

# **Article I. Use and Construction; Penalties**

## **§ 1-1. Rules of construction and definitions.**

- A. In the interpretation and 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:

### **CHARTER**

The Charter of the Town of Windsor as amended from time to time.

### **COMPUTATION OF TIME**

Whenever a notice is required to be given, or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

### **COUNCIL**

Wherever the word "Council" is used, it shall be construed to mean "the Council of the Town of Windsor."

### **COUNTY**

Shall be construed as if the words "of Isle of Wight" followed it.

### **GENDER**

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

### **HEALTH OFFICER**

The Health Director of the Isle of Wight County Health Department or his duly authorized agent.

### **JOINT AUTHORITY**

Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority agent or representative.

### **MAY**

The word "may" is permissive.

### **MONTH**

A calendar month.

### **MUNICIPALITY**

The Town of Windsor.

### **NUMBER**

The word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; 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.

### **OATH**

Shall be construed to include as affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

### **OWNER**

Applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

**PERSON**

Individuals, associations, firms, partnerships, corporations, organizations, cooperatives, fiduciaries, trustees, and governing bodies of political subdivisions or other public boards, authorities, agencies or commissions; unless otherwise defined or inconsistent with the manifest intent of the particular section of this Code or where the context thereof would clearly require otherwise.

**PRECEDING, FOLLOWING**

Next before and next after, respectively.

**SIDEWALK**

Any portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

**STATE**

Shall be construed as if the words “of Virginia” followed it.

**STREET**

Avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the Town, and shall mean the entire width thereof between abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Town Council.

**SWEAR, SWORN**

Shall be equivalent to the words “affirm” and “affirmed” in all cases in which, by law, an affirmation may be substituted for an oath.

**TENANT**

Applied to a building or land, shall include any person holding a written or oral lease of, or who occupies, the whole or part of such building or land, either alone or with others.

**TOWN**

Shall be construed as if the words “of Windsor” followed it.

**WRITTEN, IN WRITING**

Shall be construed to include a representation of words, letters or figures, whether by printing or otherwise.

**YEAR**

A calendar year.

- B. Time. Words used in the past or present tense include the future as well as the past and present.
- C. Other words. The rules of construction given in §§ 1-13 to 1-15.1, Code of Virginia, shall govern, so far as applicable, the construction of all other words not defined in this section.

**§ 1-2. 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.[1]

### **§ 1-3. Penalties for violations; continuing violations.**

- A. Whenever in this Code or any other ordinance of the Town or any rule or regulation promulgated by any officer or agency of the Town, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:
- (1) Class 1 misdemeanor: by a fine of not more than \$2,500 or by confinement in jail for not more than 12 months, or by both such fine and confinement.
  - (2) Class 2 misdemeanor: by a fine of not more than \$1,000, or by confinement in jail for not more than six months, or by both such fine and confinement.
  - (3) Class 3 misdemeanor: by a fine of not more than \$500.
  - (4) Class 4 misdemeanor: by a fine of not more than \$250.
- B. Whenever in any provision of this Code or in any other ordinance of the Town or any rule or regulation promulgated by an officer or agency of the Town, under authority duly vested in such office or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed in Subsection A(1) above.
- C. Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

### **§ 1-4. Town Seal.**

- A. The corporate Seal of the Town shall be a design within a circle not less than 1 3/4 inches in diameter with the word "Seal" therein, and around the edge thereof shall be the following inscription: "The Corporation of Windsor, Virginia."
- B. No other seal shall be used for the Town, and no paper, document or instrument issued or executed by municipal authority which requires the Seal of the Town shall be valid unless the Seal prescribed above in this section is duly affixed thereto.

## **Article II. Adoption of Code**

### **§ 1-5. Authority and enactment.**

Pursuant to §§ 13 and 13.1 of the Charter of the Town of Windsor, the Code of the Town of Windsor, Virginia, is hereby repealed, and §§ 1-1 through 160-89, inclusive, are amended and reenacted to read as published in The Code of the Town of Windsor dated April 15, 2004.

## **Chapter 7. ECONOMIC DEVELOPMENT AUTHORITY**

### **§ 7-1. Creation.**

Pursuant to the provisions of § 15.2-4903 of the Code of Virginia, the Council of the Town of Windsor, Virginia, hereby creates and establishes the Economic Development Authority of the Town of Windsor, Virginia.

### **§ 7-2. Public and corporate powers.**

The Economic Development Authority of the Town of Windsor, Virginia shall have those Public and corporate powers as set forth in Chapter 49 of Title 15.2 of the Code of Virginia, the Industrial Development and Revenue Bond Act, as it now exists and as it may be amended in the future.

