copy of the notice of appeal, and the exhibits. A copy of the evidence furnished to the court shall be furnished to the grievant. The failure of the town manager or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the town manager to transmit the record on or before a certain date. The decision of the court is final and not appealable.

Sec. 42-56. Procedure.

Most employee concerns or complaints can be resolved informally through communication between employee and supervisor. Accordingly, employees are encouraged to take their complaints to their immediate supervisor and then to upper-management levels to seek a solution. Employees are also encouraged to pursue grievable issues through the grievance procedure and supervisors are to assist them in this process.

Sec. 42-57. Procedural noncompliance.

(a) After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five work days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the town manager.

(b) The town manager or his designee may require a clear written explanation of the basis for just cause extensions or exceptions. The town manager shall determine compliance issues. Compliance determinations are subject to review by the circuit court by filing of a petition within 30 days of determination.

Sec. 42-58. First step; immediate supervisor.

(a) The employee shall identify the grievance verbally to the immediate supervisor in an informal meeting within 20 days after the event or action which is the basis for the grievance in order to proceed.

(b) The supervisor shall give a verbal response to the employee within five work days following the meeting.

(c) If a resolution is not reached at this point, the employee shall submit to the town manager on grievance form the nature of the grievance and the specific relief requested within five work days following the date of receipt of the verbal response.

(d) The supervisor, in turn, shall give the employee a written response on grievance form within five days of receipt of form A.

Sec. 42-59. Second step; department head.

(a) If the first-step response is not accepted, and the issue of grievability has not been raised, the employee should indicate on form A the desire to have the grievance advanced to the next step. The grievance must be submitted to the department head within five work days following receipt of the supervisor's reply.

(b) Upon receipt of form A, the second-step department head shall meet with the employee within five work days. The only persons present at this meeting are the employee, the second-step department head and appropriate witnesses.

(c) The department head shall give the employee a second-step response in writing on form A within five work days following the date of the meeting.

Sec. 42-60. Third step; town manager.

(a) If the second-step written response is not accepted and the issue of grievability has not been raised, the employee should check on the grievance form the desire to advance the

grievance to the third step. The employee is allowed five work days following the date of receipt to forward the grievance to the town manager.

(b) Upon receipt of form A, the third-step town manager shall meet with the employee within five work days. The persons present at this meeting are the employee, the town manager, appropriate witnesses and at the employee's option a representative of his choice. If the grievant is represented by legal counsel, management likewise has the option of being represented by legal counsel.

(c) The town manager shall give the employee a third-step response in writing on the grievance form within five work days following the meeting.

Sec. 42-61. Fourth step; request for panel hearing.

If the third-step written response is not acceptable, the employee should check on the grievance form the desire to advance the grievance to the fourth stage for a panel hearing. The request must be received by the town manager within five work days after the receipt of the third-step reply.

Sec. 42-62. Final step; panel hearing.

The final step of the grievance procedure shall be the actual panel hearing.

Sec. 42-63. Panel members.

(a) A panel shall consist of three members: one member appointed by the grievant, one member appointed by the agency and a third member selected by the other two panel members, or appointed by the circuit court. The third panel member shall be the chairperson of the panel.

(b) The following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or coemployee of such an attorney shall serve as a panel member.

(c) To insure an impartial panel, such panel shall not be composed of any persons having direct involvement with the grievance being heard, or with the problem giving rise to the grievance; for example, the grievant, the agency head, supervisors replying at any management step, representatives of the grievant at the third step and witnesses who have appeared at any management step. In addition, managers who are in a direct line of supervision of a grievant are also excluded for serving as panel members.

(d) Additionally, due to their relationships to the grievance process, employees in the personnel department shall not serve as panel members.

(e) Panels chosen in compliance with these requirements shall be deemed to be impartial

Sec. 42-64. Panel selection.

The employee and the agency shall select their respective panel members within five work days following the receipt of the decision that the grievance qualifies for a panel hearing. The full panel selection shall be completed by the tenth work day following such receipt. However, this time limit may be extended in instances where the agreement on a third panel member has not been reached. In such instances, the agency shall within the ensuing five work days request the chief judge of the circuit court in the locality in which the grievant is employed to select a third panel member.

Sec. 42-65. Communication with panel members.

The parties should not discuss the substance of any grievance or the problem giving rise to the grievance with any panel members prior to the hearing. Any matter requiring the attention of the panel should be communicated in writing with copies to all parties.

Sec. 42-66. Panel hearing date.

The full panel will set the date, the time and place for the hearing, which should be held within ten days following the selection of the full panel. The panel chairperson shall immediately notify the grievant and the agency of the hearing date. The panel shall conduct the hearing in the locale where the grievant is employed unless the panel unanimously decides that another location is appropriate.

Sec. 42-67. Rules for panel hearing.

Hearings conducted by the panel under this article are subject to the following rules:

- (1) The panel does not have the authority to formulate policies or procedures or to alter existing policies or procedures.
- (2) The panel shall decide the propriety of attendance at the hearing of persons not having a direct interest in the hearing and at the request of either party the hearing shall be private.
- (3) The town shall provide the panel with copies of the grievance record before the hearing and provide the grievant with a list of the documents furnished to the panel and the grievant and his attorney at least ten days prior to the scheduled panel hearing shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding.
- (4) The panel has the authority to determine the admissability of evidence without regard to the burden of proof or the order of presentation of evidence so long as full and equal opportunity is afforded to all parties for the presentation of evidence. All evidence shall be presented in the presence of the panel and the parties except by mutual consent of the parties. The rules of evidence do not necessarily apply.
- (5) Documents, exhibits and witness lists shall be exchanged prior to the hearing between the parties.

- (6) The majority decision of the panel, acting within the scope of its authority, shall be final, subject to existing policies, procedures and law.
- (7) The panel's decision shall be provided to the parties within 15 days of the final hearing.
- (8) Either party may petition the circuit court of the county for an order requiring implementation of the panel decision.

Secs. 42-68—42-90. Reserved.

ARTICLE IV. SEXUAL HARASSMENT POLICY

DIVISION 1. GENERALLY

Sec. 42-91. Purpose.

(a) The Town of Lebanon is committed to providing a work environment that is conducive to the performance of job duties and free from intimidation or coercion in any form.

(b) As an employer, the town is dedicated to a stringent policy against discrimination. Harassment on the basis of race, color, sex, national origin, religion, age or disability is a form of discrimination prohibited by federal and state law. It is the intent of this policy to further detail harassment on the basis of sex.

(c) Sexual harassment is an unlawful employment practice, which potentially can subject both the town and the harasser to financial liability. The town intends to avoid such liability by prohibiting the practice of sexual harassment of any employee, applicant for employment, contractor, or volunteer and requiring that its employees refrain from conduct that could give rise to allegations of sexual harassment.

(Ord. of 3-11-19)

Sec. 42-92. Definitions.

What constitutes sexual harassment.

- (1) *Sexual harassment* is defined by the town as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, when:
 - a. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
 - b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual; or
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

- (2) Forms of behavior which may be considered sexual harassment include, but are not limited to:
 - a. *Verbal*. Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, sexual threats.
 - b. *Non-verbal*. Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.
 - c. *Physical*. Unwelcome physical contact, including touching, pinching, brushing the body, sexual assault, coerced sexual activity, including but not limited to intercourse.
 - (3) In addition to being prohibited in the work environment, these behaviors are also not to be tolerated at town sponsored activities, such as conferences, workshops, trainings, etc.
 - (4) Sexual harassment refers to behavior that is not welcome, that is personally offensive, and that fails to respect the rights of others. In addition to being personally offensive, the behavior must be severe or pervasive enough to create a work environment that a reasonable person would find abusive.
- (Ord. of 3-11-19)

Sec. 42-93. Procedures.

(a) *Avenues of redress.*

(1) *Internal.*

- a. Employees who believe they are sexually harassed should make it clear that such behavior is unwelcome and should report the harassment to the appropriate supervisory level. In instances where the alleged harasser is the immediate supervisor, the violation should be reported to the harasser's supervisor by the most expeditious means possible. Allegations may also be reported directly to the town manager.
- b. Employees may utilize the employee grievance procedure. Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and is thus a grievable issue because it is a complaint of discrimination on the basis of sex. Per the grievance procedure, if a grievance deals with a charge of discrimination against the immediate supervisor, the employee shall be permitted to initiate the grievance with the next higher level of management. As specified in the Town of Lebanon's Grievance Procedure Policy, a grievance must be initiated within thirty (30) calendar days of the action giving rise to the grievance.

- (2) *External*. Employees can utilize any state and/or federal employee's discrimination complaint procedure authorized by law and applicable to the town.

(b) *Town of Lebanon responsibility.*

- (1) All employees of the town are required to ensure enforcement of this policy by reporting any known or suspected violations.
- (2) Department supervisors must immediately investigate an allegation of sexual harassment with the town manager and take the necessary action to ensure that all instances of sexual harassment are addressed swiftly, fairly, and effectively. All allegations of sexual harassment must immediately be reported to the immediate supervisor. Supervisor will immediately notify the town manager.
- (3) All department supervisors of the town are directed to take affirmative action to ensure that the principles of this policy are fully implemented at all levels and locations of the town and to ensure an environment free from sexual harassment.

(c) *Response to policy violators.*

- (1) Sexual harassment is a serious offense. As a consequence, any employee who engages in such conduct shall be subject to corrective action. Depending on the circumstances involved, such corrective action may include dismissal from employment. Consultation with the town manager, mayor, and council is required to determine if the standards of conduct should be applied as corrective action in any case of sexual harassment.
- (2) Department supervisors who fail to respond appropriately to allegations of sexual harassment may also be subject to corrective action, including demotion or termination from employment.

(d) *Distribution and maintenance of policy statement.* This policy statement will be disseminated to all department supervisors and Town of Lebanon employees. Each department is required to maintain this policy statement.

(e) *Resources for information.* For questions regarding this policy or any issues related to harassment employees may contact the town manager.

(Ord. of 3-11-19)

Sec. 42-94. Town of right of revision.

The Town of Lebanon reserves the right to revise or eliminate this policy.

(Ord. of 3-11-19)

Secs. 42-95—42-110. Reserved.

DIVISION 2. GUIDELINES ON DEALING EFFECTIVELY WITH SEXUAL
HARASSMENT COMPLAINTS.

Sec. 42-111. Purpose.

The following guidelines are intended for the use of department supervisors and town manager in conducting a fact-finding inquiry on a complaint of sexual harassment. Per the

town sexual harassment policy, the town manager and department supervisors must immediately investigate an allegation of sexual harassment. The town manager then notifies mayor, council, and town attorney of the allegations and investigator filings. (Ord. of 3-11-19)

Sec. 42-112. General guidelines.

(a) The most important thing for a supervisor to keep in mind when an employee makes a complaint is to take it seriously. It is not the supervisor's responsibility to determine whether the complaint is valid; all complaints should be taken seriously.

(b) Notify the town manager immediately of the complaint. Begin the fact-finding inquiry as soon as possible of being advised of the situation. To the extent possible, do not require the complainant and the accused to work together until the complaint is resolved.

(c) Document all meetings. Meetings must be held in private. Meetings and interviews with persons involved in the complaint should not be video or audio taped to protect confidentiality.

(d) While it is not possible to ensure complete confidentiality, keep the inquiry and the facts that it uncovers on a "need to know" basis. Emphasize to all those involved in the investigation, including the complainant, the accused, and witnesses, the need to keep discussions strictly confidential, backing up these instructions with a warning of use of the standards of conduct if necessary.

(e) Some employees will talk to their supervisors about being sexually harassed, but state that they do not want to make a formal complaint. Once the employee informs their supervisor of alleged harassment, the supervisor is obligated to investigate. The town manager, through the supervisor, has been made aware of the situation and is obligated to investigate the allegation, and take corrective action if necessary. The Town of Lebanon's policy on sexual harassment should be discussed with the complainant, affirming that the town must investigate once a problem arises and that the matter will be handled as discreetly as possible.

(f) All documents related to the complaint must be maintained in a secure place. (Ord. of 3-11-19)

Sec. 42-113. Interviewing the complainant.

(a) The supervisor should adopt a nonjudgmental, professional attitude with the complainant. Acknowledge that bringing a sexual harassment complaint is a hard thing to do, and thus it is normal to feel uncomfortable. Do not get caught up in the emotional aspects of the experience; suppress personal feelings about what is being reported and act solely as a fact gatherer.

(b) Obtain a written statement from the complainant, outlining the allegation(s) and requested relief.

(c) Make no statements about the accused's character, job performance, or personal life.

(d) In the initial interview, the basic journalism questions—who, what, when, where, why and how—are important because they set a factual tone for the interview. The goal is to get enough factual information to determine where the situation stands without getting into a determination of whether the legal requirements of sexual harassment have been met. The complainant's responses to interview questions should be documented in writing, and signed by the complainant.

(e) Elicit specific details regarding the alleged sexual harassment. Include questions regarding the type of conduct, the frequency of occurrence, what was said or done, where it occurred, at approximately what time, where the complainant was touched (if the complaint involves touching), the date(s) that the conduct occurred, whether witnesses were present, and the time period over which the conduct occurred. Ask questions to determine whether or not there was a pattern of previous episodes and whether the complainant had knowledge of similar behavior by the accused towards others.

(f) Determine the effect of the conduct on the complainant. Was the conduct received as a joke; did it embarrass, offend, frighten, or humiliate the complainant; was it truly unwelcome? Did the complainant participate in the conduct at any time? Did the conduct affect the complainant economically, non-economically, and/or psychologically?

(g) Ask whether there was any prior consensual relationship between the parties. How long have the parties known each other? Is there history of group or individual socializing?

(h) Determine the chronology of events for the occurrence of the alleged conduct, its effect on the complainant, and the time when the complainant made the allegation. Try to elicit whether there might have been certain events that triggered the complaint, e.g., not being selected for promotion, denial of a preferred work assignment, love relationship gone awry, etc.

(i) Explain to the complainant that the charges are serious and that the Town will conduct a thorough inquiry before reaching any conclusions, and that he/she will not be retaliated against for making the complaint.

(j) Find out what the complainant wants as settlement of the charges. The complainant should be given as much information about the fact-finding process as possible. While the supervisor cannot promise that the complainant's name will not be brought out, reassurance should be given that the matter will be handled professionally, and that only those who "need to know" will be part of the process. How does the complainant want the situation resolved? Can the complainant continue to work for or with the accused?

(k) Tell the victim to report any retaliation if it should occur.

Sec. 42-114. Interviewing the accused.

(a) As with the complainant, set a professional tone for all interviews, gather facts, be non-judgmental. Inform the accused that no conclusions have been made regarding the complaint.

(b) Identify the relationship of the accused to the complainant (supervisor, co-worker, vendor, etc.)

(c) Determine whether the accused directed, or had responsibility for, the work of other employees or the complainant, or had the authority to recommend employment decisions affecting others. If the accused is a supervisor, determine his/her specific duties at the time(s) of the alleged harassment

(d) Ask whether there was any prior consensual relationship between the parties. How long have the parties known each other? Is there a history of group or individual socializing?

(e) Obtain a written signed statement from the accused in response to the complaint. The allegations should be shared with sufficient specificity for the accused to respond fully to the complaint.

(f) Keep each allegation separate and ask for a written response to each one separately.

(g) The accused may deny the charges. Observe whether or not there is surprise, anger, disbelief, etc. in reaction. Describe the details of the allegation and note the areas of disagreement between the parties and pursue questioning in greater detail. Ask if there is any possible motive for bringing a complaint and ask for supporting evidence if there is an affirmative answer.

(h) Inform the accused that you are obligated to remind him/her that the intimidation or harassment of anyone who files an EEO complaint or who takes part in an investigation, and such actions would be grounds for dismissal.

(Ord. of 3-11-19)

Sec. 42-115. Interviewing witnesses.

(a) Review the sexual harassment policy with the witness and ask if the witness is familiar with it.

(b) Assure all witnesses that their cooperation is important and that they will not be retaliated against for giving a statement or testifying.

(c) Describe the alleged events in summary fashion without identifying the individuals involved in the complaint, if possible. Use open-ended questions to elicit information, then move to more narrow and focused questions.

(d) Obtain written signed statements from any witnesses who support or refute any of the complainant's or the accuser's allegations. This evidence is very critical; otherwise, it is simply the word of the complainant against that of the accused.

(e) Remind the witness of the confidentiality requirements and that retaliation is prohibited.

(Ord. of 3-11-19)

Sec. 42-116. Resolving the complaint.

(a) If you offer to transfer the complainant as a remedy, obtain his/her consent in writing and ensure that the position is substantially similar to the prior position. Otherwise, the complainant may later file charges of retaliation, or at least feel that he/she was punished for making a complaint.

(b) Because sexual harassment often happens in private with no witnesses, resolution often depends on the credibility of the two parties. The account of the conduct must be sufficiently detailed and consistent to be believable. Lack of supporting evidence where such evidence should exist will weaken the allegation. The person conducting the fact-finding should look for evidence to support or disprove a claim. Do co-workers have any knowledge of the alleged incident(s)? Were other employees treated in a similar manner by the alleged harasser? Did the complainant discuss the alleged incident(s) with another person? Did anyone notice any change in behavior of the complainant at work or in the way the complainant and alleged harasser interact? Did anyone observe the complainant's behavior shortly after the alleged incident(s)? If it cannot be proven that sexual harassment occurred, it should be documented that a complaint was made, and an investigation conducted with no determination made. The Town of Lebanon's policy on sexual harassment should be discussed with both parties, with emphasis on the Town's commitment to provide a work environment, which is free from intimidation or coercion in any form.

(c) Sexual harassment is a serious offense. As a consequence, any employee who engages in such conduct shall be subject to corrective action, including disciplinary action under the standards of conduct. Depending on the circumstances involved, such corrective action options range from written reprimands/warnings to suspension, transfer, demotion, or termination of employment. Discipline for the harasser should be appropriate and proportional to the seriousness of the offense. Consultation with the town manager is required to determine the type of action that should be taken upon a finding of a valid complaint.

(d) When a finding of sexual harassment is made, the complainant should be informed in writing of such and the town has taken appropriate action. Specific information is not to be shared; the action taken is a confidential personnel matter.

(e) The town manager and department supervisor should consult with the Town of Lebanon attorney for guidance regarding allegations of sexual harassment by a non-employee.

(Ord. of 3-11-19)

Chapters 43–45

RESERVED

Chapter 46

PLANNING AND DEVELOPMENT*

Article I. In General

Secs. 46-1—46-25. Reserved.

Article II. Planning Commission

Sec. 46-26. Created.

Sec. 46-27. Appointment, terms of office and removal of members; filling of vacancies.

Sec. 46-28. Compensation of members.

Sec. 46-29. Functions, powers and duties.

***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 10; streets and sidewalks, ch. 58; subdivisions, ch. 62; utilities, ch. 74.

ARTICLE I. IN GENERAL

Secs. 46-1—46-25. Reserved.

ARTICLE II. PLANNING COMMISSION*

Sec. 46-26. Created.

A town planning commission is hereby created pursuant to the provisions of Code of Virginia, §§ 15.1-437—15.1-445.
(Code 1977, § 2-32)

Sec. 46-27. Appointment, terms of office and removal of members; filling of vacancies.

(a) The planning commission shall consist of seven members, appointed by the town council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, at least one-half of the members so appointed shall be freeholders. The town council may require each member of the commission to take an oath of office.

(b) One member of the commission may be a member of the town council, and one member may be a member of the administrative branch of government of the town. The term of each of these two members shall be co-extensive with the term of office to which he has been elected or appointed, unless the town council, at the first regular meeting each year appoints others to serve as their representatives.

The remaining members of the commission shall serve for a term of two years. The town council may establish different terms of office for initial and subsequent appointments. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.

(Code 1977, § 2-33; Ord. No. 98-4, 7-1-98)

State law reference—Similar provisions, Code of Virginia, § 15.1-437.

Sec. 46-28. Compensation of members.

All members of the town planning commission shall serve as such without compensation; provided, however, members of the planning commission shall be reimbursed for actual expenses incurred by them.

(Code 1977, § 2-34)

State law reference—Similar provisions, Code of Virginia, § 15.1-437.

***Cross reference**—Administration, ch. 2.

State law reference—Duty of town to create a local planning commission, Code of Virginia, § 15.1-427.1.

Sec. 46-29. Functions, powers and duties.

The town planning commission shall have all the functions, powers and duties provided by law.

(Code 1977, § 2-35)

State law reference—Duties of planning commission, Code of Virginia, § 15.1-444.

Chapters 47–49

RESERVED

Chapter 50

PROCUREMENT*

Article I. In General

- Sec. 50-1. Purpose.
- Sec. 50-2. Application of chapter.
- Sec. 50-3. Intent of chapter.
- Sec. 50-4. Implementation.
- Sec. 50-5. Definitions.
- Sec. 50-6. Compliance with conditions with federal grants or contracts.
- Sec. 50-7. Cooperative procurement.
- Sec. 50-8. Prompt payment of bills by localities.
- Sec. 50-9. Small purchases.
- Secs. 50-10–50-30. Reserved.

Article II. Contract Formulation and Administration

- Sec. 50-31. Methods of procurement.
- Sec. 50-32. Competitive bidding on state-aid projects.
- Sec. 50-33. Cancellation, rejection of bids; waiver of informalities.
- Sec. 50-34. Contract pricing arrangements.
- Sec. 50-35. Discrimination prohibited.
- Sec. 50-36. Exceptions to requirement for competitive procurement.
- Sec. 50-37. Prequalification.
- Sec. 50-38. Debarment.
- Sec. 50-39. Preference for state products and firms.
- Sec. 50-40. Participation of small businesses and businesses owned by women and minorities.
- Sec. 50-41. Use of brand names.
- Sec. 50-42. Comments concerning specifications.
- Sec. 50-43. Employment discrimination by contractor prohibited.
- Sec. 50-44. Public inspection of certain records.
- Sec. 50-45. Negotiation with lowest responsible bidder.
- Sec. 50-46. Withdrawal of bid due to error.
- Sec. 50-47. Modification of the contract.
- Sec. 50-48. Retainage of construction contracts.
- Sec. 50-49. Deposit of certain retained funds on certain contracts with local governments; penalty for failure to timely complete.
- Sec. 50-50. Bid bonds.
- Sec. 50-51. Performance and payment bonds.
- Sec. 50-52. Action on performance bond.
- Sec. 50-53. Actions on payment bonds.
- Sec. 50-54. Alternative forms of security.
- Sec. 50-55. Bonds on other than construction contracts.
- Secs. 50-56–50-75. Reserved.

***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 10.

State law reference—Virginia Public Procurement Act, Code of Virginia, § 11-35 et seq.

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Article III. Remedies

- Sec. 50-76. Ineligibility.
- Sec. 50-77. Appeal of denial of withdrawal of bid.
- Sec. 50-78. Determination of non-responsibility.
- Sec. 50-79. Protest of award or decision to award.
- Sec. 50-80. Effect of appeal on contract.
- Sec. 50-81. Stay of award during protest.
- Sec. 50-82. Contractual disputes.
- Sec. 50-83. Legal actions.
- Sec. 50-84. Administrative appeals procedure.
- Secs. 50-85–50-105. Reserved.

Article IV. Ethics in Public Contracting

- Sec. 50-106. Purpose.
- Sec. 50-107. Definitions.
- Sec. 50-108. Penalty for violation.
- Sec. 50-109. Proscribed participation by public employees in procurement transactions.
- Sec. 50-110. Solicitation or acceptance of a gift.
- Sec. 50-111. Disclosure of subsequent employment.
- Sec. 50-112. Gifts by bidders, offerors, contractors, subcontractors.
- Sec. 50-113. Kickbacks.
- Sec. 50-114. Purchase of building materials, equipment from architect or engineer prohibited.
- Sec. 50-115. Purchases and sales to be based on competition.

ARTICLE I. IN GENERAL**Sec. 50-1. Purpose.**

The purpose of this chapter is to enunciate the public policies of this town pertaining to governmental procurement from nongovernmental sources.

(Ord. of 4-9-90, art. I, § 1B)

Sec. 50-2. Application of chapter.

The provisions of this chapter shall not apply to those contracts entered into by the town prior to January 1, 1990, which shall continue to be governed by the laws in effect at the time those contracts were executed.

(Ord. of 4-9-90, art. I, § 1C)

Sec. 50-3. Intent of chapter.

To the end that this town obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of this town that competition be sought to the maximum feasible degree, that this town enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of this town rather than being drawn to favor a particular vendor, and that purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered.

(Ord. of 4-9-90, art. I, § 1D)

Sec. 50-4. Implementation.

This chapter may be implemented by ordinances, resolutions or regulations consistent with this chapter and with the provisions of other applicable law promulgated by this town. This town may act by and through its duly designated or authorized officers or employees.

(Ord. of 4-9-90, art. I, § 2)

Sec. 50-5. Definitions.

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

Competitive negotiation is a method of contractor selection which includes the following elements:

- (1) Issuance of a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contrac-

tual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

- (2) Public notice of the request for proposal at least ten days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices and by publication in a newspaper of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. In addition, proposals may be solicited directly from potential contractors.
- (3) Procurement of professional services. This town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial response and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, this town may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion outlined in this subsection on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, this town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to this town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should this town determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.
- (4) Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, this town shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should this town determine in writing and in its sole discretion that only one offeror is fully qualified, or that one

offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

Competitive sealed bidding is a method of contractor selection which includes the following elements:

- (1) Issuance of a written invitation to bid containing as incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the town has provided for prequalification of bidders, the invitation to bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
- (2) Public notice of the invitation to bid at least ten days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the department of minority business enterprise.
- (3) Public opening and announcement of all bids received.
- (4) Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria, such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose, which are helpful in determining acceptability.
- (5) Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided in the invitation to bid, awards may be made to more than one bidder.
- (6) Competitive sealed bidding shall not be required for the procurement of professional services.

Construction means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

Construction management contract means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

Design-build contract means a contract between this town and another party in which the party contracting with this town agrees to both design and build the structure, roadway or other item specified in the contract.

Goods means all material, equipment, supplies, printing and automated data processing hardware and software.

Informality means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

Multiphase professional services contract means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

Nonprofessional services means any services not specifically identified as professional services in the definition of professional services.

Potential bidder or offeror, for the purposes of sections 50-79 and 50-83 means a person who, at the time this town negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

Professional services means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the state corporation commission.

Public body means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law to undertake the activities described in this chapter.

Responsible bidder or offeror means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure a good faith performance and who has been prequalified, if required.

Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation to bid.

Services means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

Sheltered workshop means a work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services for

assisting the handicapped person to progress toward normal living and a productive vocational status.

(Ord. of 4-9-90, art. I, § 3)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 50-6. Compliance with conditions with federal grants or contracts.

Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, this town may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the town council that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

(Ord. of 4-9-90, art. I, § 4)

Sec. 50-7. Cooperative procurement.

This town may participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies, or agencies of the United States, for the purpose of combining requirements to increase the efficiency or reduce administrative expenses.

(Ord. of 4-9-90, art. I, § 5)

Sec. 50-8. Prompt payment of bills by localities.

(a) Whenever this town acquires goods or services, or conducts any other type of contractual business with a nongovernmental, privately owned enterprise, this town shall promptly pay for the completed delivered goods or services by the required payment date. The required payment date shall be either:

- (1) The date on which payment is due under the terms of the contract for the provision of such goods or services; or
- (2) If such date is not established by contract, not more than 45 days after goods or services are received or not more than 45 days after the invoice is rendered, whichever is later.

(b) Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery.

(c) Within 20 days after the receipt of the invoice or goods or services, this town shall notify the business concern of any defect or impropriety which would prevent payment by the payment date.

(d) Unless otherwise provided under the terms of the contract for the provision of goods or services, if this town fails to pay by the payments date, it shall pay any finance charges assessed by the business concern which do not exceed one percent per month.

(e) The provisions of this section shall not apply to the late payment provisions in any public utility tariffs in public utility registered contracts.

(Ord. of 4-9-90, art. II.I, § 1)

Sec. 50-9. Small purchases.

(a) Small purchases are considered to be any procurement of supplies, equipment or services with an aggregate purchase value of \$30,000.00 or less. Depending on the aggregate value, the purchasing agent, the town manager, may request verbal or written quotes.

(b) The town will allow verbal quotes for any purchase under \$1,500.00 aggregate cost and require written quotes for purchases of \$1,500.00 and over. A record of the verbal quote will be retained for audit purposes at the town hall.

(c) The town considers aggregate value to refer to the collective cost of a single item, even though that cost may be less than the defined limits. For example, if an item costs \$500.00 per unit and the locality is purchasing six units, the aggregate cost is \$3,000.00.

(Ord. of 9-11-89; Ord. No. 00-4, 10-25-00)

Secs. 50-10—50-30. Reserved.

ARTICLE II. CONTRACT FORMULATION AND ADMINISTRATION

Sec. 50-31. Methods of procurement.

(a) All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance or construction shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

(b) Professional services shall be procured by competitive negotiation.

(c) Upon a determination made in advance by this town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

(1) Upon a written determination made in advance by this town that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subsection (3)b. of the definition of competitive negotiation in section 50-5. The basis for this determination shall be documentation in writing.

(2) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by this town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

- a. By this town for the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$500,000.00; or
- b. By this town for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.
- c. By this town for the construction of any public building.

(d) Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. This town shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day this town awards or announces its decision to award the contract, whichever occurs first.

(e) In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. This town shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day this town awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable.

(f) This town may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts not expected to exceed \$30,000.00; however, such small purchase procedures shall provide for competition wherever practicable.

(g) Upon a determination made in advance by the town council and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction. The writing shall document the basis for this determination.

(Ord. of 4-9-90, art. II, § 1; Min. of 12-14-98, § 17)

Sec. 50-32. Competitive bidding on state-aid projects.

(a) No contract for the construction of any building or for an addition to or an improvement to an existing building for which state funds of \$30,000.00 or more, either by appropriation, grant in aid or loan, are used or are to be used for all or part of the cost construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under section 50-31.

(b) The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter. A person who has been engaged as an architect or engineer for the same project under a separate contract shall not be eligible to bid on or submit a proposal for any such contract or to have the contract awarded to him.
(Ord. of 4-9-90, art. II, § 2; Ord. No. 00-4, 10-25-00)

Sec. 50-33. Cancellation, rejection of bids; waiver of informalities.

(a) An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals, may be cancelled or rejected. The reasons for cancellation or rejection shall be made part of the contract file.

(b) This town may waive informalities in bids.
(Ord. of 4-9-90, art. II, § 3)

Sec. 50-34. Contract pricing arrangements.

(a) Except as prohibited in this article, public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited.

(b) Except in case of emergency affecting public health, safety or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.
(Ord. of 4-9-90, art. II, § 4)

Sec. 50-35. Discrimination prohibited.

In the solicitation or awarding of contracts, this town shall not discriminate because of the race, religion, color, sex or national origin of the bidder or offeror. Whenever solicitations are made, this town shall include businesses selected from a list made available by the department of minority business enterprise.
(Ord. of 4-9-90, art. II, § 5)

Sec. 50-36. Exceptions to requirement for competitive procurement.

(a) This town may enter into contracts without competition for the purchase of goods or services:

- (1) Which are produced or performed by persons, or in schools or workshops, under the supervision of the state department for the visually handicapped; or

(2) Which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

(b) This town may enter into contracts without competition for:

(1) Legal services, provided that the pertinent provisions of Code of Virginia, § 2.1-117 et seq., remain applicable; or

(2) Expert witnesses and other services associated with litigation or regulatory proceedings.

(c) This town may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

(d) An industrial development authority may enter into contracts without competition with respect to any item of cost of authority facilities for facilities as defined in Code of Virginia, § 15.1-1374(d) and (e).

(e) This town may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

(Ord. of 4-9-90, art. II, § 6)

Sec. 50-37. Prequalification.

Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

(Ord. of 4-9-90, art. II, § 7)

Sec. 50-38. Debarment.

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance or construction for specified periods of time. Any debarment procedure shall be established in writing by this town. Any debarment procedure may provide for debarment on the basis of a contractor's unsatisfactory performance for this town.

(Ord. of 4-9-90, art. II, § 8)

Sec. 50-39. Preference for state products and firms.

(a) In the case of a tie bid, preference shall be given to goods, services and construction produced in this state or provided by this state and local persons, if such a choice is available; otherwise the tie shall be decided by lot.

(b) Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of this state.

(Ord. of 4-9-90, art. II, § 9)

Sec. 50-40. Participation of small businesses and businesses owned by women and minorities.

This town shall establish programs consistent with all provisions of this chapter to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. Such programs shall be in writing, and shall include cooperation with the department of minority business enterprise, the United States Small Business Administration and other public or private agencies.

(Ord. of 4-9-90, art. II, § 10)

Sec. 50-41. Use of brand names.

Unless otherwise provided in the invitation to bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character and quality of the article desired, and any article which this town in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended, shall be accepted.

(Ord. of 4-9-90, art. II, § 11)

Sec. 50-42. Comments concerning specifications.

This town, when awarding public contracts, shall establish procedures whereby comments concerning specifications or other provisions in invitations to bid or requests for proposal can be received and considered prior to the time set for receipt of bids as proposals or award of the contract.

(Ord. of 4-9-90, art. II, § 12)

Sec. 50-43. Employment discrimination by contractor prohibited.

There shall be included in every contract of over \$10,000.00 the provisions in subsections (1) and (2) of this section:

- (1) During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where

religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (2) The contractor will include the provisions of the foregoing subsections (1)a., b. and c. of this section in every subcontract or purchase order of over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.
- (Ord. of 4-9-90, art. II, § 13)

Sec. 50-44. Public inspection of certain records.

(a) Except as provided in this section, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person in accordance with the Virginia Freedom of Information Act, Code of Virginia, § 2.1-340 et seq.

(b) Cost estimates relating to a proposed procurement transaction prepared by or for this town shall not be open to public inspection.

(c) Any competitive sealed bidding bidder, on request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to the award, except in the event that this town decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

(d) Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that this town decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

(e) Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and

must identify the data or other materials to be protected and state the reasons why protection is necessary.

(Ord. of 4-9-90, art. II, § 14)

Sec. 50-45. Negotiation with lowest responsible bidder.

Unless cancelled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, this town may negotiate with the apparent low bidder to obtain a contract price within the available funds; however, such negotiation may be undertaken only under conditions and procedures described in writing and approved by this town prior to issuance of the invitation to bid and summarized therein.

(Ord. of 4-9-90, art. II, § 15)

Sec. 50-46. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by this town and stated in the advertisement for bids:

- (1) The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure; or
- (2) The bidder shall submit to the town council or designated official his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. The bids shall be opened one day following the time fixed by this town for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by this town until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required in this section.

(b) This town may establish procedures for the withdrawal of bids for other than construction contracts.

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) If this town denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
(Ord. of 4-9-90, art. II, § 16)

Sec. 50-47. Modification of the contract.

(a) A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25 percent of the amount of the contract or \$10,000.00, whichever is greater, without the advance written approval of the town council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

(b) Nothing in this section shall prevent this town from placing greater restrictions on contract modifications.
(Ord. of 4-9-90, art. II, § 17)

Sec. 50-48. Retainage of construction contracts.

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
(Ord. of 4-9-90, art. II, § 18)

Sec. 50-49. Deposit of certain retained funds on certain contracts with local governments; penalty for failure to timely complete.

(a) This town, when contracting directly with contractors for public contracts of \$200,000.00 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, shall include in the bid proposal an option for the contractor to use an escrow account procedure for utilization of this town's retainage funds by so indicating in the space

provided in the proposal documents. In the event the contractor elects to use the escrow account procedure, the escrow agreement form included in the bid proposal and contract shall be executed and submitted to this town within 15 calendar days after notification. If the escrow agreement form is not submitted within the 15-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

(b) In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the commonwealth. The escrow agreement and all regulations promulgated by this town shall be substantially the same as that used by the state department of transportation.

(c) This section shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

(d) Any such public contract for construction with this town, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

(e) Any subcontract for such public project which provides for similar progress payments shall be subject to the provisions of this section.

(Ord. of 4-9-90, art. II, § 19)

Sec. 50-50. Bid bonds.

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in this state, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of:

- (1) The difference between the bid for which the bond was written and the next low bid, or
- (2) The face amount of the bid bond.

(c) Nothing in this section shall preclude this town from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.00.

(Ord. of 4-9-90, art. II, § 20)

Sec. 50-51. Performance and payment bonds.

(a) Upon the award of any public construction contract exceeding \$100,000.00 awarded to any prime contractor, such contractor shall furnish to the town the following bonds:

- (1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.
- (2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. The term labor or materials shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in this state.

(c) Bonds required for contracts shall be payable to this town.

(d) Each of the bonds shall be filed with this town or a designated office or official thereof.

(e) Nothing in this section shall preclude this town from requiring payment or performance bonds for construction contracts below \$100,000.00.

(f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work as provided for in the subcontract.

(Ord. of 4-9-90, art. II, § 21)

Sec. 50-52. Action on performance bond.

No action against the surety on a performance bond shall be brought unless within one year after:

- (1) Completion of contract, including the expiration of all warranties and guarantees; or
- (2) Discovery of the defect or breach of warranty, if the action be for such, in all other cases.

(Ord. of 4-9-90, art. II, § 22)

Sec. 50-53. Actions on payment bonds.

(a) Subject to the provisions of subsection (b) of this section, any claimant who has performed labor or furnished materials in accordance with the contract documents in the prose-

cution of the work provided for in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of 90 days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

(b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond under section 50-55, but who has no contractual relationship, express or implied, with such contractor, may bring an action on the contractor's payment bond only if he has given written notice to such contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under section 50-55, but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials. (Ord. of 4-9-90, art. II, § 23)

Sec. 50-54. Alternative forms of security.

(a) In lieu of a bid, payment or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the town attorney, a bidder may furnish a personal bond, property bond or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to this town equivalent to a corporate surety's bond.

(Ord. of 4-9-90, art. II, § 24)

Sec. 50-55. Bonds on other than construction contracts.

This town may require bid, payment or performance bonds for contracts for goods or services if provided for in the invitation to bid or request for proposal.

(Ord. of 4-9-90, art. II, § 25)

Secs. 50-56–50-75. Reserved.

ARTICLE III. REMEDIES

Sec. 50-76. Ineligibility.

(a) Any bidder, offeror or contractor refused permission to, or disqualified from, participation in public contracts shall be notified in writing. Such notice shall state the reasons for the action taken. This decision shall be final unless the bidder, offeror or contractor appeals within 30 days of receipt by invoking administrative procedures meeting the standards of section 50-84, if available, or in the alternative by instituting legal action as provided in section 50-83.

(b) If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief shall be restoration of eligibility.

(Ord. of 4-9-90, art. III, § 1)

Sec. 50-77. Appeal of denial of withdrawal of bid.

(a) A decision denying withdrawal of bid under the provisions of section 50-46 shall be final and conclusive unless the bidder appeals the decision within ten days after receipt of the decision by invoking administrative procedures meeting the standards of section 50-84, if available, or in the alternative by instituting legal action as provided in section 50-83.

(b) If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of section 50-46, prior to appealing, shall deliver to this town a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

(c) If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

(Ord. of 4-9-90, art. III, § 2)

Sec. 50-78. Determination of nonresponsibility.

(a) Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular contract shall be notified in writing. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten days by invoking administrative procedures meeting the standards of section 50-84, if available, or in the alternative, by instituting legal action as provided in section 50-83.

(b) If, upon appeal, it is determined that the decision of this town was arbitrary or capricious, and the award of the contract in question has not been made, the sole relief shall be finding that the bidder is a responsible bidder for the contract in question. If it is determined

that the decision of this town was arbitrary or capricious, the relief shall be as set forth in section 50-79.

(c) A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under section 50-79.

(d) Nothing contained in this section shall be construed to require this town, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

(Ord. of 4-9-90, art. III, § 3)

Sec. 50-79. Protest of award or decision to award.

(a) Any bidder or offeror may protest the award or decision to award a contract by submitting such protest in writing to this town, or an official designated by this town, no later than ten days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in section 50-31. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under section 50-44, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under section 50-44, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. This town or designated official shall issue a decision in writing within ten days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten days of the written decision by invoking administrative procedures meeting the standards of section 50-84, if available, or in the alternative by instituting legal action as provided in section 50-83.

(b) If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. This town shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, this town may declare the contract void upon a finding that this action is in the best interest of the public. When a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

(c) Where this town, a designated official or an appeals board determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a

decision to award was based on fraud or corruption or an act in violation of article IV of this chapter, this town, a designated official or appeals board may enjoin the award of the contract to a particular bidder.

(Ord. of 4-9-90, art. III, § 4)

Sec. 50-80. Effect of appeal on contract.

Pending final determination of a protest or appeal, the validity of a contract awarded or accepted in good faith in accordance with this chapter shall not be affected by the fact that a protest or appeal has been filed.

(Ord. of 4-9-90, art. III, § 5)

Sec. 50-81. Stay of award during protest.

An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

(Ord. of 4-9-90, art. III, § 6)

Sec. 50-82. Contractual disputes.

(a) Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing in this section shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

(b) This town shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be incorporated into the contract by reference, shall establish a time limit for a final decision in writing by this town.

(c) A contractor may not invoke administrative procedures meeting the standards of section 50-84, if available, or institute legal action as provided in section 50-83, prior to the receipt of this town's decision on the claim, unless this town fails to render such decision within the time specified in the contract.

(d) The decision of this town shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by this town by invoking administrative procedures meeting the standards of section 50-84, if available, or in the alternative by instituting legal action as provided in section 50-83.

(Ord. of 4-9-90, art. III, § 7)

Sec. 50-83. Legal actions.

(a) A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was arbitrary or capricious.

(b) A bidder denied withdrawal of a bid under section 50-77 may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of this town was clearly erroneous.

(c) A bidder, offeror or contractor or a potential bidder or offeror on a contract negotiated on a sole source or emergency basis in the manner provided in section 50-31, whose protest of an award or decision to award under section 50-79 is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not an honest exercise of discretion, but rather is arbitrary or capricious or not in accordance with the Constitution of Virginia, statutes, regulations or the terms and conditions of the invitation to bid or request for proposal.

(d) If injunctive relief is granted, the court, upon request of this town, shall require the posting of reasonable security to protect this town.

(e) A contractor may bring an action in the appropriate circuit court involving a contract dispute with this town.

(f) A bidder, offeror or contractor need not utilize administrative procedures meeting the standards of section 50-84, if available, but if those procedures are invoked by the bidder, offeror or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless this town agrees otherwise.

(g) Nothing in this section shall be construed to prevent this town from instituting legal action against a contractor.

(Ord. of 4-9-90, art. III, § 8)

Sec. 50-84. Administrative appeals procedure.

(a) This town may establish an administrative procedure for hearing protests of a decision to award or an award, appeals from refusals to allow withdrawal of bids, appeals from disqualifications and determinations of nonresponsibility, and appeals from decisions on disputes arising during the performance of a contract, or any of these. Such administrative procedure shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The findings of fact shall be final and conclusive and shall not be set aside unless the same are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner.

(b) Any party to the administrative procedure, including the town, shall be entitled to institute judicial review if such action is brought within 30 days of receipt of the written decision.

(Ord. of 4-9-90, art. III, § 9)

Secs. 50-85–50-105. Reserved.

ARTICLE IV. ETHICS IN PUBLIC CONTRACTING

Sec. 50-106. Purpose.

The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act, Code of Virginia, § 2.1-639.1 et seq., the Virginia Governmental Frauds Act, Code of Virginia, § 18.2-498.1 et seq., and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, §§ 18.2-438–18.2-450. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

(Ord. of 4-9-90, art. IV, § 1)

Sec. 50-107. 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:

Immediate family means a spouse, children, parents, brothers and sisters, and any other persons living in the same household as the employee.

Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the Virginia Conflict of Interests Act, Code of Virginia, § 2.1-639.1 et seq.

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee means any person employed by this town, including elected officials or appointed members of governing bodies.

(Ord. of 4-9-90, art. IV, § 2)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 50-108. Penalty for violation.

Willful violation of any provision of this article shall constitute a class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

(Ord. of 4-9-90, art. IV, § 9)

Sec. 50-109. Proscribed participation by public employees in procurement transactions.

Except as may be specifically allowed by provisions of the Virginia Conflict of Interest Act, Code of Virginia, § 2.1-639.1 et seq., no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of this town when the employee knows that:

- (1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
- (2) The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction or owns or controls an interest of more than five percent;
- (3) The employee, the employee's partner or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
- (4) The employee, the employee's partner or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(Ord. of 4-9-90, art. IV, § 3)

Sec. 50-110. Solicitation or acceptance of a gift.

No public employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. This town may recover the value of anything conveyed in violation of this section.

(Ord. of 4-9-90, art. IV, § 4)

Sec. 50-111. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by this town unless the

employee, or former employee, provides written notification to this town or a public official if designated by this town, or both, prior to commencement of employment by that bidder, offeror or contractor.

(Ord. of 4-9-90, art. IV, § 5)

Sec. 50-112. Gifts by bidders, offerors, contractors, subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

(Ord. of 4-9-90, art. IV, § 6)

Sec. 50-113. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by this town and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

(Ord. of 4-9-90, art. IV, § 7)

Sec. 50-114. Purchase of building materials, equipment from architect or engineer prohibited.

Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for this town shall be sold by or purchased from any person employed as an independent contractor by this town to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association or corporation in which such architect or engineer has a pecuniary interest.

(Ord. of 4-9-90, art. IV, § 8)

Sec. 50-115. Purchases and sales to be based on competition.

(a) All purchases of, and contracts for, supplies, equipment and contracted services shall be in accordance with this chapter.

(b) All sales of such personal property which has become obsolete and unusable shall be based wherever feasible on competitive bids. If the amount of the sale is estimated to exceed \$5,000.00, sealed bids shall, unless this town shall provide otherwise, be solicited by public notice inserted at least once in a newspaper of countywide circulation and at least five calendar days before the final date of submitting bids.

(Ord. of 4-9-90, art. IV, § 10)

Chapters 51, 52

RESERVED

Chapter 53

SOLICITORS, PEDDLERS AND ITINERANT MERCHANTS*

Article I. Solicitors Generally

- Sec. 53-1. Solicitor defined.
- Sec. 53-2. Registration required.
- Sec. 53-3. Permits—Issuance.
- Sec. 53-4. Same—Fees.
- Sec. 53-5. Prohibited acts.
- Sec. 53-6. Exceptions.
- Secs. 53-7—53-20. Reserved.

Article II. Peddlers and Itinerant Merchants

- Sec. 53-21. Peddler defined.
- Sec. 53-22. Itinerant merchant defined.
- Sec. 53-23. Registration required.
- Sec. 53-24. License.
- Sec. 53-25. Exceptions.

ARTICLE I. SOLICITORS GENERALLY

Sec. 53-1. Solicitor defined.

The term “solicitor” means a person who goes from door to door visiting multifamily or single-family dwellings for the following purposes:

- (1) To sell any goods, wares, merchandise or services or accept subscriptions or orders therefor.
- (2) To accept or request donations for any charitable purpose.

(Ord. No. 94-5, 8-9-94)

Sec. 53-2. Registration required.

All persons, before entering into or upon a residential premises within the town for the purpose of soliciting, shall register with the chief of police and furnish him with the following information:

- (1) The name, local and permanent addresses, age, race, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the applicant.

***Editor’s note**—Ord. No. 94-5, adopted Aug. 9, 1994, amended Ch. 53, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Ch. 53 pertained to solicitors. See the Code Comparative Table.

State law reference—Authority of town to adopt provision, Code of Va., §§ 15.1-37.3:1, 15.1-37.3:2.

- (2) The nature or purpose for which solicitations will be made and the nature of the goods, wares, merchandise or services offered for sale.
 - (3) The name and permanent address of the employer or organization represented.
 - (4) A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor.
 - (5) The make and model year of the motor vehicle such person is using while soliciting within the town.
- (Ord. No. 94-5, 8-9-94)

Sec. 53-3. Permits—Issuance.

Upon furnishing the information required under section 53-2, the applicant shall be issued a permit, unless the information furnished in compliance with this chapter shows that the applicant has been convicted of a crime involving moral turpitude. A permit issued under this chapter shall be good for one year from the date of issuance, unless earlier revoked as provided in this chapter. Every solicitor shall carry his permit with him at all times while engaged in soliciting, and shall display the same to any person who shall demand to see the same while he is so engaged.

(Ord. No. 94-5, 8-9-94)

Sec. 53-4. Same—Fees.

A fee of \$20.00 to cover the costs of investigation of the applicant and processing of the application shall be paid to the town manager when the application is filed, and shall not be returnable under any circumstances.

(Ord. No. 94-5, 8-9-94)

Sec. 53-5. Prohibited acts.

No person shall:

- (1) Enter into or upon a residential premises in the town under false pretenses to solicit for any purpose or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.
- (2) Remain in or on any residential premises after the owner or occupant has requested any such person to leave.
- (3) Enter upon any residential premises for soliciting, when the owner or occupant has displayed a “no soliciting” sign on such premises.
- (4) Engage in the practice of soliciting in the town without a permit as provided for in this chapter.

- (5) Knowingly give false information or withhold correct information in obtaining a permit.

(Ord. No. 94-5, 8-9-94)

Sec. 53-6. Exceptions.

The provisions of this chapter shall not apply to:

- (1) Any person who visits any residence or apartment at the request or invitation of the owner or occupant thereof.
- (2) Unpaid members of any civic or charitable organization who have an approved means of identification provided by such organization.
- (3) Newsboys soliciting subscriptions to any newspaper for home delivery within the town.
- (4) Route deliverymen who make deliveries at least once a week to regular customers and whose solicitation is only incidental to their regular deliveries.
- (5) Persons selling fresh farm products which have been produced by the seller.
- (6) Persons licensed under the provisions of Title 38.2 of the Code of Virginia.

(Ord. No. 94-5, 8-9-94)

Secs. 53-7—53-20. Reserved.

ARTICLE II. PEDDLERS AND ITINERANT MERCHANTS*

Sec. 53-21. Peddler defined.

The term peddler means a person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same or actually sell or barter the same.

(Ord. No. 94-5, 8-9-94)

Sec. 53-22. Itinerant merchant defined.

An itinerant merchant shall mean any person who engages in, does, or transacts any temporary or transient business in any county, city or town, and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

(Ord. No. 94-5, 8-9-94)

Sec. 53-23. Registration required.

All persons, before transacting business within the town, shall provide the town manager with a copy of the person's tax identification number and the location of the person's address within the town.

(Ord. No. 94-5, 8-9-94)

***State law reference**—Authority of town to adopt provision, Code of Va., §§ 58.1-3717, 58.1-3718.

Sec. 53-24. License.

Upon payment of the license fee as adopted by the town in its budget, the applicant shall be issued a license for conducting and transacting business within the town. Said license shall be valid for one year from the date of issuance.

(Ord. No. 94-5, 8-9-94)

Sec. 53-25. Exceptions.

The provisions of this chapter shall not apply to those who sell or offer for sale, in person or by the employees, ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits, or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of the town one or more vehicles may sell and deliver from his vehicles, milk, cream and eggs, without procuring a peddlers license.

(Ord. No. 94-5, 8-9-94)

Chapter 54

SOLID WASTE*

Article I. In General

- Sec. 54-1. Littering of public or private property prohibited.
- Sec. 54-2. Abatement of nuisance conditions.
- Secs. 54-3—54-30. Reserved.

Article II. Collection and Disposal

Division 1. Generally

- Sec. 54-31. Definitions.
- Sec. 54-32. Application of article.
- Sec. 54-33. Authority of town.
- Sec. 54-34. Storage of garbage on premises.
- Sec. 54-35. Garbage containers—Duty of owner or occupant to provide; specifications.
- Sec. 54-36. Same—Duty to keep tightly closed.
- Sec. 54-37. Same—Duty to avoid damage.
- Sec. 54-38. Same—Liquids prohibited.
- Sec. 54-39. Same—When containers to be set out for collection.
- Sec. 54-40. Russell County Solid Waste Station—Generally.
- Sec. 54-41. Same—Rules and regulations.
- Sec. 54-42. Same—Penalty for violation.
- Secs. 54-43—54-50. Reserved.

Division 2. Bulk Containers

- Sec. 54-51. When required; type and size generally.
- Sec. 54-52. Location.
- Sec. 54-53. Dumpster use policy.
- Secs. 54-54—54-65. Reserved.

Division 3. Residential Premises

- Sec. 54-66. Location of containers for collection; entrance of building by collector.
- Sec. 54-67. Containers for trash, etc.
- Sec. 54-68. Preparation of limbs and cuttings for collection.
- Sec. 54-69. Removal of container following collection.
- Secs. 54-70—54-90. Reserved.

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***Cross references**—Animals, ch. 6; parks and recreation, ch. 38; streets and sidewalks, ch. 58; throwing or depositing dirt, lumber, etc., in the street, alley or sidewalk, § 58-11; inoperable motor vehicles, § 70-106 et seq.

State law reference—Authority of town to provide for the removal of garbage, trash, weeds, etc., Code of Virginia, § 15.1-11.

LEBANON TOWN CODE

Article III. Junkyards

Division 1. Generally

- Sec. 54-91. Definitions.
- Sec. 54-92. Penalty for violations.
- Sec. 54-93. Abatement of nuisances.
- Sec. 54-94. Inspections.
- Sec. 54-95. Size restricted.
- Sec. 54-96. Regulations.
- Secs. 54-97—54-105. Reserved.

Division 2. License

- Sec. 54-106. Required.
- Sec. 54-107. Application.
- Sec. 54-108. Fee.
- Sec. 54-109. Issuance.
- Sec. 54-110. Contents; display.
- Sec. 54-111. Term, renewal.
- Sec. 54-112. Limitations.
- Sec. 54-113. Transfer.

ARTICLE I. IN GENERAL**Sec. 54-1. Littering of public or private property prohibited.**

(a) No person shall throw or deposit litter in or upon any street, sidewalk, watercourse, body of water or any other public place, or upon any private premises, except in proper receptacles.

(b) For the purpose of this section, the word "litter" includes garbage, refuse, rubbish and all other waste material which, if thrown or deposited as prohibited in this section, tends to create a danger to public health, safety or welfare, or tends to create blight.

(Code 1977, § 8-2)

Sec. 54-2. Abatement of nuisance conditions.

(a) The owner of any property in the town shall remove trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town from such property at intervals to be designated by the council.

Reasonable notice of the date fixed by the council for the removal of such trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town shall be given by newspaper publication, mail or by delivery of a written notice to each owner of property. Upon the failure of the owner of property to remove such trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town, as provided in such notice, the town manager may have such trash, garbage, refuse, litter and other substances which might endanger the health or safety of the other residents of the town removed and bill the owner for the work.

Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

(b) The owners of all vacant property shall cut and remove weeds and other foreign growth from such property at intervals to be designated by the council.

Reasonable notice of the date fixed by the council for the cutting and removal of such weeds and other foreign growth shall be given by newspaper publication, mail or by delivery of a written notice to each owner of a vacant property. Upon the failure of the owner of such vacant property to cut such weeds or other foreign growth, as provided in such notice, the town manager may have such weeds and other foreign growth cut and bill the owner for the work.

Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

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

(d) The town shall have available to it any other legal means allowed under state law to enjoin or prevent violation of this section.

(Code 1977, §§ 8-17, 8-18; Ord. of 4-20-87(1), § 4; Ord. of 6-26-89, §§ 1–4; Ord. No. 94-3, 6-13-94)

State law references—Authority of town to abate nuisances, Code of Virginia, § 15.1-14(5); authority of town to compel the abatement or removal of nuisances, Code of Virginia, § 15.1-867.

Secs. 54-3–54-30. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 54-31. 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:

Agent means any person receiving the rent in whole or in part of any premises.

Bulk container means a metal container of not less than two cubic yards nor more than six cubic yards in capacity. Such container shall be of tight construction with doors opening on the sides or top and constructed so that it can be serviced by the town equipment.

Garbage means house and kitchen offal and all refuse matter composed of animal or vegetable substances, including dead animals, except cows, horses, mules and goats, coming from private premises of the town and not destined for consumption as food; provided, however, that excrement shall not be included.

Occupant means any person living on any residential premises.
(Code 1977, §§ 8-3, 8-10)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 54-32. Application of article.

The provisions of this article shall be construed to apply to both commercial and residential premises.

(Code 1977, § 8-4)

Sec. 54-33. Authority of town.

The town and its employees shall be the sole person or entity that shall collect garbage, trash and refuse from the premises of others within the limits of the town, and such collection of garbage, trash and refuse by any other person or entity within the town shall be prohibited, except as approved by the town manager.

(Ord. No. 89-6-26-B, 6-26-89)

Sec. 54-34. Storage of garbage on premises.

It shall be unlawful for the owner, agent or occupant of any commercial or residential premises to store, have, maintain or keep any garbage on any such premises, except in garbage containers as provided in this article.

(Code 1977, § 8-5)

Sec. 54-35. Garbage containers—Duty of owner or occupant to provide; specifications.

The owner, agent or occupant of commercial or residential premises, improved or unimproved, in the town, where garbage is produced shall provide metal or plastic watertight containers in such number as to receive the garbage accumulated between collections. Such containers shall be provided with a tightfitting cover, shall be fitted with handles and not be larger than 32 gallons in capacity, except as otherwise provided in this article.

(Code 1977, § 8-6)

Sec. 54-36. Same—Duty to keep tightly closed.

Garbage containers shall be kept tightly covered at all times except when momentarily opened to receive the garbage or to have the contents removed therefrom and placed in a duly authorized collection vehicle. All persons engaged in the removal of garbage shall, after emptying a garbage container, replace the lid tightly on such container.

(Code 1977, § 8-7)

Sec. 54-37. Same—Duty to avoid damage.

When a garbage container is placed on the outside of commercial or residential premises, it shall be unlawful for any person to throw such garbage container on the street or sidewalk or to injure it in any way so as to make it leak or bend it, or its cover, so as to prevent such garbage container from being tightly covered.

(Code 1977, § 8-8)

Sec. 54-38. Same—Liquids prohibited.

It shall be unlawful for any person to place any liquid in any garbage or trash container.

(Code 1977, § 8-9)

Sec. 54-39. Same—When containers to be set out for collection.

All containers containing garbage, ashes or refuse intended for collection by the town or by a contractor with the town shall be set out as provided in this article not earlier than 5:30 p.m. of the day preceding collection.

(Code 1977, § 8-19)

Sec. 54-40. Russell County Solid Waste Station—Generally.

Any person depositing solid waste at the Russell County Solid Waste Station operated and maintained by the Town of Lebanon must display either a valid Russell County decal or a valid Town of Lebanon decal.

(Ord. of 2-12-96(1))

Sec. 54-41. Same—Rules and regulations.

Any person depositing solid waste shall obey the posted sign displaying the rules and regulations for operating and handling instructions as adopted by the town council or directed by the town manager.

(Ord. of 2-12-96(1))

Sec. 54-42. Same—Penalty for violation.

It shall be unlawful for any person to refuse, fail or neglect to comply with the provisions of section 54-40 and 54-41.

- (1) The first such violation shall constitute a class 4 misdemeanor.
- (2) The second such violation within one year shall constitute a class 3 misdemeanor.
- (3) The third or subsequent violation within one year shall constitute a class 2 misdemeanor.

(Ord. of 2-12-96(1))

Secs. 54-43—54-50. Reserved.

DIVISION 2. BULK CONTAINERS

Sec. 54-51. When required; type and size generally.

(a) Every person generating more than three 30-gallon trash receptacles full of waste materials twice weekly on the regularly scheduled collection days shall be required to utilize the bulk container system. The type and size of such containers shall be subject to the approval of the town manager or his duly authorized representative.

(b) Every retail, wholesale and commercial establishment not placing refuse at the curb side for collection on the regularly scheduled twice weekly collection days shall likewise use the bulk container system.

(Code 1977, § 8-11)

Sec. 54-52. Location.

The location of required stationary bulk refuse containers shall be so as to permit convenient and safe access by the servicing truck and equipment using all-weather streets or

alleys of adequate strength and to be as aesthetically pleasing as the circumstances will reasonably allow, in order to conveniently permit servicing of such stationary bulk refuse containers upon a collection schedule of twice per week.

(Code 1977, § 8-12)

Sec. 54-53. Garbage dumpster use policy.

(a) The use of garbage dumpsters is for garbage and trash disposal that is generated from household, office, business, and commercial customers.

(b) Solid waste items of any kind shall not be placed or disposed of in a dumpster. The mechanical function of the garbage truck compactor and dumpster does not allow solid waste items. The disposal of solid waste items can cause damage to the truck, compactor, dumpster, and or serious injury to the garbage truck personnel, in which could result in action by the insurance carrier.

(c) Anyone who has solid waste items for disposal or has any questions on garbage dumpster use, should contact the Town Hall at (276) 889-7200.

(Ord. (Policy) of 10-3-16)

Secs. 54-54—54-65. Reserved.

DIVISION 3. RESIDENTIAL PREMISES

Sec. 54-66. Location of containers for collection; entrance of building by collector.

All containers containing garbage or refuse to be hauled away shall be so placed or located that they can be easily and conveniently reached by the persons hauling the garbage or refuse away. Such person shall not be required to enter any building for removal of any garbage or refuse. If any person connected with the garbage or trash removal services shall enter any building in connection with such work, he shall do so only on request and the town shall not be liable because of or on account of any claim made for any injury or damage caused by such person entering such building.

(Code 1977, § 8-13)

Sec. 54-67. Containers for trash, etc.

No bulk trash, refuse, tree limbs, shrubbery, leaves and other similar matter shall be collected without charge, unless such matter can be and is placed in a suitable container.

(Code 1977, § 8-14)

Sec. 54-68. Preparation of limbs and cuttings for collection.

Limbs and cuttings shall be cut in five-foot lengths and tied in bundles not exceeding 1½ feet in diameter and placed by the garbage container on regular collection days.

(Code 1977, § 8-15)

Sec. 54-69. Removal of container following collection.

All containers for garbage, ashes or refuse set out for collection by the town or by a contractor with the town shall be removed as promptly as possible following collection of the garbage, ashes or refuse.

(Code 1977, § 8-16)

Secs. 54-70—54-90. Reserved.

ARTICLE III. JUNKYARDS***DIVISION 1. GENERALLY****Sec. 54-91. 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:

Junk means any form of waste, scrap, discarded material or articles, or parts thereof, and shall include, but not be limited to, scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, glass, containers and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

Junk dealer means any person:

- (1) Who engages in the business of buying, selling, storing, salvaging, processing, disposing of or accumulating junk; and
- (2) Maintains and operates a junkyard within the town.

Junkyard means any place where any junk is stored, salvaged, processed, disposed of or accumulated.

License means the permit granted to a junk dealer.

(Ord. of 4-20-87(2), § 2)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 54-92. Penalty for violations.

Any person who shall fail to obtain a license as required in this article shall be subject to a penalty of \$50.00. For any other violation of any of the provisions of this article, the penalty shall be fixed upon conviction, in an amount not to exceed \$100.00 and the costs of prosecution. Each day's violation of any of the provisions of this article shall constitute a separate offense. (Ord. of 4-20-87(2), § 12)

Sec. 54-93. Abatement of nuisances.

In addition to the remedies provided in section 54-92, any violations of this article which shall constitute a nuisance in fact or which shall in the opinion of the council constitute a nuisance may be abated by proceeding against the violator in a court of equity for relief. (Ord. of 4-20-87(2), § 13)

***Cross references**—Businesses, ch. 14; inoperable vehicles, § 70-106 et seq.

State law reference—Authority of town to regulate junkyards, Code of Virginia, § 15.1-28.

Sec. 54-94. Inspections.

The town council or its duly authorized representative may periodically inspect any junkyard which is licensed under this article or for which there has been made an application for a license. The purpose of such inspection is to determine initial and continual compliance with the regulations of this article.

(Ord. of 4-20-87(2), § 10)

Sec. 54-95. Size restricted.

No tract of land larger than 20 acres nor smaller than one acre, excluding setback areas, shall be used as a junkyard in the town.

(Ord. of 4-20-87(2), § 6)

Sec. 54-96. Regulations.

Every person licensed under this article shall constantly maintain the licensed premises in accordance with any special provisions imposed by the council and in the manner prescribed by this section and any subsequent regulations adopted by the council:

- (1) Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or of residents nearby or a place for the breeding of rodents and vermin.
- (2) No garbage or other organic waste shall be stored in such premises.
- (3) Whenever any motor vehicle shall be received in such premises as junk, all gasoline shall be drained and removed therefrom. Gasoline in an amount not exceeding 500 gallons may be stored above ground in junkyards provided the same be placed in containers approved by the council. All other gasoline which is kept in the premises shall be stored underground, which underground storage must be approved by the council.
- (4) The manner of storage and arrangement of junk, and the drainage facilities of the premises, shall be such as to prevent the accumulation of stagnant water upon the premises and to facilitate access for firefighting purposes.
- (5) It shall be unlawful for any person licensed under this article to burn junk within a junkyard at any time except in the manner approved by the state air pollution control board. However, no oil, grease, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junkyard at any time.
- (6) The premises to be licensed shall be set back a minimum distance of 50 feet from the right-of-way lines on all streets or roads and a minimum distance of 50 feet for all other property lines. The area between the setback line and the right-of-way line, and all streets, roads and all other property lines, shall be at all times kept clear and vacant.

(7) When the council shall deem it necessary and desirable, the premises to be licensed shall at the setback lines be enclosed by fence of type and style to be determined by the council or by evergreen screen plantings or both. The council may set forth the fence and planting requirement at the time of the issuance of a license or at the time of renewal or transfer of a license.

(8) Each licensee under this article must keep an accurate log book in which each purchase or sale of junk is recorded, and such book shall be subject to inspection.

(Ord. of 4-20-87(2), § 11)

Secs. 54-97–54-105. Reserved.

DIVISION 2. LICENSE

Sec. 54-106. Required.

No person shall engage in business as a junk dealer, or maintain a junkyard, without first having obtained a license from the council.

(Ord. of 4-20-87(2), § 3)

Sec. 54-107. Application.

Application for the license required by this division shall be made by the person desiring to be licensed. The application shall be in writing and shall include the following information:

- (1) Name, address and telephone number of applicant;
- (2) Specific location and description of proposed junkyard site; and
- (3) A map of site showing boundaries and dimensions, natural drainage and any proposed changes in that drainage, and adjacent landowners.

(Ord. of 4-20-87(2), § 4)

Sec. 54-108. Fee.

The fee for a license required by this division shall be paid immediately upon the issuance or renewal of a license to the town treasury. The amount of the license fee shall be determined by council from time to time.

(Ord. of 4-20-87(2), § 6)

Sec. 54-109. Issuance.

The town planning commission shall make a thorough examination of the application, taking into consideration the suitability of the property proposed to be used for the purposes of the license, the character of the property located nearby and the effect of the proposed use, both economic and aesthetic. The town planning commission shall make a report of its findings to the town council. Upon the recommendation of the planning commission, and upon satisfactory evidence of the applicant's good character, the town council may issue a license. Such

license may be issued subject to such additional terms and conditions, in addition to the regulations contained in this article, as may be deemed necessary to carry out the spirit and intent of this article.

(Ord. of 4-20-87(2), § 5)

Sec. 54-110. Contents; display.

A license issued under this division shall state the name of the person to whom such license is issued and the premises on which the junkyard is to be maintained. Such license shall be posted conspicuously upon the premises licensed thereunder.

(Ord. of 4-20-87(2), § 3)

Sec. 54-111. Term, renewal.

Each license issued under this division shall be valid for the 12-month period beginning July 1 and ending June 30 of the following year. Each license must be renewed annually or before July 1 of each year.

(Ord. of 4-20-87(2), § 3)

Sec. 54-112. Limitations.

No person licensed under this division shall, by virtue of one license, maintain more than one junkyard. No person shall engage in business as a junk dealer in any place other than the place designated upon his license, or maintain a junkyard in any place other than the place designated upon his license.

(Ord. of 4-20-87(2), § 7)

Sec. 54-113. Transfer.

(a) No license issued by the town council under this division shall be transferrable by the licensee to any other person unless such a transfer is authorized by the council. Any person desiring to transfer his license shall notify the council in writing, which notification shall be accompanied by an application for a license as described in section 54-107 by the transferee.

(b) If the council shall approve the transfer of a license, the transferee shall immediately pay to the town a transfer fee to be determined by council from time to time.

(Ord. of 4-20-87(2), §§ 8, 9)

Chapters 55–57

RESERVED

Chapter 58

STREETS AND SIDEWALKS*

Article I. In General

- Sec. 58-1. Acceptance of streets for care and maintenance.
- Sec. 58-2. Specifications for work on streets by town forces.
- Sec. 58-3. Removal of snow and ice from sidewalks.
- Sec. 58-4. Removal of snow and ice to sidewalks or streets.
- Sec. 58-5. Projections into or upon sidewalk.
- Sec. 58-6. Cellar doors or gratings in paved sidewalks.
- Sec. 58-7. Gates and doors upon sidewalks.
- Sec. 58-8. Open cellarways, areaways, etc., to be guarded.
- Sec. 58-9. Boxes, crates, etc., obstructing sidewalks.
- Sec. 58-10. Removal of ground, dirt, etc., from street or alley.
- Sec. 58-11. Throwing or depositing slops, coal, ashes, dirt, lumber, etc., in the street, alley or sidewalk.
- Sec. 58-12. Placing building materials upon street, alley or sidewalk.
- Sec. 58-13. Use of sidewalks during erection, etc., of building or wall.
- Sec. 58-14. Trees, etc., projecting over streets or sidewalks.
- Sec. 58-15. Minimum height of projecting awnings, canopies, etc.
- Sec. 58-16. Drain pipe specifications.
- Secs. 58-17—58-35. Reserved.

Article II. Excavations

- Sec. 58-36. Permit required.
- Sec. 58-37. Exception.
- Sec. 58-38. Deposits; acquiescence in provisions of article.
- Sec. 58-39. Duty to prosecute work without delay.
- Sec. 58-40. Replacing surface.
- Sec. 58-41. Lights and barriers; responsibility for damages.
- Secs. 58-42—58-60. Reserved.

***Charter references**—Authority of town to acquisition property and rights-of-way to town property, § 13; power of town as to encroachments on streets, § 18; power of town as to poles and wires for electric, etc., service and as to laying any kinds of pipes in streets and alleys, § 19.

Cross references—Animals, ch. 6; abandonment of animals, § 6-1; permitting livestock on street right-of-way, § 6-7; fire prevention and protection, ch. 22; floods, ch. 26; skateboarding, § 34-2; loitering so as to obstruct sidewalks, § 34-9; parks and recreation, ch. 38; planning and development, ch. 46; solid waste, ch. 54; subdivisions, ch. 62; design standards for subdivisions, § 62-81 et seq.; traffic and vehicles, ch. 70; utilities, ch. 74; vehicles for hire, ch. 78.

State law references—Authority of town to lay off streets, walks, and alleys, alter, improve, and light the same and have them kept in good order, Code of Virginia, § 15.1-14; streets, alleys and public places generally, Code of Virginia, §§ 15.1-363 et seq., 15.1-888 et seq.

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Article III. Parades, Assemblies and Processions

- Sec. 58-61. Permit required.
- Sec. 58-62. Application for permit.
- Sec. 58-63. Action by manager.

ARTICLE I. IN GENERAL**Sec. 58-1. Acceptance of streets for care and maintenance.**

(a) No street shall be accepted for care and maintenance by the town unless such new street has been graded and surfaced and dedicated by the recording of a plat drawn to scale showing such street, in the office of the clerk of the circuit court of the county, at the expense of the owner of the property. No such acceptance shall take place until the plat of the street has been accepted and approved by the council.

(b) Before new streets can be accepted by the town for care and maintenance, such streets must meet the requirements of the state department of highways.
(Code 1977, § 15-1)

Sec. 58-2. Specifications for work on streets by town forces.

The town manager shall have authority to prescribe regulations for work done on town streets.
(Code 1977, § 15-2)

Sec. 58-3. Removal of snow and ice from sidewalks.

The tenant or occupant, and, in case there shall be no tenant or occupant, the owner, or person having the care of any building or lot of land abutting on any curbed or paved sidewalk shall, during the first eight hours of daylight following the time when snow or ice ceases to fall or form, cause the same to be removed from such curbed or paved sidewalk.
(Code 1977, § 15-3)

Sec. 58-4. Removal of snow and ice to sidewalks or streets.

It shall be unlawful for any tenant or occupant, the owner, or any person having the care of any building or lot of land to remove snow from such building or lot of land by removing the snow to any sidewalk or street.
(Code 1977, § 15-4)

Sec. 58-5. Projections into or upon sidewalk.

It shall be unlawful for any person to construct or place, or cause to be constructed or placed, any portico, porch, door or step which shall project into or upon any sidewalk or paved walkway along any street in the town; provided, however, that this shall not be construed to apply to awnings, sheds and other structures of a like nature.
(Code 1977, § 15-5)

Sec. 58-6. Cellar doors or gratings in paved sidewalks.

It shall be unlawful for any person to place or construct, or cause to be constructed, any cellar door or grating in or upon any paved sidewalk within the town unless such door or

grating shall be constructed on a level with the pavement. The owner thereof shall be required to keep the same in a safe condition to walk over.

(Code 1977, § 15-6)

Sec. 58-7. Gates and doors upon sidewalks.

Every gate or door built or constructed in any fence, garden or yard wall, upon or within two feet of the line of any public sidewalk on any street in the town, shall be hung so as to open inward.

(Code 1977, § 15-7)

Cross reference—Buildings and building regulations, ch. 10.

Sec. 58-8. Open cellarways, areaways, etc., to be guarded.

It shall be unlawful for any person to allow any cellarway, areaway or other place of like character opening on or in a public sidewalk in the town to remain open unless properly guarded by bars or otherwise.

(Code 1977, § 15-8)

Cross reference—Buildings and building regulations, ch. 10.

Sec. 58-9. Boxes, crates, etc., obstructing sidewalks.

It shall be unlawful for any person to place or permit to remain upon the streets, alleys or sidewalks adjoining their premises any boxes, crates or other things that will cause the streets, alleys or sidewalks to be obstructed.

(Code 1977, § 15-9)

Sec. 58-10. Removal of ground, dirt, etc., from street or alley.

It shall be unlawful for any person to dig up or carry away from any street or alley any ground, dirt or stone within the town, without the written permission of the town manager.

(Code 1977, § 15-10)

Sec. 58-11. Throwing or depositing slops, coal, ashes, dirt, lumber, etc., in the street, alley or sidewalk.

It shall be unlawful for any person to throw garbage, slop, refuse, offal or other obnoxious or unsightly matter into or upon any street or public place of the town, or to permit or suffer the same to be done by any person in his employment, or to throw, place, drop or cause to be put any coal, ashes, dirt or filth of any kind or any lumber, wood, stone or other obstruction into or upon any street or public place in the town. This section shall not be construed to apply to building material placed on the street, sidewalk or alley pursuant to section 58-12.

(Code 1977, § 15-13)

Cross references—Buildings and building regulations, ch. 10; solid waste, ch. 54.

Sec. 58-12. Placing building materials upon street, alley or sidewalk.

No person shall place building materials upon the street, sidewalk or alley for use in connection with construction work, unless he shall have first obtained a permit from the town manager to do so and unless he shall place such materials in the space assigned and in the manner directed by the town manager.

(Code 1977, § 15-14)

Cross reference—Buildings and building regulations, ch. 10.

Sec. 58-13. Use of sidewalks during erection, etc., of building or wall.

When any building or wall is being erected, repaired or demolished, the sidewalks in front thereof may, subject to section 58-12, be occupied and used by the contractor or builder in connection with such work for such period of time as may be reasonable; provided, that reasonable means are taken for the protection and safe passage of pedestrians and vehicular traffic.

(Code 1977, § 15-15)

Sec. 58-14. Trees, etc., projecting over streets or sidewalks.

It shall be unlawful for any person owning or occupying property abutting a street or sidewalk to allow any trees, plants or shrubs growing on such property to project over the property in such manner as to obstruct or interfere with the safe passage of vehicles or pedestrians.

(Code 1977, § 15-16)

Sec. 58-15. Minimum height of projecting awnings, canopies, etc.

It shall be unlawful for any person to allow awnings, sheds or other objects of a similar nature to extend over the streets of the town unless the same shall be seven feet, six inches, in the clear from the sidewalk.

(Code 1977, § 15-17)

State law reference—Authority of town to permit awnings, fire escapes, etc., to overhang streets, Code of Virginia, § 15.1-376.

Sec. 58-16. Drain pipe specifications.

Any person whose property abuts a new street, alley or driveway, shall obtain a written permit from the town manager on the regulation of size of drain pipe to be installed at same. A minimum diameter of at least 12 inches will be required; however, if larger size is needed, such determination will be left to the town manager's discretion.

(Code 1977, § 15-18)

Secs. 58-17–58-35. Reserved.

ARTICLE II. EXCAVATIONS

Sec. 58-36. Permit required.

No person, unless specially authorized by the council, shall take up or remove any portion of the surface of the sidewalk or street, or excavate in any public street of the town, without a written permit from the town manager, who shall not refuse such permit to any applicant except for cause, but in case of refusal the applicant may appeal to the council.

(Code 1977, § 15-19)

Sec. 58-37. Exception.

The provisions of this article shall not apply to work done by town forces under the supervision of the town manager.

(Code 1977, § 15-24)

Sec. 58-38. Deposits; acquiescence in provisions of article.

(a) Before a permit required in section 58-36 is granted, the town manager may require a deposit sufficient to pay for resurfacing the street to be disturbed, the amount of such deposit to be determined by the town manager.

(b) Every person who shall make application for such a permit shall be deemed to have assented thereby to all the provisions and terms of this article, including the right of the town to collect the actual cost of replacing the pavement, sidewalk or street surface in the manner above directed.

(Code 1977, § 15-20)

Sec. 58-39. Duty to prosecute work without delay.

It shall be the duty of every person to whom a permit shall have been granted under this article to institute at once and prosecute without delay the work for which such permit was obtained and promptly, on its completion, give written notice thereof to the town manager.

(Code 1977, § 15-21)

Sec. 58-40. Replacing surface.

No pavement, sidewalk or street surface shall be replaced, after being taken up, pursuant to a permit issued under this article, by any person except under the direction of the town manager. If the applicant fails to resurface the street disturbed promptly and in a manner approved by the town manager, the town manager is authorized to cause such work to be done at the expense of the applicant.

(Code 1977, § 15-22)

Sec. 58-41. Lights and barriers; responsibility for damages.

Any person to whom a permit is granted under this article shall place guards or barriers around the excavation in question and shall protect it by warning lights at night, and shall be

responsible for damages to persons or property caused by such excavations until taken in charge by the town manager.

(Code 1977, § 15-23)

Secs. 58-42–58-60. Reserved.

ARTICLE III. PARADES, ASSEMBLIES AND PROCESSIONS*

Sec. 58-61. Permit required.

It shall be unlawful to conduct a parade within the town without first obtaining a permit from the town manager.

(Ord. No. 91-3, 7-22-91)

Sec. 58-62. Application for permit.

(a) The parade permit application shall be signed by the person responsible for organizing and conducting the parade, and shall contain the name, address, and telephone number of such person. The person responsible for organizing and conducting the parade shall be contact person for the exchange of information pertaining to the organization and operation of the parade, and such person shall be available at reasonable hours and during reasonable times to work with the town manager.

(b) The application for parade permit shall contain such information as is deemed necessary by the town manager, but shall, at a minimum, provide the following information:

- (1) The date and time the parade will begin.
- (2) The projected time that the parade will end.
- (3) The purpose of the parade.
- (4) The proposed parade route, including the starting and ending locations, and any areas used for grouping prior to the parade, and for disbanding the parade after the parade is completed.
- (5) The projected number of people and vehicles involved in the parade itself.
- (6) The projected number of spectators.
- (7) Detailed plans of the traffic/safety measures that will be taken in order to ensure a safe and orderly parade.

(c) A parade permit shall not be granted if an application has not been made to the town manager at least three weeks in advance of the parade date.

(Ord. No. 91-3, 7-22-91)

***State law reference**—Authority of town to permit the temporary use of streets for other than public purposes, Code of Virginia, § 15.1-14(9).

Sec. 58-63. Action by manager.

The town manager shall maintain in his office parade application permits. The town manager shall review all applications for parade permits, and shall grant or deny such permits based on considerations which shall include, but not be limited to, consideration of the traffic conditions at the time of the proposed parade, the route to be taken by the parade, and any considerations bearing on the health, safety and welfare of the public.

(Ord. No. 91-3, 7-22-91)

Chapters 59–61

RESERVED

Chapter 62

SUBDIVISIONS*

Article I. In General

- Sec. 62-1. Definitions.
- Sec. 62-2. Hardship variances.
- Sec. 62-3. Violations; remedies.
- Secs. 62-4–62-30. Reserved.

Article II. Preparation, Filing of Plats

Division 1. Generally

- Secs. 62-31–62-40. Reserved.

Division 2. Preliminary Plats

- Sec. 62-41. Generally.
- Sec. 62-42. Preparation; submission.
- Sec. 62-43. Approval.
- Sec. 62-44. Considerations.
- Secs. 62-45–62-55. Reserved.

Division 3. Final Plats

- Sec. 62-56. Approval; filing deadline.
- Sec. 62-57. Final submission.
- Sec. 62-58. Required data.
- Sec. 62-59. Recordation.
- Secs. 62-60–62-80. Reserved.

Article III. Design Standards

- Sec. 62-81. Monuments.
- Sec. 62-82. Street arrangements.
- Sec. 62-83. Street widths.
- Sec. 62-84. Street jogs.
- Sec. 62-85. Street grades.
- Sec. 62-86. Dead-end streets.
- Sec. 62-87. Intersections.
- Sec. 62-88. Alleys.
- Sec. 62-89. Block design.
- Sec. 62-90. Arrangement of lots.

***Charter reference**—Power of town to adopt comprehensive plan concerning the subdivision of lands within the corporate limits or within two miles thereof, § 16.

Cross references—Buildings and building regulations, ch. 10; fire prevention and protection, ch. 22; floods, ch. 26; planning and development, ch. 46; streets and sidewalks, ch. 58; utilities, ch. 74.

State law reference—Regulation of land subdivision and development, Code of Virginia, § 15.1-465 et seq.

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- Sec. 62-91. Corner lots.
- Sec. 62-92. Oversize lots.
- Sec. 62-93. Size and shape of lots.
- Sec. 62-94. Lots without sewer and/or water connections.
- Sec. 62-95. Building setback lines.

ARTICLE I. IN GENERAL**Sec. 62-1. Definitions.**

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

Agent means the officer or agency designated by the town council to review and approve, modify or disapprove the subdivision of land and the plat of such subdivision where located within the limits of the town.

Alley means a public way designed primarily for vehicular travel to provide access to or from the rear or side of property abutting on a street.

Building setback means the distance that a building shall be set back from the lot line or boundary.

Commission means the official planning commission of the town.

Lot means the numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory buildings.

Plat means a map or plan of a tract or parcel of land which is to be or has been subdivided; the term shall include the terms map, plan, plot, replat or replot.

Street means every way or place, other than an alley, of whatever nature, designed for the use of the public for the purpose of vehicular and pedestrian travel, including space for shoulders and sidewalks, whether designated as a street, highway, thoroughfare, toll road, parkway, throughway, road, avenue, boulevard, lane, place or other designation.

Subdivision means a division of a lot, tract or parcel of land into two or more lots or other subdivisions of land, for the purpose, whether immediate or future, of transfer of ownership or of building development, including all changes in street or lot lines, and including any parcel previously separated by the then owner of such tract for such purposes subsequent to the adoption of these regulations; provided, however, that divisions of land in parcels of two acres or more not involving any new street or easement of access shall be exempt.

(Code 1977, § 16-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 62-2. Hardship variances.

Where a subdivider can show that a provision of this chapter would cause an unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the commission a departure may be made without destroying the intent of such provision, the commission may authorize a variance. Any variance thus authorized is required to be entered in writing in the minutes of the commission and the reason on which the departure was justified set forth.

(Code 1977, § 16-25)

Sec. 62-3. Violations; remedies.

Upon any violation or attempted violation of the provision of this chapter, the town may institute any appropriate action or proceedings, by injunction or otherwise, to prevent such violation or attempted violation and to restrain, correct or abate such violation or attempted violation, or to prevent any act which constitutes such a violation.

(Code 1977, § 16-26)

Secs. 62-4–62-30. Reserved.

ARTICLE II. PREPARATION, FILING OF PLATS

DIVISION 1. GENERALLY

Secs. 62-31–62-40. Reserved.

DIVISION 2. PRELIMINARY PLATS

Sec. 62-41. Generally.

Whenever a subdivision is proposed to be made and before any sale of such subdivision as a whole or any part thereof is made, the owner or proprietor of the proposed subdivision, or his duly authorized representative, shall file a preliminary plat of the proposed subdivision with the agent for approval. The plat and all procedures relating thereto shall in all respects be in full compliance with the provisions of this chapter and all applicable laws and ordinances affecting or regulating the subdivision of land, the use thereof and the erection of buildings or structures thereon.

(Code 1977, § 16-2)

Sec. 62-42. Preparation; submission.

When required by the agent for consideration, the owner or proprietor, or his duly authorized representative, shall cause a preliminary plat to be prepared and submitted to the agent for tentative approval.

(Code 1977, § 16-3)

Sec. 62-43. Approval.

After consideration and review, the agent shall approve, approve with modifications or disapprove the preliminary subdivision plat, noting thereon any changes that will be required. One copy of the preliminary plat with accompanying documents, papers, etc., shall be retained for the agent's files.

(Code 1977, § 16-4)

Sec. 62-44. Considerations.

The agent, in studying the preliminary subdivision plat, shall take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to width, arrangement and locations of streets and alleys or utility easements; drainage; lot sizes and arrangement; other facilities such as parks, playgrounds or school sites; public buildings; parking areas; boulevards; and main highways. Adequate street connections shall be required by the agent to insure free and safe access to adjoining, existing, proposed and possible subdivisions of lands.

(Code 1977, § 16-5)

Secs. 62-45–62-55. Reserved.

DIVISION 3. FINAL PLATS

Sec. 62-56. Approval; filing deadline.

The final subdivision plat shall conform substantially to the preliminary plat, and when found to be in conformity with the requirements of law and this chapter shall be approved by the agent. Such plat shall be filed for recordation in the clerk's office of the court in which deeds conveying the land are recorded, within 60 days after final approval thereof, otherwise such approval shall be withdrawn and the plat marked void and returned to the owner.

(Code 1977, § 16-6)

Sec. 62-57. Final submission.

The final subdivision plat submitted for approval and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth at a scale of not more than 100 feet to the inch.

(Code 1977, § 16-23)

Sec. 62-58. Required data.

The final subdivision plat shall show the following:

- (1) The proposed subdivision name or identifying title, location, address of record owner and subdivider and the name of the licensed professional surveyor or engineer who prepared the plat.
- (2) The arrangement and location of all street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- (3) Sufficient data acceptable to the agent to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce them on the ground. Reference should be made to known or permanent monuments and, where practicable, to the state system of plane coordinates.
- (4) The boundaries of the property, location, graphic scale and true north point.

(5) Every such plat shall show all lands which the owner proposes to dedicate for public use together with the covenants, if any, as to the use thereof.
(Code 1977, § 16-24)

Sec. 62-59. Recordation.

No final plat of a subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent. No clerk of a court shall file or record a plat of a subdivision until such plat has been approved by the agent.
(Code 1977, § 16-7)

Secs. 62-60–62-80. Reserved.

ARTICLE III. DESIGN STANDARDS*

Sec. 62-81. Monuments.

Permanent monuments shall be installed so that any street line, lot line, boundary line and other pertinent factors can be reproduced upon the ground.
(Code 1977, § 16-8)

Sec. 62-82. Street arrangements.

The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas or their proper protection where adjoining land is not subdivided and shall substantially correspond to existing and planned streets insofar as topographical conditions, public convenience and safety and the proposed use of the land to be served in the opinion of the agent will permit.
(Code 1977, § 16-9)

Sec. 62-83. Street widths.

Streets that have been designated to become primary highways shall have a right-of-way width as required by the state highway department standards and specifications effective at the time the property is subdivided.
(Code 1977, § 16-10)

Sec. 62-84. Street jogs.

Street jogs with centerline offsets of less than 150 feet shall be prohibited, except where, in the opinion of the agent, a lesser distance is justified.
(Code 1977, § 16-11)

***Cross references**—Buildings and building regulations, ch. 10; streets and sidewalks, ch. 58; utilities, ch. 74.

Sec. 62-85. Street grades.

Reasonable grades shall be required on all subdivision streets. Streets shall be graded and drained to full width, length and final grade, and surfaced with crushed stone to provide an all-weather surface in conformity with state highway department standards and specifications.
(Code 1977, § 16-12)

Sec. 62-86. Dead-end streets.

Dead-end streets shall be designed with turnarounds or culs-de-sac at the closed end with a minimum radius at the inside curb of at least 50 feet. Dead-end streets shall not be less than 400 feet in length.
(Code 1977, § 16-13)

Sec. 62-87. Intersections.

Property lines at street intersections shall be rounded with a curve of sufficient radius to permit easy turning movement of vehicles and shall not be less than 15 feet in length.
(Code 1977, § 16-14)

Sec. 62-88. Alleys.

Alleys shall not be less than 20 feet in width and shall be provided in the rear of lots to be used for business purposes, and in the rear of residential lots where in the opinion of the agent alleys are necessary. Dead-end alleys are to be discouraged.
(Code 1977, § 16-15)

Sec. 62-89. Block design.

Blocks shall be of reasonable size and cross streets shall be located at reasonable intervals.
(Code 1977, § 16-16)

Sec. 62-90. Arrangement of lots.

Each lot shall front on a public street which shall connect with an existing public street and in no case shall such street have a right-of-way of less than 50 feet.
(Code 1977, § 16-17)

Sec. 62-91. Corner lots.

Corner lots shall be increased in size when necessary to provide that a structure located thereon shall conform to the building and setback lines of both streets.
(Code 1977, § 16-18)

Sec. 62-92. Oversize lots.

When a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged as to allow the opening of future streets and a further logical subdivision.
(Code 1977, § 16-19)

Sec. 62-93. Size and shape of lots.

The size and shape of residential lots shall be such as the agent deems appropriate for the type of building development contemplated; provided, however, that lots for residential purposes wherein both sewer and water connections are provided by the town shall be a minimum of 50 feet average width and 120 feet average depth, and they shall contain a minimum of 6,000 square feet. Size, width, and area shall in no case be less than that specified for the location in any zoning regulations.
(Code 1977, § 16-20)

Sec. 62-94. Lots without sewer and/or water connections.

If neither a sewer nor a water connection can be provided on any lot by the town, such lot shall contain at least 20,000 square feet and the installation of a water system and a sewerage disposal method shall be approved by the county health officer prior to submission to council for approval. If either a sewer or water connection, but not both, is provided on any lot, such lot shall contain at least 10,000 square feet.
(Code 1977, § 16-21)

Sec. 62-95. Building setback lines.

Buildings shall be set back 25 feet from the front property line and five feet from the rear and side lot property lines.
(Code 1977, § 16-22)

Chapters 63–65

RESERVED

Chapter 66

TAXATION*

Article I. In General

- Sec. 66-1. Basis of tax rates.
- Sec. 66-2. Annual assessment; valuation of property.
- Sec. 66-3. Tax tickets; bills for taxes.
- Sec. 66-4. When taxes due and payable; penalty.
- Sec. 66-5. Interest.
- Secs. 66-6—66-30. Reserved.

Article II. Tax on Bank Stock

- Sec. 66-31. When bank located in the town.
- Sec. 66-32. When branch bank located in town.
- Secs. 66-33—66-55. Reserved.

Article III. Transient Room Rental Tax

- Sec. 66-56. Definitions.
- Sec. 66-57. Levied.
- Sec. 66-58. Violations.
- Sec. 66-59. Collection.
- Sec. 66-60. Reports required; remittance procedure.
- Sec. 66-61. Penalties for late remittance.
- Sec. 66-62. Failure to collect or to make reports; assessment of town manager.
- Sec. 66-63. Records required.
- Sec. 66-64. Discount.
- Sec. 66-65. Duty of person going out of business.
- Sec. 66-66. Advertising payment or absorption of tax prohibited.
- Sec. 66-67. Period of limitations.
- Secs. 66-68—66-90. Reserved.

Article IV. Meal Tax

- Sec. 66-91. Definitions.
- Sec. 66-92. Levy.
- Sec. 66-93. Collection of tax by seller.
- Sec. 66-94. Exemptions; limits on application.
- Sec. 66-95. Gratuities and service charges.
- Sec. 66-96. Report of taxes collected; remittance; preservation of records.
- Sec. 66-97. Penalty for violation of article.
- Sec. 66-98. Reports and remittance.
- Sec. 66-99. Discount.

***Cross references**—Administration, ch. 2; businesses, ch. 14; local licensing of motor vehicles, § 70-76 et seq.

State law reference—Local taxation, Code of Virginia, § 58.1-3000 et seq.

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- Sec. 66-100. Penalty and interest.
- Sec. 66-101. Procedure when tax not reported or collected.
- Sec. 66-102. Duty of person going out of business.
- Sec. 66-103. Advertising payment or absorption of tax prohibited.
- Sec. 66-104. Enforcement.
- Sec. 66-105. Regulations.
- Secs. 66-106—66-125. Reserved.

Article V. Consumer Utility Taxes (Electric, Natural Gas, Telephone)

- Sec. 66-126. Definitions.
- Sec. 66-127. Electric utility consumer tax.
- Sec. 66-128. Local natural gas utility consumer tax.
- Sec. 66-129. Telephone consumer tax.
- Sec. 66-130. Penalties.

ARTICLE I. IN GENERAL**Sec. 66-1. Basis of tax rates.**

(a) Lands within the town shall be taxed by the town by the application of the town's tax rates to the use value of the lands as the use value is determined by the county commissioner of the revenue through the application, by the commissioner, of the county use value assessment ordinance.

(b) The roll-back taxes applicable to lands situated in the town shall also be computed by the application of the town tax rates to the roll-back values as determined by the county commissioner of the revenue in conformity with the county use value assessment ordinance. (Ord. No. 89-6-26-A, §§ 1, 2, 6-26-89)

State law reference—Authority of town to provide for special assessments for land preservation, Code of Virginia, § 58.1-3229.

Sec. 66-2. Annual assessment; valuation of property.

The council shall, annually, before July 1, fix the tax rates on all real and personal property properly subject to taxation within and by the town and shall assess such taxes as may be required to provide for the needs and purposes of the town. In determining the valuation of property in the town, reference shall be had to the records of the commissioner of the revenue of the county.

(Code 1977, § 6-1)

Sec. 66-3. Tax tickets; bills for taxes.

As soon as practicable after taxes are assessed as provided in section 6-2, the treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the state department of taxation and shall send by mail to each taxpayer a bill for such taxes.

(Code 1977, § 6-2)

Sec. 66-4. When taxes due and payable; penalty.

Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in section 66-3 are sent. Any person failing to satisfy such tax bill on or before December 12 following the mailing thereof shall incur a penalty of ten percent annually of the total taxes due.

(Code 1977, § 6-3; Mo. of 8-12-13)

Sec. 66-5. Interest.

Interest at the legal rate of interest shall be collected upon the principal and penalty from June 30 of the year next after taxes were assessed under section 66-2.

(Code 1977, § 6-4)

Secs. 66-6—66-30. Reserved.

ARTICLE II. TAX ON BANK STOCK

Sec. 66-31. When bank located in the town.

There is hereby imposed a tax against the shares of stock of any bank located in the town. Such tax shall be 80 percent of the state rate of taxation on each \$100.00 of the taxable value of the shares of stock in such bank located in the town. If any such bank has any branch located outside the corporate limits of the town, the tax imposed by this section shall be upon only such proportion of the taxable value of the shares of stock in such bank as the total deposits of the bank minus deposits through any branch located outside the corporate limits of the town bear to the total deposits of the bank as of the beginning of the taxable year.
(Code 1977, § 6-5)

Sec. 66-32. When branch bank located in town.

There is hereby imposed a tax against the shares of stock of a bank which has a branch located in the town, but whose principal office is located outside the corporate limits of the town. Such tax shall be 80 percent of the state rate of taxation on such proportion of the taxable value of shares of stock in such bank as the deposits through the branch so located in the town bear to the total deposits of the bank at the beginning of the taxable year.
(Code 1977, § 6-6)

Secs. 66-33—66-55. Reserved.

ARTICLE III. TRANSIENT ROOM RENTAL TAX*

Sec. 66-56. 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:

Rental room means any room, lodging or accommodation furnished to transients by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, clubs or any other place in which rooms, lodgings, space or accommodations are regularly furnished to transients for a consideration. It shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of 90 days or more.

***State law reference**—Authority of town to levy a transient occupancy tax, Code of Virginia, § 58.1-3819.

Transient means any person who, for a period of not more than 90 consecutive days, either at his own expense or at the expense of another, obtains a rental room.

(Ord. of 1-9-84, § A1; Ord. of 8-13-90(2), § A1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 66-57. Levied.

The town council hereby levies and imposes a transient room rental tax, in addition to all other taxes and fees of every kind now imposed by law, the same to be collected and the amount determined at the rate of four percent of the gross proceeds derived from the charges for any room, lodging or accommodation furnished to transients by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club or any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings or accommodations supplied for a period of 90 continuous days or more.

(Ord. of 1-9-84, § A; Ord. of 8-13-90(1), §§ A, A2)

Sec. 66-58. Violations.

(a) Each violation of this article and each day's continuance thereof shall constitute a separate offense. Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00. Such conviction and fine shall not relieve any such person from the payment of any tax, penalties and interest imposed.

(b) The town reserves the right, in addition to the penalties imposed in this section, to enjoin the continuing violation by proceedings for an injunction brought in a court of competent jurisdiction.

(Ord. of 1-9-84, § A11; Ord. of 8-13-90(2), § A11)

Sec. 66-59. Collection.

Every person receiving any payment for a rental room with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied, or from the person paying for such rental room at the time payment for such rental room is made. The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes until remitted to the town as required in this article.

(Ord. of 1-9-84, § A3; Ord. of 8-13-90(2), § A3)

Sec. 66-60. Reports required; remittance procedure.

The person collecting any taxes pursuant to this article shall prepare a report thereof upon such forms and setting forth such information as the town manager prescribes and requires, showing the amount of rental charge collected and the tax required to be collected, and shall sign and deliver such report to the town manager with a remittance of such tax. Such report

and remittance shall be made at least once in every 30-day period, but not later than the 20th day of the month next following the month in which such tax was collected.

(Ord. of 1-9-84, § A4; Ord. of 8-13-90(2), § A4)

Sec. 66-61. Penalties for late remittance.

(a) If any person collecting any taxes pursuant to this article should fail or refuse to remit to the town manager the tax required to be collected and paid within the time and in the amount specified in this article, there shall be added to such tax a penalty in the amount of five percent, if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof, during which the failure continues, not to exceed 25 percent in the aggregate, with a minimum penalty of \$10.00; and interest on such overdue tax in the amount of 10 percent per annum; provided, if such failure is due to good cause shown to the satisfaction of the town manager, such return with remittance may be accepted exclusive of interest and penalties.

(b) In the case of a false or fraudulent report where willful intent exists to defraud the town of any tax due under this article, or in the case of the willful failure to file a report with the intent to defraud the town of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. It shall be prima facie evidence of intent to defraud the town of any such tax when any person reports his gross rental charges collected at 50 percent or less of the actual amount.

(Ord. of 1-9-84, § A5; Ord. of 8-13-90(2), § A5)

Sec. 66-62. Failure to collect or to make reports; assessment of town manager.

If any person shall fail to collect the tax levied under this article, and/or to make, within the time provided, the reports and remittances, or makes a grossly incorrect report, or a report that is false and fraudulent, the town manager shall proceed, in such manner as he deems best, to obtain facts and information on which to base his estimate of the tax due. As soon as the town manager shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable, he shall proceed to determine and assess against such person such tax and penalty and interest provided for in this article and shall notify such person by registered mail, sent to his last known address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of mailing such notice. The assessment so made shall be deemed prima facie correct.

(Ord. of 1-9-84, § A6; Ord. of 8-13-90(2), § A6)

Sec. 66-63. Records required.

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of four years records showing all room rentals taxable, the amount charged the person renting, the date thereof, the taxes collected therein and the amount of tax required to be collected. The town manager shall have the power to examine such records at reasonable times and without unreasonable interference with the

business of such person for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Ord. of 1-9-84, § A7; Ord. of 8-13-90(2), § A7)

Sec. 66-64. Discount.

For the purpose of compensating those persons liable for the collection and remittance of the taxes imposed under this article, they shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his monthly report; provided the amount due is not delinquent at the time of payment.

(Ord. of 1-9-84, § A8; Ord. of 8-13-90(2), § A8)

Sec. 66-65. Duty of person going out of business.

Whenever any person required to collect and remit to the town any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax shall immediately become due and payable, and the person shall immediately make a report and remittance thereof.

(Ord. of 1-9-84, § A9; Ord. of 8-13-90(2), § A9)

Sec. 66-66. Advertising payment or absorption of tax prohibited.

No person required to collect and remit to the town any tax imposed by this article shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of such tax will be paid or absorbed by such person or by anyone else, or that such person or anyone else will relieve any transient of the payment of all or any part of the tax.

(Ord. of 1-9-84, § A10; Ord. of 8-13-90(2), § A10)

Sec. 66-67. Period of limitations.

The taxes imposed by this article shall be assessed within three years from the date on which such taxes became due and payable; provided, however, in the case of a false or fraudulent report with intent to evade payment of the taxes, or a failure to file a report, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date.

(Ord. of 1-9-84, § A12; Ord. of 8-13-90(2), § A12)

Secs. 66-68—66-90. Reserved.

ARTICLE IV. MEAL TAX*

Sec. 66-91. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Cater means the furnishing of food, beverages, or both on the premises of another, for compensation.

Collector means the treasurer and any duly designated deputies, assistants, inspector or other employees.

Discount. For the purpose of compensating sellers for the collection of tax imposed by this article, every seller shall be allowed three percent of the amount of tax due and accounted for in the form of a deduction on his or her monthly return; provided, the amount due is not delinquent at the time of payment.

Food means all food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal shall mean any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

(Ord. No. 00-5, § I, 11-14-00; Ord. No. 07-02, § IX, 8-13-07)

***Editor's note**—Ord. No. 00-5, §§ I—XV, adopted Nov. 14, 2000, did not specifically amend the Code; hence, inclusion herein as superseding Art. IV, was at the discretion of the editor. Prior to inclusion, Art. IV pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion of said ordinance.

State law reference—Authority of town to assess a meals tax, Code of Virginia, § 58.1-3840.

Sec. 66-92. Levy.

There is hereby imposed and levied by the town on each person a tax at the rate of four percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.
(Ord. No. 00-5, § II, 11-14-00)

Sec. 66-93. Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made, provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

All tax collections shall be deemed to be held in trust for the Town of Lebanon.
(Ord. No. 00-5, § III, 11-14-00)

Sec. 66-94. Exemptions; limits on application.

(a) The tax imposed under this article shall not be levied on factory-prepackaged candy, gum, nuts and other items of essentially the same nature served for on or off-premises consumption.

(b) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption.

- (1) Donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature;
- (2) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
- (3) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
- (4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
- (5) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act; sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subparagraphs (d)(3), (4) and (5) hereinbelow.

(c) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(d) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

- (1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
- (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
- (3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.
- (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.
- (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
- (6) Food and beverages sold on an occasional basis, not exceeding two times per calendar year, by four non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.
- (7) Food and beverages sold through vending machines.

(Ord. No. 00-5, § IV, 11-14-00)

Sec. 66-95. Gratuities and service charges.

When a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverage by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages and is not subject to the tax imposed by this article.

(Ord. No. 00-5, § V, 11-14-00)

Sec. 66-96. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay to the town the taxes imposed by this article to make a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The treasurer or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article and to make transcripts of all or any parts thereof.

(Ord. No. 00-5, § VI, 11-14-00)

Sec. 66-97. Penalty for violation of article.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a class I misdemeanor except that any person hiring to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class I misdemeanor.

(b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class I misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.

(Ord. No. 00-5, § VII, 11-14-00)

Sec. 66-98. Reports and remittance.

The treasurer may require all prospective sellers of meals licensed to do business in the town to register for collection of the tax imposed by this article. Every seller shall make a report to the town for each calendar month showing the amount of charges collected for meals and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the treasurer and shall be signed by the seller. They shall be delivered to the treasurer on or before the 20th day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the town.

(Ord. No. 00-5, § VIII, 11-14-00)

Sec. 66-99. Discount.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed five percent of the amount of the tax due and accounted for in the form of a deduction on his or her monthly return; provided, the amount due is not delinquent at the time of payment.

(Ord. No. 00-5, § IX, 11-14-00)

Sec. 66-100. Penalty and interest.

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this article within the time and in the amount required, there shall be added to the tax by the treasurer a penalty in the amount of ten percent of the tax, and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such were due and payable.

(Ord. No. 00-5, § X, 11-14-00)

State law reference—Penalty and interest, Code of Virginia, § 58.1-3916.

Sec. 66-101. Procedure when tax not reported or collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the treasurer shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the treasurer has procured whatever facts and information may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the treasurer shall proceed to determine and assess against such person the tax, penalty and interest provided in this article, and shall notify the person by registered mail sent to his or her last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten days after the date such notice is sent.

(Ord. No. 00-5, § XI, 11-14-00)

Sec. 66-102. Duty of person going out of business.

Whenever any person required to collect and remit to the town any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax shall immediately become due and payable, and the person shall immediately make to the treasurer a report and remittance thereof.

(Ord. No. 00-5, § XII, 11-14-00)

Sec. 66-103. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchase of the payment of all or any part of the tax.

(Ord. No. 00-5, § XIII, 11-14-00)

Sec. 66-104. Enforcement.

(a) It shall be the duty of the treasurer to ascertain the name of every seller in the town, liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The treasurer may have issued a summons for such person, and the summons may be served upon such person by any town police officer in the manner provided by law and the treasurer may seek a conviction or other civil remedy including injunction, against such person.

(b) If the purchaser of any meals refuses to pay the tax imposed by this article, the seller may call upon the police department for assistance; and the investigation officer may, when probable cause exists, issue the purchaser a summons returnable to the general district court as provided by law.

(Ord. No. 00-5, § XIV, 11-14-00)

Sec. 66-105. Regulations.

The treasurer may issue regulations for the administration and enforcement of this article.
(Ord. No. 00-5, § XV, 11-14-00)

Secs. 66-106—66-125. Reserved.**ARTICLE V. CONSUMER UTILITY TAXES (ELECTRIC, NATURAL GAS,
TELEPHONE)*****Sec. 66-126. Definitions.**

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

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Kilowatt hours (kWh) delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible

***Editor's note**—Ord. No. 00-3, §§ A—E, adopted Oct. 25, 2000, amended Art. V, in its entirety, to read as herein set out. See the Code Comparative Table.

Cross reference—Utilities, ch. 74.

State law reference—Authority of town to levy utility tax, Code of Virginia, § 58.1-3814.

customer generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means any individual, corporation, company or other entity.

Pipeline distribution company means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses, and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

(Ord. No. 00-3, § A, 10-25-00)

Sec. 66-127. Electric utility consumer tax.

(a) In accordance with Virginia Code § 58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

- (1) *Residential consumers*: Such tax shall be \$0.01505 on each kWh delivered monthly to residential consumers by a service provider not to exceed \$3.00 monthly.
- (2) *Non-residential consumers*: Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:
 - a. Commercial consumers—Such tax shall be \$0.00625 on each kWh delivered monthly to commercial consumers, not to exceed \$20.00 monthly.
 - b. Industrial consumers—Such tax shall be \$0.01100 on the first 18.182 kWh and \$0.00070 on any amount over 18.182 kWh delivered monthly to industrial consumers.
- (3) The conversion of tax pursuant to this article to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect

(b) *Exemptions*. The following consumers of electricity are exempt from the tax imposed by this section 66-127:

The United States of America, the Commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance of tax*. The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the

service provider to this jurisdiction in accordance with Virginia Code § 58.1-3814, paragraphs F and G, and Virginia Code § 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the kWh will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly "maximum tax".

(Ord. No. 00-3, § B, 10-25-00)

Sec. 66-128. Local natural gas utility consumer tax.

(a) In accordance with Virginia Code § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

- (1) *Residential consumers:* Such tax on residential consumers of natural gas shall be at the rate of \$0.3000 on each CCF delivered monthly to residential consumers, not to exceed \$3.00 per month.
- (2) *Non-residential consumers:* Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below:
 - a. Commercial consumers such tax shall be at the rate of \$0.2000 on each CCF delivered monthly to commercial consumers, not to exceed \$20.00 monthly.
 - b. Industrial consumers such tax shall be \$0.0120 on each CCF delivered monthly to industrial consumers, not to exceed \$1500.00.
- (3) The conversion of tax pursuant to this article to monthly CCF delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(b) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section 66-128:

- (1) The United States of America, the Commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance of tax.* The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code § 58.1-3814, paragraphs H. and I., and Virginia Code § 58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the CCF will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly "maximum tax".

(Ord. No. 00-3, § C, 10-25-00)

Sec. 66-129. Telephone consumer tax.

(a) There is hereby imposed and levied by the town upon each and every purchaser of telephone service for residential, commercial or industrial purposes, a tax in the amount of 20 percent of the charge, exclusive of any federal or state tax thereon, made by the seller against the purchaser with respect to such telephone service, provided that in any case any monthly bill for telephone service shall exceed \$15.00, there shall be no tax computed on so much of such bill as shall exceed \$15.00. No tax shall be imposed on services or equipment furnished by telephone companies subject to public utility regulation during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons other than telephone companies subject to public utility regulation.

(b) *Section 66-130 Requirements particularly applicable to telephone service.* The tax imposed and levied by this article on purchasers with respect to telephone service shall apply to all charges made for local exchange service except as follows:

- (1) *Coin box telephone.* The total amount of the guaranteed charge on each bill rendered for semi-public coin box telephone service shall be included in the basis for the tax with respect to the purchaser of such service, but no other tax shall be imposed on telephone service paid for by inserting coin in coin-operated telephones.

- (2) *Flat rate service.* With respect to flat rate and flat message rate service, the tax shall apply to only the amount payable for local area service, and shall not apply to any specific charge for calls to points outside the town, or to any general charge or rate differential payable for the privilege of calling points outside the time.
- (3) *Message rate service.* Where purchasers of telephone service are charged on a message rate basis, the tax shall apply only to the basic charge for such service, and shall not apply to any charge for additional message units.

(Ord. No. 00-3, § D, 10-25-00)

Sec. 66-130. Penalties.

Any consumer of electricity, natural gas or telephone service failing, refusing or neglecting to pay the tax imposed and levied under this article, and any officer, agent or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than \$10.00 nor more than \$300.00. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

(Ord. No. 00-3, § E, 10-25-00)

Chapters 67–69

RESERVED

Chapter 70

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 70-1. Adoption of state law.
- Sec. 70-2. Compliance with chapter; violations and penalties generally.
- Sec. 70-3. Fines for parking violations.
- Sec. 70-4. Penalty for violation of article.
- Sec. 70-5. Private, commercial connections to road, highway system.
- Sec. 70-6. Definitions.
- Sec. 70-7. Applicability of chapter.
- Sec. 70-8. Powers and duties of mayor relative to traffic and parking generally.
- Sec. 70-9. Powers and duties of mayor relative to stop intersections and yield intersections.
- Sec. 70-10. Erection of signs.
- Sec. 70-11. Compliance with signs, etc.
- Sec. 70-12. Signs prerequisite to enforcement.
- Sec. 70-13. Traffic violation notices.
- Sec. 70-14. Presumption for parking violations.
- Sec. 70-15. Direction of traffic by officers of fire department, etc.
- Sec. 70-16. One-way streets.
- Sec. 70-17. Blocking driveways of filling stations, etc.
- Sec. 70-18. Lights on parked vehicles.
- Sec. 70-19. Unauthorized parking in taxicab parking spaces.
- Sec. 70-20. Removal and disposition of certain unattended vehicles.
- Sec. 70-21. Temporary removal and disposition of vehicles involved in accidents.
- Sec. 70-22. Trespass on lands of another; taking down trespass signs.
- Sec. 70-23. Leaving vehicles upon private property prohibited, removal and disposition of vehicles so left.
- Sec. 70-24. Allowing dump truck bed to remain in upright or raised position.
- Sec. 70-25. Parking in handicapped spaces.
- Sec. 70-26. Solicitation of occupants of motor vehicles.
- Secs. 70-27—70-45. Reserved.

Article II. Parking Meters

- Sec. 70-46. Establishment of zones.
- Sec. 70-47. Limitations on parking.
- Sec. 70-48. Parking overtime generally.

***Charter reference**—Power of town to regulate and prescribe rules and regulations with respect to motor vehicle traffic of all kinds, within the town, and the parking of motor vehicles on its streets and alleys, § 14.

Cross references—Speed limits in J.S. Easterly Park, § 38-1; unlicensed motor vehicles in J.S. Easterly Park, § 38-2; streets and sidewalks, ch. 58; vehicles for hire, ch. 78.

State law reference—Powers of town as to motor vehicles, generally, Code of Virginia, § 46.2-1300 et seq.

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- Sec. 70-49. Marking of spaces; erection; rights upon deposit of coin; signal as to elapse of parking time.
- Sec. 70-50. Deposit of coin and operation of meter.
- Sec. 70-51. Parking within space.
- Sec. 70-52. Defacing, etc.
- Sec. 70-53. Aiding, etc., violations of article.
- Secs. 70-54—70-75. Reserved.

Article III. Local Licensing

- Sec. 70-76. Assessment and collection of tax directed.
- Sec. 70-77. Amount of tax.
- Sec. 70-78. When taxes due and payable; date by which plates to be purchased.
- Sec. 70-79. Display of plates.
- Sec. 70-80. Transfer of plates; replacement of lost or mutilated plates.
- Sec. 70-81. Reserved.
- Sec. 70-82. Use of stickers in lieu of plates—Generally.
- Sec. 70-83. Same—Transfers or replacements.
- Sec. 70-84. Payment of personal property tax a condition of license.
- Sec. 70-85. Penalties for noncompliance.
- Secs. 70-86—70-105. Reserved.

Article IV. Inoperable Vehicles

- Sec. 70-106. Definition.
- Sec. 70-107. Prohibited.
- Sec. 70-108. Exemption.
- Sec. 70-109. Enforcement.
- Sec. 70-110. Order to remove.
- Sec. 70-111. Removal by town.
- Sec. 70-112. Disposal of vehicles.
- Sec. 70-113. Collection of town's costs.
- Sec. 70-114. Lien imposed.
- Sec. 70-115. Open storage.

ARTICLE I. IN GENERAL**Sec. 70-1. Adoption of state law.**

(a) Pursuant to the authority of Section 46.2-1313 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in Title 46.2 and in Article 2 Chapter 7 of Title 18.2 of the Code of Virginia, as amended, except those provisions which are contained in this chapter and except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the town are hereby adopted. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein.

(b) It shall be unlawful for any person, within the town to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or of Article 2 Chapter 7 of Title 18.2 of the Code of Virginia, which is adopted by this section, provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or under Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia.

(Code 1977, § 10-1; Ord. No. 91-2, § 10-1, 7-22-91; Ord. No. 92-1, § 10-1, 7-13-92; Ord. No. 94-6, 9-12-94; Ord. No. 95-1, 6-12-95; Ord. No. 98-1, 6-8-98; Ord. No. 99-1, 6-30-99; Ord. No. 00-1, 6-12-00; Ord. No. 01-1, 6-18-01; Ord. No. 02-2, 6-10-02; Ord. No. 03-1, 6-9-03; Ord. No. 04-2, 7-1-04; Ord. No. 05-1, 6-3-05; Ord. No. 07-1, 7-9-07; Ord. No. 08-1, 7-1-08; Ord. No. 09-1, 7-13-09; Ord. No. 10-03, 7-1-10; Ord. No. 12-01, 7-2-12; Ord. No. 13-01, 6-17-13)

Sec. 70-2. Compliance with chapter; violations and penalties generally.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this chapter and unless otherwise stated, such violations shall be as follows:

- (1) The first such violation shall constitute a class 4 misdemeanor.
- (2) The second such violation within one year shall constitute a class 3 misdemeanor.
- (3) The third, or subsequent, violation within one year shall constitute a class 2 misdemeanor.

(Code 1977, § 10-22)

State law references—Penalties under state law, Code of Virginia, § 46.2-1314; state law prohibiting town from imposing a penalty for violation of traffic ordinance in excess of that imposed by state for a similar offense, Code of Virginia, § 46.2-1300.

Sec. 70-3. Fines for parking violations.

For overtime parking in violation of the parking meter provisions of this chapter, the fine shall be \$2.00. For all other violations of the parking regulations of the town, the fine shall be \$5.00, except that violations of the handicapped parking zones and fire lane no parking

zones shall carry a fine of \$10.00 each. If parking violation fines are not paid to the town within five days after the assessment of the fine, a warrant may be issued against the owner of the vehicle in question.

(Code 1977, § 10-31; Ord. of 5-11-87)

Sec. 70-4. Penalty for violation of article.

Subject to section 70-3 and except as otherwise provided in this article, any person violating the provisions of this article shall, upon conviction, be punished by a fine of not less than \$2.00 and not more than \$50.00 or by imprisonment for not more than five days.

(Code 1977, § 10-32)

Sec. 70-5. Private, commercial connections to road, highway system.

(a) The town hereby adopts and incorporates by reference the provisions of Code of Virginia, §§ 33.1-197 and 33.1-198, and amendments thereto, pertaining to private and commercial connections to the town road and highway system. The town further hereby adopts and incorporates by reference all rules and regulations promulgated by the state department of transportation for the purposes of establishing and implementing the minimum standard of entrances to state highways, which rules and regulations shall apply to any and all entrances to the town road and highway systems.

(b) The purpose of this section is to adopt the state standards for entrances to roadways and highways for the purpose of establishing those standards for application to the streets and highways within the town and those state standards, whether established by state statute or by state regulation, are hereby adopted and incorporated by reference.

(Ord. No. 90-6-11, 6-11-90)

Sec. 70-6. Definitions.

Words and terms used and contained in this chapter shall be as defined in Code of Virginia, § 46.2-100.

(Code 1977, § 10-2)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 70-7. Applicability of chapter.

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles regardless of ownership, subject to such specific exceptions as are set forth in this chapter.

(Code 1977, § 10-3)

State law reference—Similar provisions, Code of Virginia, § 46.2-801.

Sec. 70-8. Powers and duties of mayor relative to traffic and parking generally.

(a) The mayor or his designee shall have power and is hereby authorized to regulate the operation and parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking, including parking meter zones, angle parking, the parking of buses, trucks and other vehicles of various weights, U-turns, turning at intersections, hazardous intersections, school zones, hospital zones, loading and unloading zones, quiet zones, traffic-control signals exhibiting colored lights or the words "go," "caution" or "stop" and other signs or markers indicating the place and manner of operating or parking vehicles in the town.

“go,” “caution” or “stop” and other signs or markers indicating the place and manner of operating or parking vehicles in the town.

- (1) The mayor or his designee shall also have power and is hereby authorized to regulate the movement of pedestrians upon the streets and sidewalks of the town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.
- (2) The mayor or his designee shall also have power and is hereby authorized to designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.
- (3) The mayor or his designee is further empowered and authorized to mark off traffic lanes on streets and parts of streets indicating and directing the flow of traffic.
- (4) The mayor or his designee shall further have power and is hereby authorized to secure all such necessary signs, signals or markers to be erected or placed on any street or part of a street.
- (5) The existence of such signs, signals or markers at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the mayor in accordance with the provisions of this section.
- (6) This section shall not be construed to apply to streets designated as a part of the state highway system.

(b) In the existence of the above powers, the mayor or his designee shall take into consideration the general nature of the street and/or sidewalks concerned, whether they are primarily residential, commercial or rural in nature, the width of the street, and the traffic count during peak hours of use. Before exercising the above powers, a public hearing shall be held after first advertising said hearing by publication in some newspaper of general circulation in the town once a week for two consecutive weeks preceding the day of the hearing. Interested parties shall have the right to present evidence either for or against any action contemplated by the mayor.

(Code 1977, § 10-4)

State law reference—Authority to delegate right to promulgate parking regulations, Code of Virginia, § 46.2-1220.

Sec. 70-9. Powers and duties of mayor relative to stop intersections and yield intersections.

(a) The mayor or his designee, pursuant to the guidelines set forth in section 70-8, may designate intersections, other than intersections at which one or more of the intersecting streets has been designated as a part of the state highway system, at which vehicles shall come to a full stop or yield the right-of-way.

(b) The mayor or his designee shall further have power and is hereby authorized to secure all such necessary signs, signals or markers to be erected or placed on or at any such inter-

section, so that an ordinarily observant person, who may be affected by such regulation, may be aware of such regulation.

(c) The existence of such signs, signals or markers at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the mayor in accordance with the provisions of this section. (Code 1977, § 10-5)

State law reference—Authority to delegate right to designate stop and yield right-of-way intersections, Code of Virginia, § 46.2-1301.

Sec. 70-10. Erection of signs.

(a) The mayor or his designee is authorized and directed to provide signs on the one-way streets designated in section 70-16 as will apprise an ordinarily observant person of such one-way streets.

(b) When it can be demonstrated to the satisfaction of the mayor or his designee that the strict enforcement of section 70-16 will cause an unreasonable hardship on some particular person relative to the loading or unloading of trucks or other vehicles on such one-way streets, the mayor or his designee may issue a special permit to such person or persons permitting a variance from the provisions of section 70-16. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the satisfaction of the mayor or his designee that the granting of such permit will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience to the person who seeks such permit.

(Code 1977, § 10-6)

Sec. 70-11. Compliance with signs, etc.

It shall be unlawful for any person to fail or refuse to comply with the directions indicated on any sign, signal or marker erected or placed in accordance with the provisions of sections 70-8 or 70-9, when such sign, signal or marker so placed or erected is visible and legible.

(Code 1977, § 10-7)

State law reference—Duty of drivers to obey road signs, Code of Virginia, § 46.2-830.

Sec. 70-12. Signs prerequisite to enforcement.

No provision of this chapter or regulation of the mayor for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that signs are required, such section shall be effective even though no signs are erected or in place.

(Code 1977, § 10-8)

Sec. 70-13. Traffic violation notices.

(a) Traffic violation notices shall be issued to violators of parking regulations and all other nonmoving regulations, with the exception of persons charged with parking too close to or in front of fire hydrants and fire stations and with the further exception of persons charged with parking meter violations, unless circumstances warrant other action, in which event the usual procedure of summons or arrest shall apply.

(b) Traffic violation notices may be settled by a payment, within a period of five days after issuance, of a minimum penalty of \$1.00, which payment shall be in complete satisfaction of the offense. Payment shall be made to such person at the town office as from time to time shall be designated by the town manager to receive such payment. Failure to settle a traffic violation notice as above provided shall be unlawful.

(c) The town manager shall set up and establish a full and complete procedure for handling traffic violation notices.

(d) All amounts paid in under this section shall be credited to and become a part of the general fund of the town.

(Code 1977, § 10-9)

Sec. 70-14. Presumption for parking violations.

In any prosecution charging a violation of any parking regulation, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Code of Virginia, § 46.2-600 et seq., shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

(Code 1977, § 10-10)

State law reference—Similar presumption, Code of Virginia, § 46.2-1220.

Sec. 70-15. Direction of traffic by officers of fire department, etc.

Officers of the fire department and members of the county rescue squad, when at the scene of a fire or other hazardous situation, may direct or assist in directing traffic thereat or in the immediate vicinity.

(Code 1977, § 10-11)

Sec. 70-16. One-way streets.

The following streets are hereby established and designated as one-way streets and, except as provided in section 70-10, it shall be unlawful for any vehicle to be driven or moved on such street in a direction other than as herein set forth:

(1) Court Avenue, between Russell Street and Virginia Street, for traffic moving south.

(2) Ferguson Avenue, between Main Street and Monk Street, for traffic moving south.

(Code 1977, § 10-13)

Sec. 70-17. Blocking driveways of filling stations, etc.

It shall be unlawful for any person to park any vehicle so as to block any driveway of any filling station or other like establishment.

(Code 1977, § 10-14)

Sec. 70-18. Lights on parked vehicles.

No lights need be displayed upon any vehicle when parked in the town in accordance with this chapter.

(Code 1977, § 10-15)

Cross reference—Fire prevention and protection, ch. 22.

Sec. 70-19. Unauthorized parking in taxicab parking spaces.

It shall be unlawful for any person to park any vehicle other than a taxicab in a taxicab parking space designated as provided in section 78-29.

(Code 1977, § 10-16)

Sec. 70-20. Removal and disposition of certain unattended vehicles.

(a) Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic or is parked in such manner as to be in violation of law or whenever any motor vehicle, trailer or semitrailer is left unattended for more than ten days upon any privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, within the town, or is abandoned upon such privately owned property, without the permission of the owner, lessee or occupant thereof, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.

(b) The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the town against any loss or expense incurred by reasons of removal, storage or sale thereof.

(c) Each removal shall be reported immediately to the chief of police, who shall give notice to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. Such owner, before obtaining possession of the motor vehicle, trailer or semitrailer, shall pay to the town all reasonable costs incidental to the removal, storage and locating the owner of the motor vehicle, trailer or semitrailer. Should the owner fail or refuse to pay the costs or should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search has been made, and after notice to the owner at his last-known address and to the holder of any lien of record in the office of the division of motor vehicles against the motor vehicle, trailer or semitrailer, the chief of police may, after holding the motor vehicle, trailer or semitrailer 60 days and after due notice of sale dispose of the same at public sale and the proceeds from the sale shall be forwarded by the chief of police to the town treasurer; provided, that if the value of such motor vehicle, trailer or semitrailer be determined by three disinterested dealers or garagemen to be less than \$50.00 which would be incurred by such advertising and public sale it may be disposed of by private sale or junked.

(d) The treasurer shall pay from the proceeds of sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner and paid to the owner upon satisfactory proof of ownership.

(e) If no claim has been made by the owner for the proceeds of such sale, after the payment of the costs, the funds may be deposited to the general fund or any special fund of the town. Any such owner shall be entitled to apply to the town within three years from the date of such sale and if timely application is made therefor, the town shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three years from the date of such sale.

(Code 1977, § 10-17)

State law reference—Similar state law, Code of Virginia, § 46.2-1213.

Sec. 70-21. Temporary removal and disposition of vehicles involved in accidents.

Whenever a motor vehicle, trailer or semitrailer involved in an accident is found upon the highways or streets in the town and is so located as to impede the orderly flow of traffic, the police may, at no cost to the owner or operator, remove such motor vehicle, trailer or semitrailer from the highways or streets to some point in the vicinity where such motor vehicle, trailer or semitrailer will not impede the flow of traffic.

(Code 1977, § 10-18)

State law reference—Similar state law, Code of Virginia, § 46.2-1212.

Sec. 70-22. Trespass on lands of another; taking down trespass signs.

(a) Any person who operates a motorcycle or other motor vehicle, as those terms are defined in Code of Virginia, § 46.2-100, as amended, upon the lands of another upon which signs or posters have been placed prohibiting the operating of motorcycles or other motor vehicles by others upon such lands, without having in his possession the written consent of the owner, or his agent, shall be guilty of a misdemeanor.

(b) Any person who shall mutilate, destroy or take down any "no motor bikes, motorcycles or jeeps allowed" sign or poster or similar sign or poster on the lands of another, or who shall post such sign or poster on the lands of another, without the written consent of the landowner or his agent, shall be guilty of a misdemeanor.

(Code 1977, § 10-19)

Sec. 70-23. Leaving vehicles upon private property prohibited, removal and disposition of vehicles so left.

(a) It shall be unlawful for any person to leave any motor vehicle, trailer, semitrailer or part thereof on the private property of any other person without his consent. Upon complaint of the owner of the property on which such motor vehicle, trailer, semitrailer or part thereof has been abandoned for more than five days, such motor vehicle, trailer, semitrailer or part thereof may be removed by or under the direction of a police officer to a storage garage or area. The person

at whose request such motor vehicle, trailer, semitrailer, or part thereof is so removed shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof.

(b) In the case of the removal of a motor vehicle, trailer, semitrailer or part thereof from private property, when the same cannot be readily sold, such motor vehicle, trailer, semitrailer or part thereof may be disposed of in such manner as the town council may provide.

(c) In all other respects, the provisions of section 70-20 shall apply to such removals; provided that disposal of a motor vehicle, trailer or semitrailer may at the option of the town council be carried out under either the provisions of section 70-20 or under the provisions hereof after a diligent search for the owner, after notice to him at his last-known address and to the holder of any lien of record in the office of the state division of motor vehicles against such motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least 60 days.

(d) The division of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under section 70-20 or the provisions hereof.

(Code 1977, § 10-20)

State law reference—Authority to adopt this provision, Code of Virginia, §§ 46.2-1215, 46.2-1233.

Sec. 70-24. Allowing dump truck bed to remain in upright or raised position.

It shall be unlawful for the owner or operator of a dump truck to allow the bed of such truck to remain in a raised or upright position, except when, in the ordinary course of business, the owner or operator is engaged in unloading his cargo at its assigned destination.

(Code 1977, § 10-21)

Sec. 70-25. Parking in handicapped spaces.

It shall be unlawful for the operator of a motor vehicle not displaying a license plate, decal or special parking permit issued under sections 46.2-731, 46.2-1238, Code of Virginia (1950), as amended, to park such motor vehicle in a parking space, identified by a sign four (4) to seven (7) feet above grade, reserved for the handicapped on public property or at privately owned parking areas in the town.

The violation of this section shall constitute a misdemeanor punishable by a fine of fifty dollars (\$50.00).

A summons for violation of this section may be issued by town police officers or other uniformed law enforcement town personnel. Where appropriate, such summons may be issued without the necessity of a warrant being obtained by the owner of such private parking area. (Ord. No. 94-1, 3-14-94)

Sec. 70-26. Solicitation of occupants of motor vehicles.

The following acts are hereby prohibited:

- (1) The distribution of handbills, leaflets, bulletins, literature, advertisements, or similar material to the occupants of motor vehicles on highways, roadways, public rights-of-way, and medians located within the boundaries of the Town of Lebanon; and
- (2) The solicitation of any nature from the occupants of motor vehicles on highways, roadways, public rights-of-way, and medians located within the boundaries of the Town of Lebanon; and
- (3) The sale of merchandise or services or the attempted sale of merchandise or services to the occupants of motor vehicles on highways, roadways, public rights-of-way, and medians located within the boundaries of the Town of Lebanon.

Any person violating the provisions of this ordinance shall be guilty of a traffic infraction as defined by the Code of Virginia.

(Ord. No. 70-26, 4-9-12)

Secs. 70-27—70-45. Reserved.**ARTICLE II. PARKING METERS****Sec. 70-46. Establishment of zones.**

For the purpose of this article, the parking meter zones shall be as established by the mayor as provided in section 70-8.

(Code 1977, § 10-23)

Sec. 70-47. Limitations on parking.

It shall be unlawful for the owner or operator of any vehicle to park such vehicle, for more than the maximum time indicated on the dial of the parking meter adjacent to the parking meter space within which the vehicle in question is parked, within any parking meter zone on Mondays through Fridays from 8:00 a.m. to 6:00 p.m., and on Saturdays from 8:00 a.m. to 6:00

p.m.; provided, however that this section shall not apply on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.
(Code 1977, § 10-24)

Sec. 70-48. Parking overtime generally.

If a vehicle parked in a parking meter space shall remain parked in any such parking meter space for such length of time that the meter shall indicate by proper signal that the lawful parking period has expired, such vehicle shall be considered as parked overtime and the parking of a vehicle overtime shall constitute a violation of this article.
(Code 1977, § 10-25)

Sec. 70-49. Marking of spaces; erection; rights upon deposit of coin; signal as to elapse of parking time.

On streets designated as parking meter zones the proper officers shall cause parking meter spaces to be marked on the pavements or curbs or by other appropriate measures and, in such spaces so marked, shall erect, or cause to be erected, parking meters. The deposit in such meter of a coin or combination of coins of the United States indicated on the meter will entitle the person making the deposit to park his vehicle for a limited time as indicated on the meter. Parking meters shall, by signal, indicate when the period of lawful parking has elapsed.
(Code 1977, § 10-26)

Sec. 70-50. Deposit of coin and operation of meter.

In order that the police officer may properly compute the time during which a vehicle is parked, the owner or operator of such vehicle shall, upon entering a parking meter space, during the time of limited parking, immediately deposit a coin of the United States in the parking meter situated at the side of the parking meter space in question and shall place the parking meter in question in operation according to instructions thereon. Failure to do so shall constitute a violation of this article. Upon deposit of such coin and the placing of the meter in operation, the parking space in question may be lawfully occupied by such vehicle during the period of parking time which has been prescribed for the particular amount deposited. The parking meters, when installed and properly operated, shall be so adjusted that coins of the United States may be deposited at any time throughout the maximum range of the meters; each one-cent coin permitting the vehicle to be parked for a period of 12 minutes, each five-cent coin permitting the vehicle to be parked for a period of 60 minutes and each ten-cent coin permitting the vehicle to be parked for a period of 120 minutes.
(Code 1977, § 10-27)

Sec. 70-51. Parking within space.

It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.
(Code 1977, § 10-28)

Sec. 70-52. Defacing, etc.

It shall be unlawful for any person to deface, tamper with, damage, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this article.

(Code 1977, § 10-29)

Sec. 70-53. Aiding, etc., violations of article.

It shall be unlawful for any person to aid, abet or assist in the violation of the provisions of this article.

(Code 1977, § 10-30)

Secs. 70-54—70-75. Reserved.

ARTICLE III. LOCAL LICENSING*

Sec. 70-76. Assessment and collection of tax directed.

There shall be assessed and collected a license tax on all motor vehicles, trailers and semitrailers, required to be licensed by the state, within the town and owned by residents of the town, or principally garaged within the town.

(Code 1977, § 10-33)

Sec. 70-77. Amount of tax.

The license tax on each motor vehicle, trailer or semitrailer licensed under this article shall be established by the council in the annual budget for the fiscal year.

(Code 1977, § 10-34)

Sec. 70-78. When taxes due and payable; date by which plates to be purchased.

All license taxes under this article shall be due and payable on March 15 of each year and the license plates shall be purchased not later than April 15.

(Code 1977, § 10-35)

Sec. 70-79. Display of plates.

All license plates shall be displayed on the vehicle in the same manner as state license plates are displayed.

(Code 1977, § 10-36)

Sec. 70-80. Transfer of plates; replacement of lost or mutilated plates.

(a) License plates issued under this article may be transferred to a vehicle other than that for which issued upon the payment of a transfer fee of \$1.00.

*Cross reference—Taxation, ch. 66.

(b) A replacement license plate may be issued, upon the payment of a fee of \$1.00, to replace a license plate issued under this article which has been lost, mutilated or stolen.
(Code 1977, § 10-37)

Sec. 70-81. Reserved.

Editor's note—Ord. No. 98-3, adopted June 8, 1998, repealed § 70-81, which pertained to applicability of members of county rescue squad, etc., and derived from Code 1977, § 10-38.

Sec. 70-82. Use of stickers in lieu of plates—Generally.

When directed by the town council, stickers may be issued and used in lieu of the license plates provided for in this article. Any such sticker issued in lieu of a license plate, as provided for by this article, shall be displayed on the windshield to the right, from the point of view of the driver of the vehicle, of, and level with, the state inspection sticker.
(Code 1977, § 10-39)

Sec. 70-83. Same—Transfers or replacements.

(a) A charge to be determined by council from time to time shall be made on all transfers or replacements of town auto license stickers.

(b) Pieces of vehicle license stickers shall be returned to the town hall when requesting transfer of registration or refund.

(c) The town treasurer shall be notified of any change of registration.
(Code 1977, § 10-40)

Sec. 70-84. Payment of personal property tax a condition of license.

At the time of application for a license decal under this article the applicant shall produce satisfactory evidence that all personal property taxes upon the motor vehicle, trailer or semi-trailer to be licensed which have been properly assessed or are assessable by the town have been paid and satisfactory evidence that any delinquent motor vehicle, trailer or semi-trailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town.
(Ord. of 2-12-96(2))

Sec. 70-85. Penalties for noncompliance.

It shall be unlawful for the owner or custodian of any motor vehicle, trailer or semi-trailer who is required by this section to obtain a license decal to display upon such motor vehicle, trailer or semi-trailer any such license decal after the expiration date of such license decal. Such violation shall constitute a misdemeanor and be punishable by a fine not exceeding \$50.00.
(Ord. of 2-12-96(2))

Secs. 70-86—70-105. Reserved.

ARTICLE IV. INOPERABLE VEHICLES*

Sec. 70-106. Definition.

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:

Inoperative motor vehicle means any motor vehicle which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal.

(Ord. of 4-2-87, § A)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 70-107. Prohibited.

It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property utilized for residential or commercial or agricultural purposes, any motor vehicle, trailer or semitrailer, such as defined in Code of Virginia, § 46.2-100, as amended, which is inoperative.

(Ord. of 4-2-87, § A)

Sec. 70-108. Exemption.

The provisions of this article shall not apply to a licensed business which has a permit from the town to regularly engage in business as an automobile dealer, salvage dealer, or scrap processor.

(Ord. of 4-2-87, § A)

Sec. 70-109. Enforcement.

The town shall have available to it any legal means allowed under state law to enjoin or prevent violation of this article.

(Ord. of 4-2-87, § B6)

Sec. 70-110. Order to remove.

The town council may require the owners of property utilized for residential or commercial or agricultural purposes to remove from such property any inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure.

(Ord. of 4-2-87, § B1)

***Cross references**—Solid waste, ch. 54; junkyards, § 54-91 et seq.

Sec. 70-111. Removal by town.

The town may, through its agents or employees, remove any inoperative motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so.

(Ord. of 4-2-87, § B2)

Sec. 70-112. Disposal of vehicles.

If the town, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers after having given such reasonable notice, the town may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

(Ord. of 4-2-87, § B3)

Sec. 70-113. Collection of town's costs.

The cost of any removal and disposal of an inoperative motor vehicle under this article shall be chargeable to the owner of the vehicle on premises and they may be collected by the town as taxes and levies are collected.

(Ord. of 4-2-87, § B4)

Sec. 70-114. Lien imposed.

Every cost authorized by this article with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs have been made to the town.

(Ord. of 4-2-87, § B5)

Sec. 70-115. Open storage.

(a) It shall be unlawful for any person to keep, except within a fully enclosed building or structure, or otherwise shielded or screened from view on any property zoned for residential or commercial purposes, any motor vehicle, trailer or semitrailer, as such are defined in section 46.2-100 of the Code of Virginia, the condition of which is inoperable. As used in this section, an "inoperable motor vehicle" means any motor vehicle which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(b) The owners of property zoned for residential or commercial purposes shall, at such time or times as the council may prescribe, remove therefrom any such inoperable motor vehicles, trailers or semitrailers described above that are not kept within a fully enclosed building or structure or otherwise shielded or screened from view.

(c) The town manager, or his designee, may remove any such inoperable motor vehicles, trailers or semitrailers as hereinabove described whenever the owner of the premises, after reasonable notice, has failed to do so. In the event any such motor vehicle, trailer or semitrailer is so removed, the town manager may dispose of the same, after giving additional notice to the owner of the vehicle.

(d) The cost of any such removal and disposal shall be chargeable to the owners of the vehicle or premises and may be collected by the town as taxes and levies are collected. Every such cost with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the town.

(Ord. No. 98-5, 12-14-98)

Editor's note—Ord. No. 98-5, adopted Dec. 14, 1998, was intended to be included as a new § 16-41; however, to maintain continuity within the Code, it has been included as a new § 70-115 at the editor's discretion.

Cross reference—Zoning, app. A.

State law reference—Authority for above section, Code of Virginia, § 15.2-904.

Chapters 71–73

RESERVED

Chapter 74

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- Sec. 74-66. Mailing of statements.

***Charter references**—Authority of town to establish, etc., public water supply system, § 10; authority of town to establish, etc., sanitary sewer system, § 11; authority of town to establish fees, rates and charges for use, etc., of public water system or sewage disposal system, § 12.

Cross references—Buildings and building regulations, ch. 10; fire prevention and protection, ch. 22; planning and development, ch. 46; streets and sidewalks, ch. 58; subdivisions, ch. 62; design standards for subdivisions, § 62-81 et seq.; utility tax, § 66-126 et seq.

State law references—Powers of town pertaining to public utilities generally, Code of Virginia, § 15.1-292 et seq.; regulation of local water supply systems, Code of Virginia, § 15.1-332.1 et seq.; regulation of local sewage disposal, Code of Virginia, § 32.1-163 et seq.

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ARTICLE I. IN GENERAL**Sec. 74-1. Definitions.**

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

Customer means each separate person using water for domestic purposes, watering of livestock or for business purposes, taking water by the means of and through a single service pipe, or through connecting service lines from the water mains of the town.

(Code 1977, § 20-42)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 74-2. Design, construction standards.

The town adopts the design and construction standards as set forth by state regulatory authorities, which standards are hereby incorporated by reference.

(Ord. No. 91-1, 7-22-91)

Sec. 74-3. Sewer, water connections—Required.

It shall be unlawful for the owner of any house or other building to be used as a human habitation to occupy or to rent or lease the same for occupancy by any person, or for any person to occupy the same, until such house or other building shall have been provided with a sewer connection or some other method of sewage disposal meeting the requirements of the state health department, as well as a supply of water, as required in section 74-5. If any landlord shall fail to supply any house or other building of his with such connections or method of disposal of sewage and such a supply of water, his tenant shall supply the same in conformity with the orders of the health officer and may deduct the cost thereof from any sum due the landlord for rent.

(Code 1977, § 20-1)

Sec. 74-4. Same—After January 30, 1989.

Except for existing users, all businesses and residences requiring water and sewer after January 30, 1989, shall be required to connect to the town water and sewer services where these services are available to the property from the town.

(Ord. No. 89-3, 1-30-89)

Sec. 74-5. Standard for water supply.

All premises intended for human habitation or occupancy shall be provided with a supply of pure and wholesome water, neither connected with unsafe water supplies nor cross connected through plumbing fixtures to the drainage system.

(Code 1977, § 20-3)

Sec. 74-6. Tap fees in trailer parks.

Each trailer space in a trailer park shall pay water and sewer tap fees the same as a resident and commercial establishment desiring water and sewer services from the town.
(Code 1977, § 20-2)

Sec. 74-7. Backfilling—Procedure.

Until the crown of water and sewer lines is covered by at least two feet of tamped earth, care shall be used in backfilling trenches. Loose earth, free of rocks, broken concrete, frozen chunks and other rubble, shall be carefully placed in the trench in six-inch layers and tamped in place. Care shall be taken to thoroughly compact the backfill under and beside the pipe to be sure that the pipe is properly supported. Backfill shall be brought up evenly on both sides of the pipe so as to retain proper alignment.
(Code 1977, § 20-4)

Sec. 74-8. Same—Minimum depth cover.

The minimum permissible depth cover shall be as set forth by state regulatory authorities on all water and sewer lines.
(Code 1977, § 20-5)

Sec. 74-9. When grease traps required.

(a) All businesses that utilize the town's sewer system, including, but not limited to, car washes and restaurants, shall be required to install a sump-pit grease trap or other preventive measure to keep solidified grease or other matter from flowing into the town sewer system and subsequently damaging the sewer plant or preventing the sewer plant from operating properly as designed.

(b) The town reserves the right to inspect the grease traps or other such preventive devices on a regular basis to assure itself that the business is complying with this section.

(c) Plans and specifications can be obtained at the town hall for constructing these devices. Any violation of this section shall be fined a minimum of \$100.00 and not to exceed \$500.00.
(Ord. No. 89-2, 1-30-89)

Secs. 74-10—74-30. Reserved.

ARTICLE II. RATES***Sec. 74-31. Water charges generally.**

All meter charges over and above minimum charges and including minimum charges for taking water by a customer shall be payable monthly and shall be determined by the amount of water used during the preceding month.

(Code 1977, § 20-43)

Sec. 74-32. Metered water—Residences.

The monthly water rates charged by the town for all water passing through meters to residences shall be established by the council in the annual budget for the fiscal year.

(Code 1977, § 20-44)

Sec. 74-33. Same—Business places.

The monthly water rates charged by the town for all water passing through meters to business places shall be established by the council in the annual budget for the fiscal year.

(Code 1977, § 20-45)

Sec. 74-34. Contract for additional costs when pumping of water required.

Whenever the town is required to pump water to any premises, water will be supplied only after the owner or occupant of such premises has entered into a contract with the town agreeing to pay to the town the additional costs of such pumping. Such pumping costs shall be in addition to the water charges specified in this article.

(Code 1977, § 20-46)

Sec. 74-35. Sewer services—Customers supplied with town water.

Monthly rates for sewer services by the town to residences and business places supplied with water from the town water system shall be based upon the amount of town water passing through the water meter to the premises in question. Such rates shall be established by the council in the annual budget for the fiscal year.

(Code 1977, § 20-47)

Sec. 74-36. Same—Property not supplied with town water.

Any person owning property connected to the town sewer system but not connected to the town water system shall pay such sewer service charges as may be established and agreed upon by contract with the council.

(Code 1977, § 20-48)

***Charter references**—Authority of town to prescribe water rates, § 10; authority of town to prescribe sewer rates, § 11; authority of town to impose late charges for unpaid water and sewer charges and to take legal action to collect overdue accounts, § 12.

Sec. 74-37. Same—Meters required.

(a) Each individual, residence, apartment, dwelling or business that utilizes water from a source other than water supplied by the town shall be required to install a water meter, to be provided by town, to service each such residence, apartment, dwelling or business, so that the town, for sewer billing purposes, may accurately determine the amount of water being used by such residence, apartment, dwelling or business.

(b) The water meter or meters required to be installed by this section shall be installed and maintained in operating condition by the landowner, and the meters shall be installed in a place and in a manner that town employees will have access to read the meters at reasonable times and reasonable hours.

(c) Failure to comply with this section shall constitute cause for the town to terminate sewer services, provided that the notice provisions of section 74-68, providing for termination of water service, are followed prior to the termination of such services.

(d) Each individual residence, apartment, dwelling or business unit shall be required to install a water meter, to be provided by the town, and to pay the appropriate connection fee to service each individual residence, apartment, dwelling or business unit.
(Ord. No. 89-1, 1-30-89; Mem. of 1-6-98, § 1)

Sec. 74-38. Finality of meter reading.

With regard to the quantity of water used by any customer, the quantity recorded by the meter in question shall be conclusive both on the customer and on the town council, except when the meter has been found to be registering inadequately or has ceased to register. In the latter case the quantity of water so used shall be determined by the average registration of the meter when in order.
(Code 1977, § 20-49)

Sec. 74-39. Responsibility of owner of building.

When water is supplied by the town through a single service line on which there is only one meter and such water is used by more than one segregated unit in the building, the owner of the building shall be responsible for the payment of the water bill.

However, only those situations in existence as of January 1, 1998, and approved by the town manager, where there is only one meter and such water is used by more than one segregated unit in the building, shall be permitted. After January 1, 1998, each individual unit, whether residential or business, served by town water shall be monitored by a separate meter. In the

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event a building that was approved by the town manager to utilize one meter for multiple units is converted, enlarged, renovated, remodeled, reconstructed, moved or structurally altered, a separate meter shall be required for each segregated unit.

The use of the building shall conform to the provisions of the zoning ordinance prevailing at the time.

(Code 1977, § 20-51; Mem. of 1-6-98, § 2)

Sec. 74-40. Ownership of meters.

All water meters through which water is supplied to customers shall be furnished by the town and shall remain the property of the town.

(Code 1977, § 20-54)

Sec. 74-41. Installation and location of meters.

Each meter installed for the measurement of water supplied by the town shall be installed by the town, or its appointed agent, at a location approved by the town or its agent.

(Code 1977, § 20-55)

Sec. 74-42. Control and inspection of meters.

Each meter installed for the measurement of water supplied by the town shall at all times be subject to control and inspection by the town or its agent and where any meter is located on private property, building or premises, the town shall have the right to enter upon or on the same at all reasonable hours for the purpose of inspection, repairing, replacing or removing such meter or to take meter readings.

(Code 1977, § 20-56)

Sec. 74-43. Responsibility for damage to meter.

Any meter injured for any cause, directly or indirectly, attributable to negligence of the owner or occupant, shall be renewed or repaired at the expense of such owner or occupant of the property in question.

(Code 1977, § 20-57)

Sec. 74-44. Unauthorized interference with meters.

No person other than an authorized representative of the town shall at any time remove, tamper with, undertake to repair or in any way interfere with the meter connected to the town system.

(Code 1977, § 20-58)

Sec. 74-45. Procedure when meter tampered with, etc.

If at any time it is found that a meter installed for the measurement of water supplied by the town has been tampered with or for any reason fails to register or shall be found defective in registering since the previous reading, the water consumption for such period shall be

estimated from other similar readings and the average taken of such readings for the same period, or from past readings or from a like installation.

(Code 1977, § 20-59)

Secs. 74-46–74-65. Reserved.

ARTICLE III. BILLING

Sec. 74-66. Mailing of statements.

The town shall mail all statements for water and sewer services, bills and/or notices of the town through the United States Postal Service, which statements, bills, and/or notices shall be addressed to the customer at the address last provided the town by such customer.

(Ord. of 4-7-80(2), § I(1))

Sec. 74-67. Changes of address.

It shall be the sole responsibility of each customer of the town to timely notify the town, at the town hall, of any change in customer's address. Address changes by the customer shall be effectuated by customers on forms which shall be provided to the customer upon request by the customer to the town hall. Address changes requested by the customer for billing purposes shall not be the responsibility of the town until the town receives such an address change request from the customer on the appropriate forms as prescribed by customer.

(Ord. of 4-7-80(2), § I(2))

Sec. 74-68. Statement content; disputes.

(a) The initial statement directed to each customer of the town shall state in plain English that the bill is due and payable in full within 20 days of the date of the billing, that if payment in full is not received on or before the expiration of 20 days from the date of such billing, the customer shall incur a penalty of ten percent of the outstanding balance of such bill, and that all undisputed bills shall be due and payable in full on or before the expiration of 37 days from the date of the initial billing or water service shall be terminated. Further, the initial billing shall also state in plain English that if the customer disagrees with a bill, the customer shall file a disputed bill claim on a proper form provided to the customer by the town at its office at the town hall, on or before the expiration of 20 days from the date of the initial billing.

(b) Disputed statement claim forms shall state the name of the claimant, his meter number, his service number, if any, and, further, such disputed statement claim form shall state with particularity the basis for the disputed claim. The disputed statement claim form shall be signed by claimant and by a representative of the town. The disputed statement claim form shall be dated as of the date of receipt of such disputed claim form in the office of the town hall. A copy of such disputed claim form shall be provided to the customer by the town.

(c) Upon the expiration of 30 days from the date that the initial statement is billed to customer, the town shall cause a second notice to be mailed to customer advising the customer

that service shall be terminated upon the expiration of seven days from the date of such second notice if the bill in question is not paid or if the customer has not filed a disputed statement claim with the town on or before the expiration of seven days from the date of the second notice. (Ord. of 4-7-80(2), § II)

Sec. 74-69. When due, penalty.

All statements directed to the customers of the town under this chapter shall be due and payable on or before the expiration of 20 days from the date of such billing. All statements not paid by customers of the town within 20 days of the date of billing shall incur a penalty in the amount of ten percent of the amount shown on such statement. (Ord. of 4-7-80(2), § I(3))

Sec. 74-70. Second notice, termination of service.

If a statement provided for by this article remains unpaid after the expiration of 30 days from the date of such statement, a second notice advising the customer in plain English that water service will be terminated to such customer upon the expiration of seven days from the date of such second notice if the delinquent water bill is not paid in full, to include the penalty, shall be mailed to the customer through the United States Postal Service at the customer's address as shown on the records of the town. (Ord. of 4-7-80(2), § I(4))

Sec. 74-71. Grievance procedure.

(a) Upon receipt of the disputed statement claim form as provided for in this article, the town manager or his designated employees shall attempt to resolve disputes with claimant and make appropriate adjustments or credits as provided by the rules and regulations of the town. The date, time and place of the informal conference shall be shown at the appropriate place on the disputed statement claim form as provided by the town. The designated personnel shall hear the claimant's claim and shall show the disposition of such claim on the disputed statement claim form provided by the town.

(b) Claimant may be represented by any person of his choosing at the informal initial hearing.

(c) If the claimant is unsatisfied with the disposition of his claim by the employee of the town, the claimant shall have a period of five days to appeal the decision of the employee of the town empowered by the town to hear and resolve statement disputes. Such appeal shall be noted in the appropriate space on the disputed statement claim form provided by the town, and the manager or the designated employees of the town shall advise the claimant of the next regularly scheduled disputed statement claim hearing by the committee of the town duly authorized to handle such claims. The time, place and date of the hearing of the committee of the town shall be noted on the disputed statement claim form provided by the town. (Ord. of 4-7-80(2), § III)

Sec. 74-72. Complaints as to charges.

Any user of water or of sewer service having a complaint in connection with the assessment of charges under this article shall report the same to the town manager, as provided in section 20-50, who shall adjust the same or refer the complaint to the council.
(Code 1977, § 20-52)

Secs. 74-73—74-95. Reserved.**ARTICLE IV. WATER SUPPLY SYSTEM****DIVISION 1. GENERALLY*****Sec. 74-96. Water superintendent—Appointment.**

The mayor shall appoint, by and with the advice and consent of the council, a water superintendent; provided, however, until otherwise provided by the council, the town manager shall be the water superintendent
(Code 1977, § 20-6)

Sec. 74-97. Same—Duties generally.

The water superintendent shall have supervision over the water system and all pipes, plugs and other properties in any way connected therewith. The water superintendent shall keep all parts of the machinery and equipment in connection with the water system in good order and repair. He shall keep a map showing the location of the main pipes and length and size of each of them. When there is an extension of any main pipe, he shall mark on the map the place of the extension, size of pipe used and other related information and shall keep an account of the cost of material and labor used in making such extension. He shall keep a record of all branch pipes, hydrants and other connections with the water system.
(Code 1977, § 20-7)

Sec. 74-98. Application for introduction of water to premises in the town.

Whenever any person owning property in the town along the line of any water main shall desire the introduction of water into such premises, he shall make written application therefor to the town manager. Such application shall set forth the name of the applicant, the location of the property into which the water is to be introduced, the purposes for which the water is to be used and the name of the plumber who is to do the work incident to the introduction of water into the premises. Such application shall also contain a provision which, upon acceptance of the application by the town manager and subsequent connection of the service pipe with the main, will obligate the owner of the premises to pay for all water furnished

***Editor's note**—The provisions of Art. IV have been redesignated as Art. IV, Div. 1 at the discretion of the editor in order to facilitate codification of Ord. No. 02-1 as Div. 2. See the Code Comparative Table for a detailed analysis of inclusion.

pursuant to such application, until the filing with the town manager of a written request for discontinuance of service. The town manager shall not cause water to be furnished at any water connection until the owner of the premises has agreed to pay for all water furnished.
(Code 1977, § 20-8)

Sec. 74-99. Permission of council prerequisite to supplying water outside of town.

No water shall be supplied by the town to any person outside the corporate limits of the town except upon express permission granted by the council.
(Code 1977, § 20-9)

Sec. 74-100. Supervision of water service introduction.

Water shall be introduced into premises only by or under the supervision of the water superintendent.
(Code 1977, § 20-10)

Sec. 74-101. Deposit required of applicants.

(a) Any person applying for town water service, either for property in the town or outside of the town, shall make a deposit to be determined by the town council from time to time.

(b) All new trailer park residents shall be required to make such deposit.
(Code 1977, § 20-11)

Sec. 74-102. Water connection fees—Property in town.

Where, within the corporate limits of the town, an existing water main lies adjacent to the property to be connected thereto, the connection fee for the connection of such property to such main shall be determined by the town council from time to time for a meter up to and including three-quarters of an inch in size and such connection fee shall be increased as determined by the town council from time to time for each increase in meter size above three-quarters of an inch.
(Code 1977, § 20-12)

Sec. 74-103. Same—Property outside of town.

Where, outside of the corporate limits of the town, an existing water main lies adjacent to the property to be connected thereto, the connection fee for the connection of such property to such main shall be determined by the town council from time to time for a meter up to and including three-quarters of an inch in size and such connection fee shall be increased as determined by the town council from time to time for each increase in meter size above three-quarters of an inch.
(Code 1977, § 20-13)

Sec. 74-104. Same—Special water taps.

For water taps two inches or more in size, the customer shall pay the water connection fees set forth in section 74-102 or section 74-103, as applicable, or actual installation cost where such cost exceeds the fees set out in these sections.

(Code 1977, § 20-14)

Sec. 74-105. Reserved.

Editor's note—Section 74-105, which pertained to water connection fees for subdivisions supplied through main laid by E.L. Whitt, has been deleted at the request of the city.

Sec. 74-106. Backflow prevention system—When required.

Approved backflow preventors or vacuum breakers shall be installed with any plumbing fixture or equipment, the potable water supply outlet of which may be submerged and which cannot be protected by a minimum air gap.

(Code 1977, § 20-16)

Sec. 74-107. Same—Cost.

Where a backflow prevention system is installed by the town, the water customer shall be liable for the actual installation costs of such system.

(Code 1977, § 20-17)

Sec. 74-108. Turning on water after turning off for nonpayment of charges, etc.

Where the water has been turned off for nonpayment of a bill by a customer or for any other valid reason, it shall not be turned on again until the customer shall have paid the charges or tariff as fixed in this chapter for the use of water, and paid a reconnection fee to be determined by the town council from time to time and made a \$15.00 deposit, if no such deposit has previously been made.

(Code 1977, § 20-18)

Sec. 74-109. Charge for turning off water at request of customer.

A charge to be determined by the town council from time to time shall be made for having water service to particular premises turned off at the request of a water service customer.

(Code 1977, § 20-19)

Sec. 74-110. How cutoffs made.

Water cutoffs shall be made by the water superintendent or his authorized agent.

(Code 1977, § 20-20)

Sec. 74-111. Check valves, etc., required.

Each person whose property is connected to the town water system shall provide a check valve between the town's meter and any hot water heater installed on the property and a cutoff valve on the service line on such person's property.

(Code 1977, § 20-21)

Sec. 74-112. Unauthorized use of water.

Any person who shall use water from the town's water system without having obtained the right to do so shall be guilty of a misdemeanor.

(Code 1977, § 20-22)

Sec. 74-113. Damaging property pertaining to system.

Any person who shall damage any property which pertains to or is a part of the town's water system shall be guilty of a misdemeanor.

(Code 1977, § 20-23)

Sec. 74-114. Emergency consequent upon shortage of water.

The mayor may, if at any time he is of the opinion that there is a shortage in the town water supply and that an emergency exists with respect thereto, at such time, give due and adequate notice of the existence of such emergency and prescribe the extent to which the use of water shall be curtailed. Any person found guilty of using water other than as permitted by the terms of the order of the mayor after due publication of the notice shall be guilty of a misdemeanor.

(Code 1977, § 20-24)

Sec. 74-115. Reservations by council—Maintenance of supply in reservoirs; restrictions on use of water.

The town council reserves the right to reserve a sufficient supply of water at all times in its reservoirs to provide for fires and other emergencies and to restrict or regulate the quantity or quality of water used by customers in the case of scarcity or whenever the public welfare may require it.

(Code 1977, § 20-25)

Sec. 74-116. Same—Cutting off water supply.

The town council reserves the right to cut off, for any cause, the water supply of any or all customers, upon 60 days' written notice.

(Code 1977, § 20-26)

Sec. 74-117. Same—Liability of town for damages, etc.

In case of exercise of rights reserved in section 74-115 or 76-116, the town shall not be liable:

- (1) For any damages or inconvenience suffered by any customer.

- (2) For any claim against it at any time for discontinuing the supply of water for any cause.
- (3) For interruption of services supplying water for any cause.
- (4) For lessening the supply of water or for furnishing a poor quality of water for any cause.

(Code 1977, § 20-27)

Sec. 74-118. Renewal of discontinued or suspended supply of water.

When the supply of water to the customer is discontinued or suspended by the town council for any cause, it may be renewed upon a proper written application on blanks supplied by the town council, when conditions, under which the supply of water to the customer is discontinued or suspended, are corrected, and on the payment of all charges provided in the schedule of rates or tariff of the use of water by the customer.

(Code 1977, § 20-28)

Sec. 74-119. Council as judge of discontinuance of water supply.

The town council shall be the sole judge whether it is feasible to correct the conditions under which the supply of water to the customer is discontinued or suspended.

(Code 1977, § 20-29)

Sec. 74-120. Reserved.

Editor's note—Section 74-120, which pertained to maps required when subdivision supplied by connection to by E.L. Whitt main, has been deleted at the request of the city.

Secs. 74-121—74-124. Reserved.

DIVISION 2. BACKFLOW PREVENTION AND CROSS CONNECTION CONTROL*

Subdivision I. In General

Sec. 74-125. Purpose.

The purpose of this division is:

- (1) To protect the public potable water supply of the town from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the customer's private water system(s) such contaminants or pollutants that could backflow into the town's public water system; and,

***Editor's note**—Ord. No. 02-1, §§ I—III, adopted May 13, 2002, did not specifically amend the Code; hence, inclusion herein as Div. 2, §§ 74-125—74-132, was at the discretion of the editor. See the Code Comparative Table for a detailed analysis of inclusion.

- (2) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-house potable water system(s) and non-potable water systems, plumbing fixtures, and industrial piping systems; and,
- (3) To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of the town's potable water system.

(Ord. No. 02-1, § I.A., 5-13-02)

Sec. 74-126. Responsibility.

The town manager or designee shall be responsible for the protection of the town's potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. In the judgment of the town manager or designee, an approved backflow prevention assembly is required at the customer's water service connection; or within the customer's private water system, for the safety of the town's water system, the town manager or designee shall give notice in writing to said customer to install such an approved backflow prevention assembly(s) at specific location(s) on the customer's premises. The customer shall immediately install such approved assembly(s) at customer's expense, and, failure, refusal, or inability on the part of the customer to install, conduct required testing, and maintain said assembly(s) shall result in the disconnecting of water service to the premises until such requirements have been satisfactorily met.

(Ord. No. 02-1, § I.B., 5-13-02)

Sec. 74-127. Definitions.

Approved means accepted by the town manager or designee, as meeting an applicable specification stated or cited in this division or as suitable for the proposed use.

Auxiliary water supply means any water supply on or available to the premises other than the town's approved public water supply. These auxiliary waters may include water from another public potable water supply or natural source(s) such as a well, spring, river, stream, and so forth; used waters; or industrial waters. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the town does not have sanitary control.

Backflow means the undesirable reversal of flow in the town's potable water distribution system as a result of a cross connection.

Backpressure means a pressure, higher than the town's supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause backflow.

Backsiphonage means backflow caused by negative or reduced pressure in the town's supply piping.

Backflow preventor means an assembly or means designed to prevent backflow.

- (1) *Air gap.* The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one inch.
- (2) *Reduced pressure backflow prevention assembly.* The approved reduced pressure principal backflow prevention assembly consists of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.
- (3) *Double check valve assembly.* The approved double check valve assembly consists of two internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health hazard pollutant.

Contamination means an impairment of the town's potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.

Cross connection means a connection or potential connection between any part of the town's potable water system and any other environment containing other substances in a manner that, under any circumstances would allow such substances to enter the town's potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non-potable), or any matter that may change the color or add odor to the water.

Controlled cross connections means a connection between the town's potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Cross connection control by containment means the installation of an approved backflow prevention assembly at the water service connection to any customer's premises, where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections that cannot be effectively eliminated or controlled at the point of the cross connection.

Degree of hazard means the term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the town's potable water system.

- (1) *Health hazard.* A cross connection or potential connection involving any substance that could, if introduced in the town's potable water supply, could cause death, illness, spread disease, or have a high probability of causing such effects.
- (2) *Plumbing hazard.* A plumbing-type cross connection in a consumer's potable water system that has not been properly protected by an approved air gap or an approved backflow prevention assembly.
- (3) *Non-health hazard.* A cross connection or potential cross connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable, if introduced into the town's potable water supply.
- (4) *System hazard.* An actual or potential threat of severe damage to the physical properties of the town's potable water system or the consumer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the town system.

Industrial fluids system means any system containing a fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration, such as would constitute a health, system, or plumbing hazard, if introduced into the town's approved water supply. This may include, but not limited to: polluted or contaminated waters; all types of process waters and used waters originating from the town's potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalies; circulating cooling waters connected to an open cooling tower; and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, or other systems, and so forth; oils, gases, glycerin, paraffins, caustic and acid solutions, antifreeze, and other liquid and gaseous fluids used in industrial or other purposes for fire-fighting purposes.

Pollution means the presence of any foreign substance in water that tends to degrade its quality so as to constitute a non-health hazard or impair the usefulness of the water.

Potable water means water that is safe for human consumption as described by the public health authority having jurisdiction.

Non-potable water means water that is not safe for human consumption or that is of questionable quality.

Service connection means the terminal end of a service connection from the town's potable water system, that is, where the town loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow

prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the town's potable water system.

Town manager or designee means the town manager or designee is in charge of the town's water system, and is invested with the authority and responsibility for the implementation of an effective cross connection control and backflow prevention program and for the enforcement of the provisions of this division. The program shall be carried out in accordance with the uniform statewide building code.

Used water means any water supplied by the town's potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the town.

(Ord. No. 02-1, § II., 5-13-02)

Secs. 74-128—74-130. Reserved.

Subdivision II. Requirements

Sec. 74-131. Water system.

(a) The water system shall be considered as made up of two parts: the town system and the customer system.

(b) The town system shall consist of the source facilities and the distribution system, and shall include all those facilities of the water system under the complete control of the town, up to the point where the customer's system begins.

(c) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.

(d) The distribution system shall include the network of piping used for the delivery of water from the source to the customer's system.

(e) The customer's system shall include those parts of the facilities beyond the termination of the town's distribution system that are utilized in conveying town delivered potable water to points of use.

(Ord. No. 02-1, § III.A., 5-13-02)

Sec. 74-132. Policy.

(a) No water service connection to any premises shall be installed or continued by the town unless the water supply is protected as required by the Virginia Department of Health, Office of Water Programs and by this division. Service of water to any premises shall be disconnected by the town if a backflow prevention assembly required by this division is not installed, tested as required, maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(b) The customer's system shall be open for inspection at all reasonable times to authorized representatives of the town to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations exist. When such a condition becomes known, the town manager or designee shall notify the customer or user of the building or premises of which there is found a violation of this division. The town manager or designee shall set a time for the customer or user to have the violation removed or corrected. On failure of the customer or user to have the violation corrected by the specified time interval, the town manager or designee shall deny or immediately disconnect service to the premises by providing a physical break in the service line until the customer or user has corrected the condition(s) in conformance with the Virginia Department of Health, Office of Water Programs and the Town Code relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(c) An approved backflow prevention assembly shall be installed by the manufacturer's recommendations, above ground, on each service line to a customer's water system at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line wherever the following conditions exist:

- (1) In the case of premises having an auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and that is not acceptable as an additional source by the town manager or designee, the town's water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard.
- (2) In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the town's water system, the town's water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the town's system that have been subject to deterioration in quality.
- (3) In the case of premises having (1) internal cross connections that cannot be permanently corrected and controlled, or (2) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the town's water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line.

(d) The type of protective assembly required under subsections 74-132(c)(1), (2), and (3) shall depend upon the degree of hazard that exists as follows:

- (1) In the case of any premises where there is an auxiliary water supply as stated in subsection 17-132(c)(1) of this section and it is not subject to any of the following rules, the town's water system shall be protected by an air gap separation or an approved reduced pressure principle backflow prevention assembly.

- (2) In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the town's water system, the town's water system shall be protected by an approved double check valve assembly.
- (3) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the town's water system, the town's water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly.
- (4) In the case of any premises where there are "uncontrolled" cross connections, either actual or potential, the town's water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection.
- (5) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-house cross connection survey, the town's water system shall be protected against backflow from the premises by either an approved air gap separation or an approved reduced pressure principle backflow prevention assembly on each service connection to the premises.
- (6) In the case of any premises where, in the opinion of the town manager or designee, an undue health threat is posed because of the presence of extremely toxic substances or other concerns, the town manager or designee may require an air gap at the service connection to protect the public water system. This requirement will be at the discretion of the town manager or designee and is dependent of the degree of hazard.

(e) Any backflow prevention assembly required herein shall be a type, model, and size approved by the town manager or designee. The term approved backflow prevention assembly shall mean an approved assembly complying with the uniform statewide building code and shall be manufactured in full conformance with the standards established by the American Society of Sanitary Engineering (ASSE) and the American Water Works Association (AWWA) titled:

AWWA C510-89-Standard for Double Check Valve Backflow Prevention Assembly, and

AWWA C511-89-Standard for Reduced Pressure Principle Backflow Prevention Assembly, and have completely met the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California (FCCHR) established by "Specification of Backflow Prevention Assemblies" —Section 10 of the most current issue of the Manual of Cross Connection Control. The above ASSE, AWWA standards and FCCHR specifications are adopted by this division. Final approval shall be shown by a "certificate of approval" issued by an approved testing laboratory certifying full compliance with the above ASSE, AWWA standards and FCCHR specifications. The following testing laboratories have been qualified by the town manager or designee to test and certify backflow preventers: The American Society of Sanitary

Engineering, Post Office Box 40362, Bay Village, Ohio, 44140, and the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California, University Park, Los Angeles, California, 90089. Testing Laboratories, other than the laboratories listed above, will be added to an approved list as qualified by the town manager or designee.

Backflow preventers that may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by one of the above qualified laboratories and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further testing or qualification.

(f) The type of protective assembly shall be selected from guidelines established by: the Virginia Cross Connection Control Association—Recommended best practice, BOCA National Plumbing Code: Volumes I and II, EPA Cross Connection Manual, Virginia Waterworks Regulations, AWWA M-14 Cross Connection Manual, Uniform Statewide Building Code, and the University of Southern California Foundation for Cross Connection Control and Hydraulic Research.

(g) Types of facilities, probable degree of hazard and type of containment assembly required.

- (1) *Hospitals, mortuaries, clinics, veterinary establishments, dental offices, nursing homes, and medical buildings:* High hazard—Required: Reduced pressure principle assembly.
- (2) *Laboratories:* High hazard—Required: Reduced pressure principle assembly.
- (3) *Sewage treatment plants, sewage pumping stations, or stormwater pumping stations:* High hazard—Required: Reduced pressure principle assembly.
- (4) *Food and beverage processing plants: Generally, a moderate hazard—Required: Double gate—Double check valve assembly. Use of toxins, etc. in processing: High hazard—Required: Reduced pressure principle assembly.*
- (5) *Chemical plants, dyeing plants, and pharmaceutical plants: High hazard—Required: Reduced pressure principle assembly.*
- (6) *Metal plating industries:* High hazard—Required: Reduced pressure principle assembly.
- (7) *Petroleum processing or storage plants:* High hazard—Required: Reduced pressure principle assembly.
- (8) *Radioactive materials processing plants or nuclear reactors:* High hazard—Required: Reduced pressure principle assembly.
- (9) *Car washes, laundries, and cleaners:* High hazard—Required: Reduced pressure principle assembly.
- (10) *Lawn sprinkler systems, irrigation systems:* High hazard—Required: Reduced pressure principle assembly.
- (11) *Fire service systems:* High hazard—Required: Reduced pressure principle assembly.

- (12) *Slaughter houses and poultry processing plants:* High hazard—Required: Reduced pressure principle assembly.
- (13) *Farms where the water is used for other than household purposes:* High hazard—Required: Reduced pressure principle assembly.
- (14) *Commercial greenhouses and nurseries:* High hazard—Required: Reduced pressure principle assembly.
- (15) *Health clubs/physical therapy clinics with swimming pools, therapeutic baths, hot tubs or saunas:* High hazard—Required: Reduced pressure principle assembly.
- (16) *Paper and paper products plants and printing plants:* High hazard—Required: Reduced pressure principle assembly.
- (17) *Pesticide or exterminating companies and their vehicles with storage or mixing tanks:* High hazard—Required: Reduced pressure principle assembly.
- (18) *Schools or colleges with laboratory facilities:* High hazard—Required: Reduced pressure principle assembly.
- (19) *High-rise buildings (four or more stories), unless otherwise covered:* Moderate hazard—Required: Double gate Double check valve assembly.
- (20) *Multi-use commercial, office, or warehouse facilities, unless otherwise covered:* Moderate hazard—Required: Double gate—Double check valve assembly.
- (21) *Others specified by the town manager or designee and/or the Virginia Department of Health, Office of Water Programs.*

All containment assemblies shall comply with AWWA standards and shall be approved for containment by the ASSE or FCCHR. In high hazard situations subject to backpressure, backflow prevention, by separation should be the method of choice wherever practical.

(h) Assembly testing. It shall be the responsibility of the customer or user at any premises where backflow prevention assemblies are required and installed to have certified inspections and operational tests made at least once per year. In those instances where the town manager or designee deems a hazard to exist, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the customer or user and shall be performed by a certified tester. The customer or user shall notify the town manager or designee in advance when the tests are to be undertaken so that the town manager or designee may witness the tests if so desired. These approved assemblies shall be repaired, overhauled, or replaced at the expense of the customer or user whenever said assemblies are found to be defective. The town manager or designee shall approve all assembly tests and inspections conducted by the tester. Any assembly test or inspection not approved shall be retested or re-inspected at the direction of the town manager or designee.

(i) Assembly tester. Tester shall be approved by the town manager or designee and shall be certified and licensed by the Virginia Department of Professional and Occupational Regulations as a backflow tester or worker. The tester will be responsible for performing accurate

tests, inspections, and for repairing or overhauling backflow prevention assemblies and filing specific inspection and testing reports to the customer and the town manager or designee. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be capable of using all the necessary tools, gauges, and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies. It will be the tester's responsibility to insure that original manufactured replacement parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material, or operational characteristics of an assembly during repair or maintenance without prior approval of the town manager or designee. A certified tester shall perform the work and be responsible for the accuracy of all tests and reports.

(j) Assembly records and reporting. Records of annual tests, inspections, repairs, overhauls, replacement, and tester certification, shall be submitted by the customer or tester to the town manager or designee on or before April 1st of each year. Failure to submit annual tests and inspections on or before April 1st of each year shall result in the disconnection of water service to the premises until such test has been submitted.

(k) Assembly testing report form. The assembly tester shall obtain from the town manager or designee, a specific inspection and testing report form for submittal, including technical information required by the town manager or designee to perform all tests.

(l) Falsifying of reports. Any tester, customer, or user falsifying any inspection or test shall be guilty of a Class 1 Misdemeanor punishable by a \$2,500.00 fine and/or 12 months in jail.

(m) Assembly overhauling or replacement. All backflow prevention assemblies shall be overhauled or replaced every five years. The overhaul or replacement of the assembly shall be recorded on the inspection and testing report form.

(n) Existing backflow assemblies. All presently installed backflow prevention assemblies that do not meet the requirements of this section but were approved assemblies for the purpose described herein at the time of installation and have been properly maintained, shall, except for the inspection and maintenance requirements under subsection 74-132(e), be excluded from the requirements of these rules so long as the town manager or designee is assured that they will satisfactorily protect the town's system. Whenever the existing assembly is moved from the present location, requires more than minimum maintenance, or when the town manager or designee requires, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

(Ord. No. 02-1, § III.B., 5-13-02)

Secs. 74-133—74-140. Reserved.

ARTICLE V. SEWER USE ORDINANCE*

DIVISION 1. GENERAL PROVISIONS

Sec. 74-141. Purpose.

The purpose of this article is to provide for the maximum possible beneficial public use of the Town of Lebanon Treatment Works through regulation of sewer construction, sewer use, and wastewater discharges to provide for equitable distribution of the costs of the treatment works and to provide procedures for complying with the requirements contained herein.
(Ord. of 8-11-97)

Sec. 74-142. Scope.

(a) The definitions of terms used in this article are found in division 2, below. The provisions of this article shall apply to the discharge of all wastewater to treatment works of the town. This article provides for use of the town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be

***Editor's note**—The Ord. of 8-11-97 repealed Art. V, and replaced it in its entirety to read as herein set out. The former Art. V pertained to similar subject matter. See the Code Comparative Table for more information. The Ord. of 8-11-97 did not specifically amend the Code; hence inclusion as §§ 74-141—74-287 was at the editor's discretion.

preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this article.

(b) This article shall apply to the Town of Lebanon, and to persons outside the town who are, by contract, permit or agreement with the town, users of the town's treatment works.
(Ord. of 8-11-97)

Sec. 74-143. Administration.

Except as otherwise provided herein, the town shall administer, implement, and enforce the provisions of this article.
(Ord. of 8-11-97)

Sec. 74-144. Fees and charges.

(a) All fees and charges payable under the provisions of this article shall be paid to the town. Such fees and charges shall be as set forth herein or as established in the latest edition of the town's treatment works user charge ordinance.

(b) All user fees, penalties, and charges collected under this article (and the treatment works user charge ordinance) shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the town, or the retirement of debt incurred for same.

(c) All fees and charges payable under the provisions of this article are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the town's treatment works user charge ordinance.
(Ord. of 8-11-97)

Sec. 74-145. Inspections.

(a) The town manager or authorized state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling, and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this Ordinance.

(b) The town manager, bearing proper credentials and identification, shall be permitted to enter all private property through which the town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the town's treatment works lying within the easement. All entry and any subsequent work on the easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in subsections 74-145(a) and (b) above, the town manager shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.
(Ord. of 8-11-97)

Sec. 74-146. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the town's treatment works. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed \$250.00.
(Ord. of 8-11-97)

Sec. 74-147. Severability.

If any provision of these regulations or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.
(Ord. of 8-11-97)

Sec. 74-148. Amendments of the ordinance.

Public notice shall be given in accordance with applicable provisions of the Town Charter, other town ordinances, state and federal law, prior to adoption of any amendments of this article.
(Ord. of 8-11-97)

Sec. 74-149. Conflicts.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article, are hereby repealed to the extent of the inconsistency or conflict.
(Ord. of 8-11-97)

Secs. 74-150—74-160. Reserved.

DIVISION 2. DEFINITIONS

Sec. 74-161. Specific definitions.

Unless the context of usage indicates otherwise, the meaning of specific terms in this article shall be as follows:

Act shall mean the Federal Clean Water Act, 33 U.S.C. 1251 et seq.

Approval authority means the Executive Director or Director of the Virginia Department of Environmental Quality.

ASTM shall mean the American Society for Testing and Materials.

Authorized representative of industrial user shall mean:

- (a) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or
- (b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or
- (c) A duly authorized representative of the individual designated in (a) or (b) above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the manager prior to or together with any reports to be signed by the authorized representative.

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building sewer shall mean the extension from a building wastewater plumbing facility to the treatment works.

Categorical pretreatment standard or categorical standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(a) and 307(c) of the act, which apply to specific category of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

Day shall mean the 24 hour period beginning at 12:01 a.m.

Discharger shall mean person or persons, firm, company, industry, or other similar sources of wastewater who introduce such into the POTW.

Easement shall mean an acquired legal right for the specific use of land owned by others, or by prescriptive right.

EPA shall mean the United States Environmental Protection Agency.

Existing source shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Establishment shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical, or biological properties of any state waters;

Garbage shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Ground water shall mean any water beneath the land surface in the zone of saturation.

Indirect discharge shall mean the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the act.

Industrial user or significant discharger (Class II) means a source of indirect discharge, or a nondomestic discharge to a treatment works.

Industrial wastes shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Interference shall mean an inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits, or sludge management plans.

Manager shall mean the town manager of the Town of Lebanon's wastewater system or an authorized designee.

May is permissible. *Shall* is mandatory.

Municipality shall mean a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

New source shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

Owner shall mean the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

Pass-through shall mean the discharge of pollutants through a POTW into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

Person shall mean any individual, firm, company, association, society, partnership, corporation, governmental entity, or other similar organization, agency, or group.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial waste, and the characteristics of the wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

POTW (publicly owned treatment works) shall mean any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Town of Lebanon Treatment Works.

Pretreatment requirement shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act, which applies to industrial users.

Prohibited discharges or prohibited discharge standards shall mean absolute prohibition against the discharge of certain substances. These prohibitions appear in article V, section 74-203.

Properly shredded garbages shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than 1/2-inch in any dimension.

Residential user (Class I) shall mean all premises used only for human residency and which is connected to the treatment works.

Sanitary wastewater shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Significant industrial user shall be defined as follows:

- (a) Has a process wastewater* flow of 25,000 gallons or more per average work day;
- (b) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (c) Is subject to categorical pretreatment standards; or
- (d) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

*Excludes sanitary, noncontact cooling and boiler blowdown wastewater

Slug load shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in division 5, section 74-203 or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a non customary batch discharge.

Standard Methods shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Environment Federation, and American Water Works Association.

State shall mean the Commonwealth of Virginia.

Storm sewer shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

Surface water shall mean:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate "wetlands";
- (c) All other waters such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as surface waters under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) "Wetlands" adjacent to waters, other than waters that are themselves wetlands, identified in paragraphs (a) through (f) of this definition.

Suspended solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to section 307(a)(1) of the act.

Treatment facility shall mean only those mechanical power driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations and unit treatment processes).

Treatment works shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, or industrial waste, including waste in combined sewer water and sanitary sewer systems.

User shall mean a source of wastewater discharge into a POTW.

User permit shall mean a document issued by the POTW to the user that permits the connection and/or introduction of wastes into the treatment works under the search provisions of this article.

VPDES shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

Wastewater shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

WEF shall mean the Water Environment Federation.
(Ord. of 8-11-97)

Sec. 74-162. General definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this article and not defined in 74-161 above, shall be as defined in the glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Environment Federation, Copyright 1969.
(Ord. of 8-11-97)

Secs. 74-163—74-170. Reserved.

DIVISION 3. USE OF THE TOWN OF LEBANON TREATMENT WORKS AND TREATMENT FACILITY

Sec. 74-171. Waste disposal.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage, or other objectionable waste.

Any person who willfully or negligently violates this section shall, upon conviction, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500.00, either or both.

(Ord. of 8-11-97; Ord. No. 01-2, 8-13-01)

Sec. 74-172. Wastewater discharges.

It shall be unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the town, or in any area under its jurisdiction. Wastewater discharges to the town's treatment works are not authorized unless permitted by the town manager in accordance with provisions of this article.

(Ord. of 8-11-97)

Sec. 74-173. Wastewater disposal.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(Ord. of 8-11-97)

Sec. 74-174. Connection to treatment works required.

The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a sewer connected to the treatment works of the town, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this article, within 90 days after notice that sewer is available within 200 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this article and applicable state and federal laws.

(Ord. of 8-11-97)

Secs. 74-175—74-180. Reserved.

DIVISION 4. BUILDING SEWERS AND CONNECTIONS

Sec. 74-181. Connection permit.

(a) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or a storm sewer without first obtaining a written permit from the town manager.

(b) There shall be two classes of permits for connections to the town's treatment works and treatment facilities.

Class I—Residential

Class II—Industrial

In all cases, the owner shall make application for a permit to connect to the town's treatment works on a form furnished by the town. The permit application shall be supplemented by

wastewater information required to administer this article. A permit and inspection fee of _____ dollars for a Class I, or _____ dollars for a Class II connection permit shall be paid to the Town at the time the application is filed.

(c) Connections to a storm sewer shall be subject to a permit and inspection fee of [_____] dollars. Such connections shall be subject to the provisions of this article and the approval of the town manager.

(Ord. of 8-11-97)

Sec. 74-182. Connection costs.

The costs and expenses incidental to the building sewer installation and connection to the town's treatment works shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. of 8-11-97)

Sec. 74-183. Separate connections required.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

(Ord. of 8-11-97)

Sec. 74-184. Existing building sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the town manager to meet the requirements of this article.

(Ord. of 8-11-97)

Sec. 74-185. Building sewer design.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF shall apply.

(Ord. of 8-11-97)

Sec. 74-186. Building sewer elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the town sewer.

(Ord. of 8-11-97)

Sec. 74-187. Surface runoff and groundwater drains.

(a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works unless such connection is authorized in writing by the town manager. The connection of such drains shall conform to codes specified in section 74-188 or as specified by the town manager as a condition of approval of such connection.

(b) Except as provided in subsection (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(Ord. of 8-11-97)

Sec. 74-188. Conformance to applicable codes.

The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the town, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the town manager before installation.

(Ord. of 8-11-97)

Sec. 74-189. Connection inspection.

The applicant for a building sewer or other drainage connection permit shall notify the town manager when such sewer or drainage connection is ready for inspection prior to its connection to the town's treatment works. Such connection inspections and testing as deemed necessary by the town manager shall be made by the town.

(Ord. of 8-11-97)

Sec. 74-190. Excavation guards and property restoration.

Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Ord. of 8-11-97)

Sec. 74-191. Protection of capacity for existing users.

The town manager shall not issue a permit for any class of connection to the town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The town manager may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Ord. of 8-11-97)

Secs. 74-192—74-200. Reserved.

DIVISION 5. CONDITIONS TO USE THE TOWN'S TREATMENT WORKS

Sec. 74-201. Special uses of treatment works.

All discharges of storm water, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under section 74-187. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this article.

(Ord. of 8-11-97)

Sec. 74-202. Industrial user—General prohibition upon.

An industrial user shall not introduce any pollutants into the town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

(Ord. of 8-11-97)

Sec. 74-203. Restricted discharges.

(a) No person shall discharge or cause to be discharged to any of the town's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

- (1) Create a fire or explosion hazard in the POTW including, but not limited to, gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas, wastestream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;
- (2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges having a pH lower than 5.0 or greater than 11.0;
- (3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

- (4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;
- (5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the town's sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the town has obtained prior approval from the approval authority;
- (6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;
- (7) Contain floatable oils, fat, or grease;
- (8) Contain toxic gases, vapors or fumes, malodorous gas, or substance in quantities that may cause a public nuisance or cause acute human health or safety problems;
- (9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations;
- (10) Contain any garbage that has not been properly shredded;
- (11) Contain any odor or color producing substances exceeding concentration limits which may be established by the manager for purposes of meeting the town's VPDES permit;
- (12) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or
- (13) Any trucked or hauled pollutants except at designated discharge points.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this article, the town manager establishes concentration limits to be met by a user, the town manager, in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the state such limits should become pretreatment standards.

(Ord. of 8-11-97)

Sec. 74-204. Categorical pretreatment standards.

(a) No person shall discharge or cause to be discharged to any treatment works, wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within three years of the date the standard is promulgated; provided however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(b) The town manager shall notify any industrial user affected by the provisions of this section and establish an enforceable compliance schedule for each.

(c) No person shall discharge trucked hazardous wastes to the town's treatment works.
(Ord. of 8-11-97)

Sec. 74-205. Special agreements.

Nothing in this article shall be construed as preventing any agreement or arrangement between the town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or suspended solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.

(Ord. of 8-11-97)

Sec. 74-206. Water and energy conservation.

The conservation of water and energy shall be encouraged by the town manager. In establishing discharge restrictions upon users, the town manager shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the town manager, each user will provide the town manager with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the town manager, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

(Ord. of 8-11-97)

Sec. 74-207. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or the state.

(Ord. of 8-11-97)

Sec. 74-208. Accidental discharges (slug load).

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. No user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the

user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within five days following an accidental discharge, the user shall submit to the town manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
(Ord. of 8-11-97)

Secs. 74-209—74-220. Reserved.

DIVISION 6. INDUSTRIAL DISCHARGERS

Sec. 74-221. Information requirements.

(a) All industrial dischargers shall file with the town wastewater information deemed necessary by the town manager for determination of compliance with this article, the town's VPDES permit conditions, and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the town manager and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in subsection (c), below.

(b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the town manager.

(c) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental

agencies for uses related to this article, The Virginia Pollutant Discharge Elimination System (VPDES) Permit, state disposal system permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.

(Ord. of 8-11-97)

Sec. 74-222. User permits.

(a) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within 180 days after the effective date of this article.

(b) Significant industrial users required to obtain a permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee of \$_____. Existing significant industrial users shall apply for a permit within [30] days after the effective date of this article, and proposed new significant industrial users shall apply at least [90] days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from address);
- (2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- (3) Wastewater constituents and characteristics, including but not limited to those mentioned in section 74-203 of this article, as determined by a reliable analytical laboratory (Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the act and contained in 40 CFR, Part 136, as amended.);
- (4) Time and duration of contribution;
- (5) Average daily and peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;
- (7) Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;

- (8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis; and if not, whether additional O & M and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

- i. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - ii. No increment referred to in paragraph i., above, shall exceed nine months.
 - iii. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the [manager] including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the town manager.
- (10) Each product produced by type, amount, process or processes and rate of production;
 - (11) Type and amount of raw materials processed (average and maximum per day);
 - (12) Number and type of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment system;
 - (13) Any other information as may be deemed by the town to be necessary to evaluate the user's permit application.

The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a user permit subject to terms and conditions provided herein.

(c) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the user permit of users subject to such standards shall be revised to require compliance with such standards if they are more restrictive than the local limits developed by the POTW within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for

a user permit as required by subsection 74-222(b), the user shall apply for a user permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing user permit shall submit to the [manager] within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subsections 74-222(b)(8) and (9).

(d) Permit conditions. User permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the town.

(1) Permits must contain the following:

- a. Limits on the average and maximum wastewater constituents and characteristics;
- b. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- c. Requirements for submission of technical reports or discharge reports (see section 74-223);
- d. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto;
- e. Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works; and
- f. Requirements for immediate notification of slug discharges.

(2) Permits may contain the following:

- a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- b. Requirements for installation and maintenance of inspection and sampling facilities;
- c. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule;
- d. Compliance schedules;
- e. Other conditions as deemed appropriate by the town to ensure compliance with this article; and
- f. Statement of applicable remedies.

(e) User permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in section 74-222 are modified or other must cause exists. The user shall be informed of any

proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(Ord. of 8-11-97)

Sec. 74-223. Reporting requirements for permittee.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the town manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in subsection (c), below. This statement shall be signed by an authorized representative of the user and certified to by a qualified professional.

(b) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the town manager during the months of June and December, unless required more frequently in the pretreatment standard or by the town manager, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the town manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the town manager may agree to alter the months during which the above reports are to be submitted.

(c) The town manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (b), above, shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the

discharge, including the flow and the nature and concentration, or production and mass where requested by the town manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to section 304(g) of the act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

(Ord. of 8-11-97)

Sec. 74-224. Provision for monitoring.

(a) When required by the town manager, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the town manager. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(b) The town manager shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(c) Where the town manager determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the town manager may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the town manager's judgment, provide a reasonably reliable measurement of such characteristics.

(d) Measurements, tests, and analyses of the characteristics of wastewater required by this article shall conform to 40 CFR Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Town's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.

(e) Fees for any given measurement, test, or analysis of wastewater required by this article and performed by the town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

(Ord. of 8-11-97)

Sec. 74-225. Costs of damage.

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the town's treatment works or treatment facility, the town manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

(Ord. of 8-11-97)

Secs. 74-226—74-240. Reserved.

DIVISION 7. PRETREATMENT

Sec. 74-241. Wastewaters with special characteristics.

(a) While the town manager should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the town manager may require any or all of the following:

- (1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;
- (2) Control over the quantities and rates of discharge;
- (3) The development of compliance schedules to meet any applicable pretreatment requirements;
- (4) The submission of reports necessary to assure compliance with applicable pretreatment requirements;
- (5) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;
- (6) Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the penalties specified in division 9 of this article, or appropriate criminal penalties; or
- (7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(b) When considering the above alternatives, the town manager shall assure that conditions of the town's permit are met. The town manager shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the

discharger. If the town manager allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The town manager shall review and recommend any appropriate changes to the program, within [30] days of submittal.

(c) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

(Ord. of 8-11-97)

Sec. 74-242. Compliance with pretreatment requirements.

Persons required to pretreat wastewater in accordance with section 74-241, above, shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the town manager as described in subsection 74-222(b)(9). The plan (including schedules) shall be consistent with applicable conditions of the town's permit or other local, state, or federal laws.

(Ord. of 8-11-97)

Sec. 74-243. Monitoring requirements.

Discharges of wastewater to the town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the user's permit.

(Ord. of 8-11-97)

Sec. 74-244. Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede subsection 74-241(a) if they are more stringent.

(Ord. of 8-11-97)

Sec. 74-245. Certification.

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional O & M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(Ord. of 8-11-97)

Secs. 74-246—74-260. Reserved.

DIVISION 8. WASTEWATER SERVICE CHARGES AND INDUSTRIAL COST RECOVERY

Sec. 74-261. Wastewater service charges.

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

(Ord. of 8-11-97)

Sec. 74-262. Industrial cost recovery.

Users of the town's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law.

(Ord. of 8-11-97)

Sec. 74-263. Determination of system use.

(a) The use of the town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of section 74-224 to the extent such measurement and analysis is considered by the town manager to be feasible and cost effective.

(b) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by subsection (c) below.

(c) The town manager, when determining actual use of the town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the town manager.

(The actual average water use by each residential user (Class I) during the three months of [January, February, and March] shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year.)

(Ord. of 8-11-97)

Secs. 74-264—74-280. Reserved.

DIVISION 9. ENFORCEMENT

Sec. 74-281. Harmful contributions.

The town may suspend the wastewater treatment service and/or a user permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of person, to the environment, causes interference to the treatment facilities, or causes the town to violate any condition of its VPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the user permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The town shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence.

(Ord. of 8-11-97)

Sec. 74-282. Revocation of permit.

Any user who violates the following conditions of this article, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this division for:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit.

(Ord. of 8-11-97)

Sec. 74-283. Notification of violation.

Whenever the town finds that any user has violated or is violating this article, user permit, or any prohibition, limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(Ord. of 8-11-97)

Sec. 74-284. Show cause hearing.

(a) The town may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The town manager may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

- (1) Issue in the name of the town manager notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the town manager for action thereon.

(c) At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(d) After the town manager has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. of 8-11-97)

Sec. 74-285. Legal action.

If any person discharges sewage, industrial wastes, or other wastes into the town's treatment works contrary to the provisions of this article, applicable federal or state pretreatment requirements, or any order of the town or if any industrial user refuses access to the town manager or his designee for purposes of inspection, the town attorney may commence an action for appropriate legal and/or equitable relief in the circuit court.

(Ord. of 8-11-97)

Sec. 74-286. Penalties.

The town manager shall have the authority to assess on any user who is found to have violated an order of the town manager or who failed to comply with any provision of this article

and the orders, rules, regulations, and permits issued hereunder a penalty of \$1,000.00 per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(Ord. of 8-11-97)

Sec. 74-287. Falsifying information.

Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or user permit; or who falsifies, any monitoring device or method required under this article, shall upon conviction, be guilty of a Class I misdemeanor.

(Ord. of 8-11-97)

Chapters 75–77

RESERVED

Chapter 78

VEHICLES FOR HIRE*

Article I. In General

Secs. 78-1—78-25. Reserved.

Article II. Taxicabs

Division 1. Generally

- Sec. 78-26. Definitions.
- Sec. 78-27. Compliance.
- Sec. 78-28. Condition of vehicles.
- Sec. 78-29. Designation, assignment of stands.
- Sec. 78-30. Drivers to complete accepted calls.
- Secs. 78-31—78-40. Reserved.

Division 2. Certificates of Public Convenience and Necessity

- Sec. 78-41. Required.
- Sec. 78-42. Form and contents of application.
- Sec. 78-43. Filing of application; investigation and report.
- Sec. 78-44. Grant or refusal; filing of approved applications with town manager.
- Sec. 78-45. Time for action on applications.
- Sec. 78-46. Notice to applicant of action upon application.
- Sec. 78-47. Issuance.
- Sec. 78-48. Contents.
- Sec. 78-49. Term.
- Sec. 78-50. Transfer.
- Sec. 78-51. Cancellation, revocation and suspension.
- Sec. 78-52. Substitution of vehicles.

***Charter reference**—Power of town to regulate taxicabs, § 14.

Cross references—Businesses, ch. 14; streets and sidewalks, ch. 58; traffic and vehicles, ch. 70.

State law reference—Authority of town to regulate taxicab services, Code of Virginia, § 56-291.3:1 et seq.

ARTICLE I. IN GENERAL

Secs. 78-1–78-25. Reserved.

ARTICLE II. TAXICABS***DIVISION 1. GENERALLY**

Sec. 78-26. 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:

Certificate means the certificate of public convenience and necessity granted to persons in the business of operating taxicabs.

Driver means any person driving a taxicab.

Owner means any person having control of the operation or maintenance of a taxicab or of the collection of revenue derived from its operation.

Taxicab means any motor vehicle used for the transportation for hire or reward of passengers and baggage upon the streets of the town, other than buses being operated under franchise and over fixed routes between fixed termini.

Taxicab driver's permit means a taxicab driver's permit granted to a driver.
(Code 1977, § 17-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 78-27. Compliance.

It shall be unlawful for any person to operate or permit, or cause to be operated, any taxicab within the town except in compliance with the provisions of this article.
(Code 1977, § 17-5)

Sec. 78-28. Condition of vehicles.

Taxicabs operated pursuant to this article shall at all times be kept clean and sanitary and in a safe physical condition to the satisfaction of the chief of police.
(Code 1977, § 17-2)

Sec. 78-29. Designation, assignment of stands.

The town manager may designate and assign stands for taxicabs or may require owners of taxicabs to furnish their own stands not on the town streets; provided, however, that no

***State law reference**—Authority of town to regulate taxicab services, Code of Virginia, § 56-291.3:1 et seq.

stand shall be assigned on Main Street. No metered parking space shall be used as a stand by any taxicab.

(Code 1977, § 17-3)

State law reference—Authority of town to designate taxicab stands, Code of Virginia, § 56-291.3:4.

Sec. 78-30. Drivers to complete accepted calls.

It shall be unlawful for the driver of a taxicab operated pursuant to this article to fail or refuse to complete an accepted call in the absence of a satisfactory reason.

(Code 1977, § 17-4)

Secs. 78-31–78-40. Reserved.

DIVISION 2. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY*

Sec. 78-41. Required.

No person shall use any vehicle under his control as a taxicab, or allow any vehicle under his control to be used as a taxicab, upon the streets of the town unless he shall have obtained a certificate in accordance with the provisions of this division.

(Code 1977, § 17-6)

Sec. 78-42. Form and contents of application.

Application for a certificate shall be made by the owner or proposed owner, in duplicate, and shall set out the following information:

- (1) Full name and home and business addresses of applicant.
- (2) Financial status and responsibility of applicant.
- (3) Name and address of person lending money or furnishing capital to applicant.
- (4) Motor number, kind, seating capacity, design and color scheme of each taxicab.
- (5) Convictions or pleas of guilty, if any, for violation of any law on part of applicant.
- (6) Experience of applicant in transportation of passengers for hire.
- (7) Reasons why applicant believes public convenience and necessity require the granting of the certificate applied for.

(Code 1977, § 17-7)

Sec. 78-43. Filing of application; investigation and report.

An application for a certificate shall be filed by the owner or proposed owner with the town manager prior to applying for a business license for operation of a taxicab business. The town

***State law reference**—Authority of town to regulate the licensing of taxicab drivers, Code of Virginia, § 46.2-310.

manager shall promptly investigate the matters stated in the application and report in writing to the town council prior to the next meeting of the town council.
(Code 1977, § 17-8)

Sec. 78-44. Grant or refusal; filing of approved applications with town manager.

The town council, upon report to it relative to an application for a certificate, filed as provided in section 78-43, shall determine whether the public convenience and necessity require the operation of the taxicab for which the application was filed. The town council may grant or refuse the certificate applied for or grant a certificate for a lesser number of vehicles than that specified in the application. Upon determination by the town council to grant a certificate, the approved application shall be filed with the town manager.
(Code 1977, § 17-9)

Sec. 78-45. Time for action on applications.

The town council shall consider and act on the applications for certificates within 60 days after receipt of such application.
(Code 1977, § 17-10)

Sec. 78-46. Notice to applicant of action upon application.

The town manager shall immediately notify in writing the applicant for a certificate of the action of the town council upon the application filed by such applicant.
(Code 1977, § 17-11)

Sec. 78-47. Issuance.

When an approved application for a certificate is filed with the town manager by the town council pursuant to section 78-44, the town manager, upon the filing with him by the applicant of a receipt indicating the payment of the requisite business license tax, shall issue to the applicant a certificate in accordance with the terms of the application as approved.
(Code 1977, § 17-12)

Sec. 78-48. Contents.

The certificates referred to in this division shall give the name of the owner, the motor number, the kind and description of every vehicle covered thereby, together with the date of issuance and the date of expiration.
(Code 1977, § 17-13)

Sec. 78-49. Term.

The certificates referred to in this division shall expire on December 31 annually, unless revoked or suspended as provided in this article.
(Code 1977, § 17-14)

Sec. 78-50. Transfer.

The certificates shall not be transferable from one person to another.
(Code 1977, § 17-15)

Sec. 78-51. Cancellation, revocation and suspension.

The town council may, for cause, cancel, revoke or suspend any certificate after notice to the holder of the certificate.
(Code 1977, § 17-16)

Sec. 78-52. Substitution of vehicles.

No vehicle shall be substituted for any vehicle described in a certificate until the vehicle to be substituted has been investigated and approved by the chief of police and the fact of such substitution endorsed on the certificate by him.
(Code 1977, § 17-17)

APPENDIX A

ZONING

For Charter provision authorizing town to exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the constitution and laws of the Commonwealth of Virginia, see Char., Sec. 1. As to power of town to adopt a building code, establish setback lines, establish building standards, and adopt a Comprehensive Plan, including subdivision of lands, see Char., Sec. 16. For state law authorizing town to adopt zoning regulations, see Code of Virginia, Sec. 15.1-486 et seq. As to planning generally, see Sec. 2-32, through 2-35 of this code. As to buildings generally, see ch. 4. As to erosion and sedimentation control, see ch. 5. As to fire prevention generally, see ch. 7. As to subdivision of land, see ch. 16. As to trailer camps and trailer parks, see ch. 19. As to floods and floodplain districts, see ch. 26.

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APPENDIX A—ZONING

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Article XIII. Interpretation and Applicability

Section 21-XIII-1. Definitions.

Section 21-XIII-2. Interpretation and applicability.

Section 21-XIII-3. Severability.

INTRODUCTION

An ordinance establishing rules, regulations, procedures and standards governing the zoning of land; providing for the appointment of a zoning administrator and a board of zoning appeals; for the development and maintenance of a zoning map; and for the administration and amendment of such regulations.

Pursuant to Section 15.1-486 et seq. Article 8, Title 15.1, Chapter 11 of the Code of Virginia, 1950, as amended, the governing body of the Town of Lebanon, Virginia, is authorized to adopt regulations governing zoning within said town.

Therefore, be it ordained by the Town Council of Lebanon, Virginia, that the following regulations are hereby adopted for the zoning of land within the corporate limits of the town from and after the effective date of this ordinance. Every owner or proprietor of any tract of land who establishes a use for such land or constructs buildings or other structures thereon shall do so only in conformance with these regulations. No building permit issued by Russell County shall be valid within the corporate limits of the town until such permit has been endorsed by the Town of Lebanon Zoning Administrator indicating that such permit is in conformance with these zoning regulations.

ARTICLE I. PURPOSE AND TITLE**Section 21-I-1. Purpose.**

This ordinance is for the general purpose of promoting the health, safety and general welfare of the public and for assisting in the planning of adequate highway, utility, health, educational and recreational facilities. Its further purpose is to insure that the needs of agriculture, industry and business are recognized in future growth; that residential areas are provided with healthy surroundings for family life; and that the growth of the community is consonant with the efficient and economical use of public funds. To these ends it is designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, playgrounds, recreational facilities and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against the following: overcrowding of land, undue density of population in relation to community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life, health, or property from fire, flood, panic or other

dangers; and (7) to encourage economic development activities that provide desirable employment and enlarge the tax base.

Section 21-I-2. Title.

This ordinance is known and may be cited as the "Zoning Ordinance of Lebanon, Virginia."

ARTICLE II. ZONING DISTRICTS

Section 21-II-1. Districts created.

The town is hereby divided into four (4) districts to be known as:

R-1 Single-Family District

R-2 General Dwelling District

C-1 Commercial District

M-1 Industrial District

Section 21-II-2. District boundaries.

The boundaries of the districts created by this chapter are shown on the Official Zoning Map of the Town of Lebanon, dated January 1, 1988, and revised August 24, 1988 and March 27, 1989, which map, along with all notations, references, revisions and other information shown thereon; is made a part of this chapter and given hereby the same force and effect as if fully set forth or described herein. The official zoning map is attested by the clerk of the town council and is on file in the office of the zoning administrator. The district boundary lines on such map are intended to follow centerlines of streets and alleys or lot lines. In the case of unsubdivided property, the district boundary lines shall be determined by the use of the scale appearing on the official zoning map.

Section 21-II-3. Annexed property.

All territory which may be annexed to the town subsequent to the adoption of this ordinance shall be considered to be in the R-1 Single-Family District until otherwise changed by ordinance.

Section 21-II-4. Use of land.

No land shall be used except for a purpose permitted in the district in which it is located, except that streets, alleys, other public ways, and essential public utilities are permitted in any district.

Section 21-II-5. Buildings to conform with regulations.

No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered unless such building conforms with the use regulations, the height regulations, the lot

area regulations, the yard regulations and the setback regulations in the district in which the building is located.

Section 21-II-6. Encroachment on existing lot.

The area of an existing lot shall not be reduced or diminished so that the yards or other spaces shall be smaller than required by this chapter.

Section 21-II-7. Lots of record.

This chapter shall not be construed to prevent the erection of a building on any lot of record on the date of adoption of this ordinance notwithstanding that such lot may have a lesser area than is required in the particular district in which such lot is located.

Section 21-II-8. Lot required.

All residential uses, public and semipublic uses, commercial uses, business uses, industrial uses, and all other nonfarm uses shall be located on a lot as herein defined. Not more than one single-family dwelling shall be permitted on a lot unless specifically provided otherwise in the district regulations.

Section 21-II-9. Nonconforming uses.

(a) The lawful use of land or a building existing upon adoption of this chapter; or a subsequent amendment to this chapter; although such use does not conform to the provisions of this chapter, may be continued; but if such nonconforming use is discontinued for more than two (2) years, any future use of such land or building shall be in conformity with the provisions of this chapter.

(b) A nonconforming use of land or a building shall not be changed to another nonconforming use.

(c) A nonconforming building which has been damaged by fire, explosion, or act of God or the public enemy, to the extent of more than two-thirds ($\frac{2}{3}$) of its fair market value immediately prior to the damage, shall not be restored except in conformity with the provisions of this chapter, unless otherwise permitted by this ordinance.

(d) In the event a nonconforming use of any building is discontinued, or its normal operation stopped for a period of two (2) years, the use of the same shall thereafter conform to the regulations of the district in which it is located unless otherwise authorized as a conditional use by the town council.

(e) A nonconforming building or use, except when required by law or ordinance, shall not be enlarged, extended, reconstructed or structurally altered unless such use is changed to one permitted in the district in which such premises are located or unless authorized as a conditional use by the town council.

ARTICLE III. R-1 SINGLE-FAMILY DISTRICT**Section 21-III-1. General.**

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the R-1 Single-Family District regulations.

Section 21-III-2. Use regulations.

In the R-1 District a building or premises shall be used only for the following purposes:

- (a) Uses permitted by right.
 - (1) Single-family dwelling, which for the purposes of this section shall not include a manufactured home, which is defined as a structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
 - (2) Public school, elementary or high, or a private or parochial school having a curriculum the same as ordinarily given in a public school; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (3) Church or other place of worship; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (4) Municipally owned or operated park, playground or community building, museum, water supply facility, library or art gallery; provided that no building shall be located less than twenty-five (25) feet from any side lot line.
 - (5) Golf club or golf course, except a miniature course or practice golf driving range operated for commercial purposes.
 - (6) Accessory buildings, structures and uses customarily incidental to the above uses, including a private garage. Any accessory building which is not a part of the main building shall be located not less than sixty (60) feet from the front lot line.
 - (7) One church or public bulletin board not exceeding ten (10) square feet in area, located on the same lot as the building.
 - (8) Temporary signs not exceeding thirty (30) square feet in area; located on the same lot; pertaining to the lease, hire or sale of a building or premises; or permanent signs not exceeding six (6) square feet in area pertaining to the lawful use, except a home occupation, for which the subject property is zoned and is being used. A temporary sign may be placed on the property for a period not exceeding thirty (30) successive days in any one-year period.

- (9) A building or structure used for municipally owned utility purposes which is necessary for the public convenience and welfare.
 - (b) Additional uses permitted by right only on unsubdivided acreage of at least two (2) acres.
 - (1) Agriculture, including farm dwellings and agricultural buildings; provided that buildings, other than residences, and restricted animal enclosures or pens shall be located no less than one hundred (100) feet from any adjacent residential lot line. This restriction does not apply to fences enclosing open pasture.
 - (c) Additional uses permitted only by conditional use permit.
 - (1) Home occupation, provided that: there is no group instruction or advertising on the premises; no displays or storage of materials are visible from the outside of the building; and no activity will be conducted which will create a nuisance to the community.
 - (2) A building or facility used for public utility purposes which is necessary for the public convenience and welfare.
 - (3) Professional office for the practice of law, engineering, architecture, or other related profession, provided that no advertising sign, other than a nameplate, is permitted.
- (Ord. No. 12-2, 7-16-12; Ord. of 4-4-22)

Section 21-III-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the R-1 District are as follows:

- (a) *Minimum lot dimensions.*
 - (1) Lot width: One hundred (100) feet.
 - (2) Lot area: Fifteen thousand (15,000) square feet.
- (b) *Minimum yards.*
 - (1) Front yard: Forty (40) feet.
 - (2) Side yard: Ten (10) feet.
 - (3) Rear yard: Twenty-five (25) feet.
- (c) *Maximum height of buildings.*
 - (1) Number of stories: Two and one-half (2½).
 - (2) Height in feet: Thirty-five (35).

Section 21-III-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE IV. R-2 GENERAL DWELLING DISTRICT**Section 21-IV-1. General.**

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the R-2 General Dwelling District Regulations.

Section 21-IV-2. Use regulations.

In the R-2 District a building or premises shall be used only for the following purposes:

(a) *Uses permitted by right.*

- (1) Any use permitted by right in the R-1 Single-Family District.
- (2) Two-, three- or four-family dwelling.
- (3) Boarding house or rooming house, provided that no such structure providing housing for persons convicted of one or more felony sex offenses shall be located within 1,000 feet of another dwelling, school, playground, or daycare facility.
- (4) Accessory buildings, structures and uses customarily incidental to the above uses.
- (5) Individual mobile home in mobile home parks, provided that all other town requirements are met with respect to mobile home parks. For purposes of this section, "mobile home" shall mean a manufactured home, which is defined as a structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(b) *Additional uses permitted only by conditional use permit.*

- (1) Any use permitted by conditional use permit in the R-1 District.
- (2) Mobile home on an individual lot. "Mobile home" for purposes of this section is defined as a structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
- (3) Mobile home park, for permanent residents only, subject to regulations of Ch. 19 of this code.

- (4) Multiple-family dwelling, with no limitation on number of units, except that any building having a separate entrance for each family unit shall contain no more than ten (10) family units.
- (5) Foster care home or group home serving physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons, not related by blood or marriage. (See Section 15.1-486.2, Code of Virginia.)
- (6) Lifecare or retirement home.
- (7) Nursing home.
- (8) Hospital, medical clinic or physician's or dentist's office, but not veterinarians or animal hospitals.
- (9) Radio or television tower.
- (10) Private club, fraternity, sorority or lodge.
- (11) Professional office for the practice of law, engineering, architecture or other similar or related profession, provided that no advertising sign, other than a nameplate, is permitted.
- (12) Commercial outdoor recreational area similar to a public recreational area provided that all physical improvements are located not less than one hundred (100) feet from any adjacent residential lot line.
- (13) Building or structure otherwise permitted by right or conditional use permit which exceeds thirty-five (35) feet in height provided all setbacks—front, side and rear—are each increased one (1) foot for every foot by which the building or structure exceeds thirty-five (35) feet.

(Ord. No. 12-3, 10-9-12; Ord. of 4-4-22)

Section 21-IV-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the R-2 District are as follows:

- (a) *Minimum lot dimensions:*
 - (1) Lot width: Sixty (60) feet.
 - (2) Lot area: Ten thousand (10,000) square feet.
- (b) *Minimum yards.*
 - (1) Front yard: Thirty (30) feet.
 - (2) Side yard: Ten (10) feet.
 - (3) Rear yard: Twenty-five (25) feet.
- (c) *Maximum height of buildings.*
 - (1) Number of stories: Two and one-half (2½).
 - (2) Height in feet: Thirty-five (35).

Section 21-IV-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE V. C-1 COMMERCIAL DISTRICT

Section 21-V-1. General.

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the C-1 Commercial District regulations.

Section 21-V-2. Use regulations.

In the C-1 District a building or premises shall be used only for the following purposes:

(a) *Uses permitted by right.*

- (1) Any retail or wholesale store or shop, except automobile and trailer sales and service and automobile service stations, provided all materials, are stored within a building.
- (2) Office building.
- (3) Bank or other financial institution.
- (4) School, public or private.
- (5) Church or other place of worship.
- (6) Recreational or cultural facilities, except drive-in theater.
- (7) Hotel or motel.
- (8) Restaurant.
- (9) Private club.
- (10) Hospital or medical clinic, except that the use of a building or premises for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance methadone, or other such controlled substances shall be prohibited, except when such service is provided by a hospital and is administered to residential patients by a licensed physician.
- (11) Animal hospital or veterinarian's office.
- (12) Advertising signs exceeding fifty (50) square feet but not exceeding one hundred fifty (150) square feet can be approved by the zoning administrator. All advertising signs exceeding one hundred fifty (150) square feet will be permitted by conditional use permit only.
- (13) Parking lot or garage.
- (14) Personal service uses; including barber shops, beauty shops, photographic or artists' studios.

- (15) When employing not over ten (10) persons on the premises and providing all materials are stored and work done within a building:
 - (a) Dressmaking, tailoring or shoe repairing.
 - (b) Dry cleaning, dyeing or laundry.
 - (c) Painting, plumbing or tinsmithing.
 - (d) Radio or television repair.
 - (e) Upholstering, not involving furniture manufacture.
 - (f) Any other general service or repair establishment of a similar character.
 - (16) Undertaking establishment or mortuary.
 - (17) Cemetery.
 - (18) Bakery.
 - (19) Radio or television broadcasting station, studio or office.
 - (20) Building for governmental or quasi-governmental functions.
 - (21) Accessory structures and uses customarily incidental to the above uses.
 - (b) *Additional uses permitted only by conditional use permit.*
 - (1) Automobile or trailer sales and service, including automobile service stations.
 - (2) Radio or television tower.
 - (3) Building or structure otherwise permitted by right or conditional use permit which exceeds fifty (50) feet in height, provided all setbacks front, side and rear are increased by one (1) foot for every foot by which the building or, structure exceeds fifty (50) feet.
 - (4) Advertising sign in excess of fifty (50) square feet.
 - (5) Residential use.
 - (6) Advertising signs exceeding fifty (50) square feet but not exceeding one hundred fifty (150) square feet can be approved by the zoning administrator. All advertising signs exceeding one hundred fifty (150) square feet will be permitted by conditional use permit only.
- (Ord. of 6-10-91; Ord. of 12-14-92; Mem. of 6-30-97, § 2; Ord. No. 04-01, 2-25-04)

Section 21-V-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the C-1 District are as follows:

- (a) *Minimum lot dimensions.*
 - (1) Lot width: None.
 - (2) Lot area: None.

(b) *Minimum yards.*

- (1) Front yard: Twenty (20) feet.
- (2) Side yard: None, except on the side of a lot abutting a residential district in which case the minimum side yard shall be ten (10) feet.
- (3) Rear yard: None, except on the rear of a lot abutting a residential district in which case the minimum rear yard shall be twenty-five (25) feet.
- (4) The above side and rear yards for lots abutting residential districts shall be increased by one (1) foot for every foot by which the height of the building or structure exceeds thirty-five (35) feet.

(c) *Maximum height of buildings.*

- (1) Number of stories: Four (4).
- (2) Height in feet: Fifty (50).

Section 21-V-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE VI. M-1 INDUSTRIAL DISTRICT**Section 21-VI-1. General.**

The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the M-1 Industrial District Regulations.

Section 21-VI-2. Use regulations.

In the M-1 District a building or premises shall be used only for the following purposes:

- (a) *Uses permitted by right.*
 - (1) Any use permitted by right in the C-1 Commercial District.
 - (2) Contract construction equipment and material storage.
 - (3) Grain and feed storage.
 - (4) Heating fuel or building material storage or wholesaling provided that the materials shall not be extracted or processed on the premises.
 - (5) Lumber and building material dealer.
 - (6) Radio and television tower.
 - (7) Trucking terminal.
 - (8) Warehousing.
 - (9) Plating of metals and formed products.
 - (10) Manufacturing, fabricating, processing or assembling of the following:
 - (a) Boats.
 - (b) Clothing.
 - (c) Pharmaceuticals.
 - (d) Furniture and wood products.
 - (e) Glass products.
 - (f) Ice.
 - (g) Musical instruments, games and toys.
 - (h) Office machines and electronic devices.
 - (i) Plastic products but not processing or raw materials.
 - (j) Beverages or food, except animal slaughtering or processing.
 - (k) Tools and hardware.
 - (l) Vehicles.
 - (11) Other manufacturing, fabricating, processing or assembling uses similar to those listed which do not create any dangers to health or safety in surrounding areas and which do not create any objectionable noise, vibration, dust, smoke, odor, heat or glare.

(12) Accessory structures and uses customarily incidental to the above uses.

(b) *Additional uses permitted only by conditional use permit.*

- (1) Extraction of natural resources.
- (2) Other uses of a manufacturing, storage or industrial nature not included elsewhere in this chapter but not the following:
 - (a) Acid manufacture.
 - (b) Junkyards.
 - (c) Ammonia, chlorine or bleach manufacture.
 - (d) Asphalt manufacturing or refining.
 - (e) Coal tar products manufacture.
 - (f) Hydraulic cement, lime, gypsum or plaster of Paris manufacture or processing.
 - (g) Explosives manufacture or storage.
 - (h) Fertilizer manufacture.
 - (i) Glue or glue size manufacture.
 - (j) Petroleum refining.
 - (k) Smelting of aluminum, lead, copper, zinc or iron ore.
 - (l) Tanneries.
 - (m) Paper or pulp mill.
 - (n) Garbage, offal or dead animal processing.
 - (o) Rendering plants, grease and tallow.
 - (p) Slaughtering plant.
 - (q) Uses which are similar to the foregoing or, which might be objectionable by reason of odor, dust, smoke, fumes, gas, noise or other nuisance.

Section 21-VI-3. Area and dimensional regulations.

Except as provided elsewhere in this chapter, the area and dimensional regulations in the M-1 Industrial District are as follows:

(a) *Minimum lot dimensions.*

- (1) Lot width: none.
- (2) Lot area: none.

(b) *Minimum yards.*

- (1) Front, yard: twenty (20) feet.
- (2) Side yard: None, except on the side of a lot abutting residential district in which case the minimum side yard shall be ten (10) feet.
- (3) Rear yard: None, except on the rear of a lot abutting a residential district in which case the minimum rear yard shall be twenty-five (25) feet.
- (4) The above side and rear yards for lots abutting residential districts shall be increased one (1) foot for every foot by which the height of the building or structure exceeds thirty-five (35) feet.

(c) *Maximum height of buildings.*

- (1) Number of stories: Eight (8).
- (2) Height in feet: One hundred (100).

Section 21-VI-4. Parking regulations.

Off-street parking shall be provided for specific uses as set forth elsewhere in this chapter.

ARTICLE VII. OFF-STREET PARKING AND LOADING

Section 21-VII-1. Parking requirements—All districts.

Except as otherwise exempted herein there shall be provided in all districts, at the time, any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

- (a) Dwelling, one-family or town house. Two (2) parking spaces for each dwelling unit.
- (b) Dwelling, multifamily. One and one-half (1½) parking spaces for each dwelling unit unless a lesser or greater number is required by town council in connection with the issuance of a conditional use permit for a specific project.
- (c) Rooming or boardinghouse. One (1) parking space for each sleeping room.
- (d) Fraternity, sorority, private club or lodge, including country or golf club. One (1) parking space for every five (5) members.
- (e) Church. One (1) parking space for each five (5) seats in the main auditorium.
- (f) School, elementary or middle. One (1) parking space for each four (4) seats in the main auditorium or assembly room, but not less than five (5) spaces for each classroom.
- (g) School, high or college. One (1) parking space for each four (4) seats in the main auditorium or ten (10) spaces for each classroom, whichever is greater.
- (h) Community center, library, museum or art gallery. Fifteen (15) parking spaces, plus (1) additional space for each two hundred (200) square feet of floor area.
- (i) Hospital. One and one-half (1½) parking spaces for every patient bed including emergency room treatment beds.
- (j) Convalescent home, nursing home, family care home or foster home. One (1) parking space for every two (2) beds.
- (k) Theatre, auditorium (except school), sports arena, stadium or gymnasium. One (1) parking space for each three (3) seats or seating places.
- (l) Hotel or motel. One (1) parking space for each sleeping room or suite, plus one (1) space for each two hundred (200) square feet of commercial or restaurant floor area.

- (m) Assembly or exhibition hall without fixed seats. Five (5) parking spaces for each one hundred (100) square feet of floor area.
- (n) Business or professional office, studio, bank, medical or dental clinic. Three (3) parking spaces, plus one (1) additional space for each two hundred (200) square feet of floor area.
- (o) Restaurant, (except fast food). One (1) parking space for each fifty (50) square feet of dining room area, plus one (1) space for each four (4) feet of counter used for serving meals.
- (p) Restaurant (fast food). One (1) parking space for each twenty-five (25) square feet of seating area.
- (q) Retail store or personal service establishment. One (1) parking space for each two hundred (200) square feet of floor area, plus one (1) space for each commercial vehicle owned or operated by the establishment.
- (r) Bowling alley. Four (4) parking spaces for each alley.
- (s) Mortuary or funeral home. One (1) parking space for each fifty (50) square feet of floor space in funeral service rooms.
- (t) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment. One (1) parking space for each three (3) persons employed on a maximum working shift plus one (1) parking space for each three (3) persons employed on a relieving shift. In no case shall the overall number of parking spaces be less than one (1) space for each four hundred (400) square feet of floor area. In addition one (1) suitable parking space shall be provided for each truck or other vehicle operated by the establishment.

Section 21-VII-2. Parking requirements—Computation.

Number of parking spaces required shall be computed as follows:

- (a) Floor area means the gross floor area of a particular use.
- (b) If the computation results in the requirement for a fractional space the next higher whole number of spaces shall be provided.
- (c) Parking spaces required for a use not specified shall be computed as for a use of similar nature which is specified.
- (d) Should there be an increase in building size or occupancy, after initial construction and determination of parking spaces required, additional spaces shall be added to conform to the changed conditions.
- (e) Parking spaces required for premises having mixed uses shall be the sum of those required for each use calculated separately.

Section 21-VII-3. Location of off-street parking.

Parking spaces required for dwellings shall be on the same lot as the dwelling they serve. Spaces for other uses shall be within five hundred (500) feet of the structure they serve.

Section 21-VII-4. Off-street loading.

Every building the use of which involves the receipt or distribution, of materials or merchandise by vehicles shall provide appropriate and adequate off-street loading space and maneuvering room to accommodate such vehicles. A minimum of one (1) loading shall be provided for each fifteen thousand (15,000) square feet of floor area or fraction thereof.

Section 21-VII-5. Ingress and egress.

All parking and loading spaces and associated drives and maneuvering room shall be provided in such manner that ingress and egress shall be safe and shall not interfere with or obstruct any public space. All entrances to public ways or streets shall be in accordance with applicable requirements of the Virginia Department of Transportation.

ARTICLE VIII. MODIFICATIONS AND EXCEPTIONS**Section 21-VIII-1. Purpose.**

Regulations set forth in this article modify, supplement or qualify the district regulations appearing elsewhere in this chapter.

Section 21-VIII-2. General modifications.

(a) Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory buildings in the rear yard and except for the ordinary projection of sills, belt courses, chimneys, pilasters, cornices and ornamental features. Required parking spaces may be located in any required yard.

(b) Open fire escapes may project into a required yard provided they are at least two (2) feet from any lot line.

(c) Terraces, uncovered porches and ornamental features which do not extend more than three (3) feet above the ground floor level may project into a required side or rear yard provided they are at least five (5) feet from any lot line.

(d) More than one multiple-family dwelling may be located on a lot provided there is at least twenty (20), feet between single story buildings and thirty (30) feet between buildings one of which is over one (1) story in height.

Section 21-VIII-3. Height regulations.

Height limitations stipulated elsewhere in this chapter shall not apply to:

- (a) Barns, silos or other farm buildings or structures on farms; church spires, belfries, cupolas and domes; monuments, water towers, fire and hose towers, observation towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio and television towers, masts and aerials.
- (b) Parapet walls extending not more than four (4) feet above the limiting height of the building.

Section 21-VIII-4. Yard and lot regulations.

Lot width and yard size regulations set forth in the district regulations are modified as follows:

- (a) Required lot widths shall be measured at the building setback line. Measurement shall be parallel to the street line.
- (b) Front yard setbacks shall be provided from all streets even though more than one street abuts the lot. This applies to double frontage and corner lots.
- (c) Where more than forty (40) percent of the frontage on one side of a street between two intersecting streets has been improved with buildings having setbacks greater or less than that otherwise required by the district regulations, the minimum setback line for new construction shall be the average setback of the existing buildings. In no case, however, shall the setback required be more than ninety (90) feet.

Section 21-VIII-5. Accessory buildings.

(a) No accessory building shall be built upon a lot until the main building has been completed.

(b) No accessory building shall be used unless the main building is in use.

(c) Accessory buildings in residential neighborhoods shall not exceed seven hundred (700) square feet in area or fifteen (15) feet in height. These dimensions may be exceeded by conditional use permit but no accessory building so authorized shall be disproportionately large which shall mean so large as to appear out of character with surrounding properties.

(d) No accessory building in any residential neighborhood shall be built in the front yard or closer than five (5) feet to any lot line.

Section 21-VIII-6. Walls and fences.

Walls and fences may be located on property lines or in required yards provided:

- (a) No wall or fence in a front yard shall exceed forty-two (42) inches in height.
- (b) No wall or fence in a rear or side yard shall exceed six (6) feet in height.

- (c) No wall, fence or planting shall be constructed which inhibits or obstructs safe visibility at street intersections. Safe visibility shall be determined by regulations of the Virginia Department of Transportation.
- (d) Walls or fences may exceed the required heights by conditional use permit.
(Mem. of 6-30-97, § 1)

ARTICLE IX. SITE PLANS

Section 21-IX-1. General.

Prior to the approval of a building permit for the construction of a structure or building and as a condition precedent thereto a site plan shall be submitted and approved for structures or buildings falling under certain categories. Unless specifically waived by the zoning administrator, site plans are required for the following:

- (a) Any development or use in the C-1 Commercial District or M-1 Industrial District.
- (b) Any multifamily building or development.
- (c) Any development or use requiring a conditional use permit.
- (d) All schools, churches, clubs and hospitals.

Section 21-IX-2. Required information.

Unless specifically waived by the zoning administrator, each site plan shall be drawn to an appropriate scale and shall include the following:

- (a) A vicinity map clearly showing the location of the property.
- (b) A boundary survey of the tract or lot.
- (c) A grading plan showing existing and proposed contours at a contour interval appropriate to the site but in no case greater than five (5) feet.
- (d) All existing and proposed streets, easements and utilities.
- (e) Ownership, zoning and use of all adjoining property.
- (f) Location, dimensions and design details of all proposed paved areas, parking spaces, driveways and vehicular entrances and exits.
- (g) Location, dimensions, height, number of floors, proposed general use and capacity of each building.
- (h) Building setback lines.
- (i) Provisions for adequate handling of drainage and stormwater.

Section 21-IX-3. Administration and approval.

Site plans shall be submitted for approval and under conditions set forth in Article XII of this chapter.

ARTICLE X. ZONING ADMINISTRATOR

Section 21-X-1. Appointment.

The town council shall appoint a zoning administrator who shall serve at its pleasure.

Section 21-X-2. Qualifications.

The zoning administrator shall have training and/or experience in municipal government and shall be conversant with state laws and general principles pertaining to zoning. He may hold one or more other town positions and shall be compensated as town council may direct.

Section 21-X-3. Duties.

The zoning administrator shall have the authority to enforce this chapter, to inspect buildings and uses for the purpose of insuring compliance with this chapter, and to order in writing the remedy of any condition found to exist in violation of this chapter.

ARTICLE XI. BOARD OF ZONING APPEALS

Section 21-XI-1. Appointment, membership and organization.

(a) Pursuant, to Section 15.1-494, Code of Virginia, a Board of Zoning Appeals, consisting of five (5) residents of the Town of Lebanon, shall be appointed by the Circuit Court of Russell County. Nominal terms of office shall be five (5) years with members eligible for reappointment to succeed themselves. Appointments shall be made so that the term of one member expires each year. The secretary of the board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other public office in the town or county except one (1) member may be a member of the Lebanon Planning Commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(b) With the exception of the secretary, the board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. The board may elect as secretary either one (1) of its own members or a qualified individual who is not a member of the board. A secretary, who is not a member of the board shall not be entitled to a vote on matters before the board. For the conduct of any and the taking of any action, a quorum shall not be less than a majority of all members of the board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Town of Lebanon and general laws of the Commonwealth of Virginia. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the town council at least once each year.

(c) Within the limits of funds appropriated by the town council, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical

services. Members of the board may receive such compensation as may be authorized by the town council. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held upon fifteen (15) days' notice.

Section 21-XI-2. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

- (a) To hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator or any other administrative officer in the administration or enforcement of this chapter. No such appeal shall be heard except after notice as required by law.
- (b) To authorize upon appeal, or original application in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

No such variance shall be authorized by the board unless it finds:

- (1) That the strict application of the terms of this chapter will produce undue hardship.
- (2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized except after notice and hearing as required by law.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make

reasonably practicable the formation of a general regulation to be adopted as an amendment to this chapter.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be observed.

- (c) To hear and decide applications for interpretation of the official zoning map where there is any uncertainty concerning the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by law, the board may interpret the maps in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the location of district boundaries as established by ordinance.
- (d) No provision of this section shall be construed as granting the board the power to rezone property.
- (e) To hear and decide applications for such special exceptions as may be authorized by this chapter. The board may impose such conditions relating to such special uses and permits as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be observed. No such special exception or conditional use permit may, be granted except after public notice and hearing required by law.

Section 21-XI-3. Appeal to board.

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town 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 chapter or any ordinance adopted pursuant thereto. Such appeal shall be taken within thirty (30) days after the decision from which the appeal arose 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 records pertaining to the action from which the appeal was taken. An appeal shall stay all proceedings in furtherance of the action from which the appeal was taken 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.

Section 21-XI-4. Procedure on appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within ninety (90) days of the filing of the application or appeal. In exercising its powers the board

may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination from which an appeal was taken. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

ARTICLE XII. ADMINISTRATION AND ENFORCEMENT

Section 21-XII-1. Building permit.

Prior to the construction of any building or structure in the Town of Lebanon a building permit shall be obtained from Russell County. Such permit, however, shall not be valid until endorsed by the Town of Lebanon Zoning Administrator as being in conformance with this chapter.

Section 21-XII-2. Application and fees.

(a) Application for endorsement of the building permit shall be made on forms and in the manner prescribed by the zoning administrator. If the zoning administrator finds that the proposed construction is in conformance with this chapter and is allowed as a use by right, and if he is in agreement with any required site plan submitted, he shall forthwith endorse the building permit. If he finds that a conditional use permit or a change in zoning classification is required, or if he finds that any required site plan is inadequate, he shall advise the applicant to prepare an application for conditional use permit or rezoning or to make necessary revisions in the site plan, as appropriate.

(b) Application for conditional use permit or for rezoning shall be made on forms prescribed by the zoning administrator.

(c) Fees covering endorsement of building permits, approval of site plans and conditional use permits, and rezoning applications shall be as determined by town council and shall be payable at the time application is made.

Section 21-XII-3. Conditional use permits.

The procedure for issuance of a conditional use permit shall be as follows:

(a) The applicant shall ascertain from this chapter or in conference with the zoning administrator that his proposed use is allowed by conditional use permit. He shall then make application for the permit and pay the established fee. The application shall be accompanied by a site plan prepared as set forth in Article IX hereof. Number of copies shall be as stipulated by the zoning administrator.

- (b) The zoning administrator shall arrange for proper notice and joint public hearing by the planning commission and the town council as set forth in Section 15.1-431, Code of Virginia.
- (c) The planning commission shall consider the request no later than its next regularly scheduled meeting after the public hearing and shall forward its recommendation to town council which shall consider the request no later than its next regularly scheduled meeting.
- (d) Upon approval by town council the zoning administrator shall issue the requisite conditional use permit and endorse the building permit.
- (e) The planning commission or the town council may, with approval of the applicant, request additional information or modification and again consider the application at a subsequent meeting. Should the applicant fail to agree to such request the commission or council shall either approve or disapprove the application, as submitted, forthwith.

Section 21-XII-4. Amendment and rezoning.

This chapter, including the official zoning map, may be amended by action of town council as follows.

Section 21-XII-5. Conditional zoning.

- (a) If amendment is instituted by the town staff or by the town council procedures shall be the same as for the adoption of any other ordinance which requires public advertisement and public hearing.
- (b) Rezoning may be requested by one or more property owners, in which case the following procedure will apply.
 - (1) The applicant shall make application on forms prescribed by the zoning administrator and pay the requisite fee.
 - (2) The zoning administrator shall notify affected property owners and arrange for public notice and joint public hearing of the planning commission and the town council all as set forth in Section 15.1-431, Code of Virginia.
 - (3) The planning commission shall consider the proposed rezoning no later than its next regularly scheduled meeting after the public hearing and shall forward its recommendation to town council which shall consider the rezoning no later than its next regularly scheduled meeting.
 - (4) Town council shall approve or disapprove the rezoning no later than thirty (30) days following the meeting at which it first considered the recommendation of the planning commission.

- (5) Upon approval of any rezoning the zoning administrator shall cause the official zoning map to be properly updated and attested by the clerk of council.

(c) No property owner initiated rezoning shall be considered unless requested by a majority of the property owners of the land proposed for rezoning. However, town council may at any time consider a rezoning or other amendment to this chapter on its own motion.

Pursuant to Section 15.1-491.1, et seq., Code of Virginia, an owner requesting a rezoning may, prior to public hearing, voluntarily proffer in writing reasonable conditions to accompany and become a part of the rezoning, if approved. Such proffer and the resulting conditional zoning shall all be in strict conformity with the state statute and shall be adopted and enforced as set forth therein.

ARTICLE XIII. INTERPRETATION AND APPLICABILITY

Section 21-XIII-1. Definitions.

For the purpose of this, chapter, certain terms and words are hereby defined. Words in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “building” shall include the word “structure” and the word “shall” is mandatory and not directory.

Accessory building or use: A building or use subordinate to the main building or use on the same lot, and serving a purpose naturally and normally incidental to such main building or use.

Building: Any structure having a roof supported by columns or walls.

Boardinghouse or rooming house: A building, other than a hotel, where for compensation and by prearrangement for definite periods meals, lodging, or meals and lodging, are provided for no less than three (3) or no more than twenty (20) persons.

Building height: The vertical distance from the finished grade, at its lowest point touching the building, to the level of the highest point of the roof surface if the roof is flat or inclined not more than one (1) inch vertical to one (1) foot horizontal, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type.

Building, main: A building which houses the principal use of which it is situated. In any residential district, any dwelling shall be deemed to be a main building.

Bulletin board: A sign.

Clinic: An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine together.

Club: A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose,, but not primarily for a profit or to render a service which is customarily carried on as a business.

Conditional use: A permitted use of a building or premises which is conditioned upon approval by the town council after public hearing and notice as a legislative matter pursuant to Section 15.1-491(c), Code of Virginia 1950, as amended.

Conditional zoning: Zoning of a parcel of land which is made subject to restrictions in addition to normal restrictions of the pertinent zoning district as a result of a voluntary written proffer made by the owner and approved by town council, after public hearing, pursuant to the provisions of Section 15.1-491.2, Code of Virginia 1950, as amended.

District (zoning district): Any section of the town for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes.

Dwelling, one-family (single-family): A building occupied by or designed for occupancy by one (1) family.

Dwelling two-family, three-family, four-family: A building occupied by, or designed for occupancy by, the designated number of families.

Dwelling, multiple-family: A building or portion thereof occupied by or designed for occupancy by five (5) or more families.

Fair market value: The price which will be paid by a willing buyer to a willing seller neither of whom is under any compulsion to act.

Garage, parking: A public or commercial building or portion thereof used exclusively for the storage of self-propelled vehicles, with no repair or servicing facilities.

Garage, private: An accessory building designed or used exclusively for the storage of self-propelled vehicles owned and used by the occupants of the building to which it is accessory.

Home occupation: Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or fully enclosed accessory building only by a member of the family residing on the premises.

Hotel: A building containing ten (10) or more guest rooms in which lodging or boarding and lodging are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Junkyard: Any lot used for storage, keeping or abandonment of junk, including scrap metals or other scrap materials; or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. The term "junkyard" includes "automobile graveyard" as defined in the state law.

Lifecare or retirement home: A home for the aged or infirm in which three (3) or more persons not of the immediate family are received, kept, or provided with food, shelter and care,

for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Loading space: A space within the main building or on the premises providing for the standing, loading or unloading of trucks, having a minimum dimension of twelve (12) by thirty-five (35) feet, and a vertical clearance of at least fourteen (14) feet. *Lot:* A parcel of land occupied or intended for occupancy by a use, including the yards and parking space, and having its principal frontage upon a street or upon officially approved space.

Lot width: Width of the lot at the front building setback line measured parallel to the street.

Mobile home: A one-family dwelling unit structure of vehicular design built on a chassis and designed to be moved from one site to another.

Mobile home park: Any plot of ground upon which three (3) or more mobile homes are located. This includes mobile homes which are stored on the property but does not include mobile homes for sale by a bona fide licensed dealer.

Motel: A building, or group of buildings, comprising individual sleeping or living units for the accommodation of transient guests, not containing cooking or kitchen facilities.

Nonconforming use: Any building or premises lawfully occupied by a use at the time of passage of this chapter, or amendment thereto, which, after passage of this chapter or amendment thereto, does not conform with the use regulations of the district in which it is located.

Nursing home: A lifecare or retirement home which features skilled nursing care for all residents.

Offstreet parking space: An area of not less than two hundred (200) square feet exclusive of drives, aisles, alleys and entrances. It must be suitable and usable for the storage or parking of one standard size automobile and shall be approximately nine (9), feet by twenty-two (22) feet. Offstreet parking for a single-family dwelling lot may be provided in a driveway on the lot.

Parapet wall: A low wall or railing to protect the edge of a roof.

Premises: A parcel of land, together with any buildings or structures located thereon.

Proffer (v.): To offer in writing to make certain changes or conditions with respect to a rezoning, with the pledge that the offered conditions will be a permanent restriction on or modification to the zoning classification of the rezoned land.

Proffer (n.): A written offer of conditions at the time of a rezoning request which conditions, if accepted by town council, will become a permanent part of, or restriction on, the zoning classification of the rezoned land.

Rezoning: The change of a parcel of land to a different zoning classification.

Setback: The minimum distance which must exist between a building or structure and the designated lot line.

Setback line, front: A line, extending between the side lot lines, which is parallel or concentric to and measured from the right-of-way line of the street on which the lot fronts, establishing the minimum distance between the right-of-way line of the street and the front wall of any building or structure erected upon such lot.

Sign: Any form of publicity, visible from any public street, directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports. Signs containing "danger" or "warning" messages required by governmental or other authorities shall not be within this definition.

Site plan: A drawing showing the planned development of a lot or tract as set forth in detail in Article IX of this chapter.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is not floor above it, the space between the floor and the ceiling next above it.

Structure: Anything constructed or erected which requires a location on the ground, or is attached to something having a location on the ground, including but not limited to advertising, billboards, fences, radio towers, and gasoline pumps.

Variance: A deviation from the terms of this chapter authorized by the board of zoning appeals pursuant to Section 15.1-496, Code of Virginia 1950, as amended.

Yard: An open space between a building or use and the adjoining lot lines, unoccupied or unobstructed by any portion of a structure or use from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard or the depth of a front or rear yard, the minimum horizontal distance between the building and the lot line shall be used.

Yard, front: The horizontal distance between the street right-of-way line and the front foundation wall of the main building and extending between the two (2) side lot lines. (Refer also to "setback line".)

Yard, rear: A yard extending across the rear of a lot between side lot lines. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. The rear yard in all cases shall be at the opposite end of the lot from the front yard.

Yard, side: A yard between the building and the side lot line and extending from the front building setback line to the rear yard line.

CODE COMPARATIVE TABLE

1977 CODE

This table gives the location within this Code of those sections of the 1977 Code which are included herein. Sections of the 1977 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

1977 Code Section	Section this Code	1977 Code Section	Section this Code
1-1-1-5	1-1-1-5	11-8	34-31
1-6-1-8	1-8-1-10	11-15, 11-16	34-5, 34-6
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2-13-2-22	2-91-2-100	12-1-12-3	38-1-38-3
2-23-2-31	2-111-2-119	12-4-12-7	38-31-38-34
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7-5-7-7	22-31-22-33	16-2-16-5	62-41-62-44
8-2	54-1	16-6	62-56
8-3, 8-4	54-31, 54-32	16-7	62-59
8-5-8-9	54-34-54-38	16-8	62-81
8-10	54-31	16-9-16-22	62-82-62-95
8-11, 8-12	54-51, 54-52	16-23, 16-24	62-57, 62-58
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10-33-10-40	70-76-70-83	20-6-20-30	74-96-74-120
11-1	34-1	20-31-20-41	74-141-74-151
11-6	34-3	20-42	74-1

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1977 Code Section	Section this Code
20-43—20-48	74-31—74-36
20-49	74-38
20-51	74-39
20-52	74-72
20-54—20-59	74-40—74-45

CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1977 Code which are included herein. Ordinances adopted prior to such date were incorporated into the 1977 Code, as supplemented. Ordinances adopted since the 1977 Code, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Section	Section this Code
1-	7-80(Ord.)	1.01	74-162
		1.02	74-161
		2.01-2.08	74-165-74-172
		3.01-3.04	74-173-74-176
		4.01-4.06	74-177-74-182
		5.01, 5.02	74-183, 74-184
		6.01, 6.02	74-163, 74-164
4-	7-80(1)(Ord.)		6-32
4-	7-80(2)(Ord.)	I(1), I(2)	74-66, 74-67
		I(3), I(4)	74-69, 74-70
		II	74-68
		III, IV	74-71, 74-72
1-	9-84(Ord.)	A	66-57
		A1	66-56
		A3-A10	66-59-66-66
		A11	66-58
		A12	66-67
		B	66-91
		B1	66-92
		B2	66-91
		B3	66-95
		B4	66-96
		B5-B10	66-97-66-102
		B11, B12	66-93, 66-94
		B13, B14	66-103, 66-104
3-	19-87(Ord.)	1.1-1.3	26-2-26-4
		1.4	26-6
		2.1-2.4	26-36-26-39
		art. III	26-40-26-42
		3.1, 3.2	26-43, 26-44
		3.3A-3.3E	26-45-26-49
		art. IV	26-9
		art. V	26-5
		art. VI	26-8
		art. VII	26-1
		8.2	26-7

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Ordinance Number	Date	Section	Section this Code
	4- 2-87(Ord.)	A	70-106–70-108
		B1–B5	70-110–70-114
		B6	70-109
	4-20-87(1)(Ord.)	4	54-2
	4-20-87(2)(Ord.)	2	54-91
		3	54-106
			54-110, 54-111
		4	54-107
		5	54-109
		6	54-95
			54-108
		7, 8	54-112, 54-113
		9	54-113
		10	54-94
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		12, 13	54-92, 54-93
	5-11-87(Ord.)		70-3
89-1	1-30-89		74-37
89-2	1-30-89		74-9
89-3	1-30-89		74-4
	1-30-89(Ord.)		18-1
89-5	2-13-89		34-2
89-6-26-A	6-26-89	1, 2	66-1
89-6-26-B	6-26-89		54-33
	6-26-89(Ord.)	1–4	54-2
	9-11-89(Ord.)		50-9
89-10	10-23-89	1	66-126
		2–8	66-129–66-135
		9, 10	66-127, 66-128
	1-22-90(Ord.)	1.1–1.3	74-197–74-199
		2	74-196
		3.10–3.18	74-202–74-210
		3.191–3.198	74-211–74-218
		4.1, 4.2	74-219, 74-220
		5.1, 5.2	74-200, 74-201
	4- 9-90(Ord.)	art. I, § 1B	50-1
		art. I, § 1C	50-2
		art. I, § 1D	50-3
		art. I, § 2–	50-4–50-7
		art. I, § 5	
		art. II, § 1–	50-31–50-55
		art. II, § 25	
		art. II.I, § 1	50-8
		art. III, § 1–	50-76–50-84
		art. III, § 9	
		art. IV, § 1,	50-106, 50-107
		art. IV, § 2	

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		art. IV, § 3— art. IV, § 8 art. IV, § 9 art. IV, § 10	50-109—50-114 50-108 50-115 70-5
90-6-11	6-11-90		
	8-13-90(1)(Ord.)	A A2 B	66-57 66-57 66-91
	8-13-90(2)(Ord.)	A1 A3—A10 A11 A12 B1 B2 B3—B10 B11, B12 B13, B14	66-56 66-59—66-66 66-58 66-67 66-92 66-91 66-95—66-102 66-93, 66-94 66-103, 66-104
91-1	7-22-91		74-2
91-2	7-22-91	10-1	70-1
91-3	7-22-91		58-61—58-63
92-1	7-13-92	10-1	70-1
	11- 9-92(Ord.)	9-1—9-4 9-4(1), 9-4(2) 9-5 9-6—9-26	14-1—14-4 14-5, 14-6 14-7 14-9—14-29
	6-10-91(Ord.)		App. A, § 21-V-2(b)(5)
	12-14-92(Ord.)		App. A, § 21-V-2(b)(5)
93-2	10-12-93		34-34
93-3	12-13-93	1—7	Adopting ord. pg. ix
94-1	3-14-94		70-25
94-2	3-14-94	1—3	11-21
94-3	6-13-94		54-2(a), (b)
94-5	8- 9-94		53-1—53-6 53-21—53-25
94-6	9-12-94		70-1
95-1	6-12-95		70-1
	2-12-96(1)(Ord.)		54-40—54-42
	2-12-96(2)(Ord.)		70-84, 70-85
	2-10-97(Ord.)	A—I	14-1—14-9
97-2	6-30-97	1 2—8 9	66-126 66-129—66-135 66-128
	6-30-97(Mem.)	1	Added App. A, § 21-VIII-6(d)

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Ordinance Number	Date	Section	Section this Code
		2	App. A, § 21-V-2(a)(12)
			Added App. A, § 21-V-2(b)(6)
	8-11-97(Ord.)		Rpld 74-141—74-220
			Added 74-141—74-287
	1- 6-98(Mem.)	1	Added 74-37(d)
		2	74-39
98-1	6- 8-98		Added 70-1(a), (b)
98-2	6- 8-98		Rpld 14-9(1)
			Rnbd 14-9(2)
			as 14-9(1)
98-3	6- 8-98		Rpld 70-81
98-4	7- 1-98		46-27(b)
	12-14-98(Min.)	17	Added 50-31(c)(2)c.
98-5	12-14-98		Added 70-115
			50-31(f)
	8-30-99(Mem.)		2-61
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00-1	6-12-00		70-1
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00-4	10-25-00		50-9(a)
			50-32(a)
00-5	11-14-00	I—XV	66-91—66-105
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01-2	8-13-01		74-171
02-1	5-13-02	I.A., B.	74-125, 74-126
		II.	74-127
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03-1	6- 9-03		70-1
04-01	2-25-04		App. A, § 21-V-2(a)(10)
04-2	7- 1-04		70-1
05-1	6- 3-05		70-1
07-1	7- 9-07		70-1
07-02	8-13-07	IX	66-91
08-1	7- 1-08		70-1
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10-01	6-14-10		Dltd 26-1—26-9, 26-36—26-49
			Added 26-1—26-7, 26-31—26-34, 26-41—26-49
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12-2	7-16-12	Added	App. A, § 21-III-2(c)(3)
12-3	10- 9-12		App. A, § 21-IV-2(a)(3)
Mo. of	10-9-12	Added	2-5
12-4	12-10-12	Added	42-1
13-01	6-17-13		70-1
13-2	7- 8-13		34-2
Mo. of	8-12-13		66-4
Ord. (Policy) of	11-12-13	Added	42-2
14-1	5-12-14	Added	2-32
Ord. (Policy) of	10-14-14	Added	2-33
Ord. (Policy) of	10- 3-16	Added	54-53
Court Order (Case No. CL 16-317)	12- 8-16	Added	34-111
Court Order (Case No. CL 16-318)	12- 8-16	Added	34-112
Court Order (Case No. CL 16-319)	12- 8-16	Rpld Added	34-3 34-113
2017-01	1-18-17	Added	2-6
2016-01	2-13-17	1.1, 1.2 1.3—1.5 Added	34-71, 34-73 34-91—34-95
2016-02	2-13-17	1.1—1.7 Added	
Mo. of	9-11-17		34-57
Ord. of	11-13-18	Added	34-59
Ord. of	3-11-19	Added	42-91—42-94, 42-111—42-116
Ord. of	4- 4-22		App. A, § 21-III- (2)(a)(1) App. A, § 21-IV- 2(a), (b)

STATE LAW REFERENCE TABLE

This table shows the location within this Charter and Code, either in the text or notes following the text, of references to the Code of Virginia.

Code of Virginia Section	Section this Code	Code of Virginia Section	Section this Code
1-13.3	1-2	15.1-271	38-32
1-13.6	1-2	15.1-292 et seq.	Ch. 74
1-13.7	1-2	15.1-332.1 et seq.	Ch. 74
1-13.9	1-5	15.1-363 et seq.	Ch. 58
1-13.13	1-2	15.1-376	58-15
1-13.15	1-2	15.1-427.1	Ch. 46, Art. II
1-13.16	1-2	15.1-437	46-26
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1-13.23	1-2		46-28
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2.1-117 et seq.	50-36	15.1-444	46-26
2.1-340 et seq.	50-44		46-29
2.1-639.1 et seq.	50-106	15.1-445	46-26
	50-107	15.1-447	46-26
	50-109	15.1-465 et seq.	Ch. 62
3.1-796.73	6-1	15.1-795	2-61
3.1-796.93	6-32	15.1-796	Chtr. § 7
3.1-796.94	6-34	15.1-827	Chtr. § 3
3.1-796.98	6-34	15.1-827.1	Chtr. § 3
3.1-796.122	6-1	15.1-865	10-3
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4.1-121	34-111	15.1-1374(d)	50-36
4.1-123	34-112	Tit. 15.2	10-67
4.1-124	34-113	15.2-904	70-115
11-35 et seq.	Ch. 50	15.2-915.4	34-57
13.1-1-501	14-2	15.2-1508	42-1
15.1-7.1	Ch. 42, Art. III	15.2-1717.1	34-10
	42-51	15.2-2280	26-1
15.1-11	Ch. 54	16.1-70	Chtr. § 8
15.1-11.2	10-2	Tit. 18.2, Ch. 7, Art. 2	70-1
15.1-13	1-8	18.2-11	1-8
15.1-14	Ch. 58	18.2-12	1-8
15.1-14(5)	54-2	18.2-119	34-10
15.1-14(9)	Ch. 58, Art. III	18.2-137	34-5
15.1-15(1)	Ch. 10	18.2-138	34-5
15.1-28	Ch. 54, Art. III	18.2-141	34-6
15.1-37.3	1-1	18.2-280	34-58
15.1-37.3:1	53-1 et seq.	18.2-308	34-56
5.1-37.3:2	53-1 et seq.	18.2-403.2(3)	6-1
15.1-138	Ch. 30	18.2-415	34-31

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Code of Virginia Section	Section this Code	Code of Virginia Section	Section this Code
18.2-432	34-7	Tit. 58.1, Ch.	
18.2-438—18.2-450	50-106	37	14-2
18.2-498.1 et seq.	50-106	58.1-3700 et seq.	Ch. 14
19.2-30 et seq.	Chtr. § 9	58.1-3701	14-2
19.2-32	Chtr. § 9	58.1-3709	14-4
19.2-59	1-10	58.1-3712	14-9
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19.2-82	1-9	58.1-3713	14-9
25-233	Chtr. § 13	58.1-3714.B	14-2
32.1-163 et seq.	Ch. 74	58.1-3715	14-2
33.1-197	70-5		14-3
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33.1-210	6-7	58.1-3916	14-3
36-97	Ch. 10, Art. II	58.1-3717	14-3
36-98	Chtr. § 16		14-9
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***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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