## **Chapter 9. EMERGENCY, STATE OF**

### **§ 9-1. Authority of Mayor.**

Whenever the Mayor, or, in the event of his inability to act, the person designated by the Town Council to act in his place, determines that an emergency exists as a result of mob action or other civil disobedience or manmade or natural disaster causing danger or injury to or damages to persons or property, he shall have the power to impose by proclamation any or all the following regulations necessary to preserve the peace and order of the Town:

- A. To impose a curfew upon all or any portion of the Town, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided that physicians, nurses and ambulance operators performing medical service, utility personnel maintaining essential public services, firemen and Town-authorized or -requested law enforcement officers and personnel may be exempted from such curfew.
- B. To order the closing of any business establishments anywhere within the Town for the period of emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, wine, beer, gasoline or firearms.
- C. To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic for the period of the emergency.
- D. To call upon regular and auxiliary law enforcement agencies and organizations within or without the Town to assist in preserving and keeping the peace within the Town.

### **§ 9-2. When proclamation becomes effective.**

The proclamation of emergency provided in this chapter shall become effective upon its issuance and dissemination to the public by appropriate news media.

### **§ 9-3. When proclamation terminates.**

Any emergency proclaimed in accordance with the provisions of this chapter shall terminate after 72 hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided that such emergency may be extended by proclamation of the Mayor, or, in the event of his inability to act, the person designated by the Town Council to act in his place, for such additional periods of time as determined necessary by resolution of the Town Council.

## **Chapter 12. FINANCES**

### **§ 12-1. Collection and disposition of revenue and funds.**

All debts, claims, demands and obligations due the Town, all taxes, interest, penalties, forfeitures, fees, fines and costs and all other revenue from other sources shall be collected in the manner provided in this Code or other ordinance and paid into the general fund of the treasury of this Town, to be expended and appropriated as the Town Council may determine.

### **~~§ 12-2. Town depository designated; paying out Town funds.~~**

~~[Amended 9-9-2003]~~

~~All funds and money received by the Town shall be deposited in the Farmers Bank, Windsor, Virginia, and/or Citizens National Bank, Windsor. All payments and disbursements thereof shall be made at the direction of the Town Council upon warrants signed by the Mayor and Recorder.~~

## **Chapter 14. FIRE DEPARTMENT**

### **§ 14-1. Applicability of state and Town law.**

~~The Fire Department of the Town shall be organized and maintained under and governed by the laws of the state, the Charter and ordinances of the Town and the rules, regulations and bylaws of the Fire Department not inconsistent with the laws of the state and the Charter and ordinances of the Town.~~

### **§ 14-2. Organization.**

~~Any number of persons, not less than 20 nor more than 90, residing in the Town may form themselves into a company for extinguishing fires and, after the formation of such company, persons residing or employed in the Town or within two air miles of its corporate limits may be members of such company.~~

### **§ 14-3. Composition.**

~~The Fire Chief, Assistant Fire Chief, Chief Engineer and Captain, together with their respective assistants, and all members of the company in good standing shall constitute the Fire Department of the Town.~~

### **§ 14-4. Bylaws, rules and regulations.**

~~The fire company of the Town is hereby authorized and empowered to adopt, enact and enforce such bylaws, rules and regulations as the fire company may deem necessary and proper in accomplishing the purposes for which the company is organized and as are not inconsistent with the laws of the state and the Charter, this Code and other ordinances of the Town, a copy of which shall be filed with the Town Council.~~

### **§ 14-5. Qualifications and election of Fire Chief and Chief Engineer.**

~~The Fire Chief, Assistant Fire Chief, Chief Engineer and Captain of the Fire Department shall be appointed or elected annually in December or not later than the following January by the Town Council from members of the operational roll of the Fire Department. The Fire Chief, Assistant Fire Chief, Chief Engineer and Captain shall be residents of the Town or reside within two air miles of its corporate limits.~~

### **§ 14-6. Election of officers.**

~~The Fire Department is authorized and empowered to elect such officers, at such time, in such manner and for such term and to confer and impose upon them such duties and powers as the Fire Department may deem necessary and proper, except that the Fire Chief, Assistant Fire Chief, Chief Engineer and Captain shall be appointed or elected as provided for in § 14-5 of this chapter.~~



**~~§ 14-7. Meetings of fire company.~~**

~~In addition to the meetings required and held by the fire company pursuant to its bylaws, rules and regulations, a semiannual meeting of the company shall be held at such time in April and October as the Fire Chief may determine in the presence of the Fire Committee to examine the condition of all fire equipment and see that same is in good working condition.~~

**~~§ 14-8. Enactment of ordinances in relation to powers and duties of fire company.~~**

~~The Town Council may make, adopt and enforce such ordinances in relation to the powers and duties of the fire company and its officers and members as the Council may deem proper.~~

**~~§ 14-9. Police powers of officers and fire police.~~**

~~The officers and fire police of the fire company, traffic and pedestrian directors shall have all of the powers and functions of policemen during the time of a fire and in such capacity may do all things for public safety.~~

**~~§ 14-10. Assistance of firemen in quelling riots and public disturbances.~~**

~~The Fire Chief of the fire company shall, in time of riot or public disturbance, at the request of the Town Council or Mayor, assemble the company and assist the police of the Town in restoring and maintaining order.~~

**~~§ 14-11. Equipment custody and use.~~**

~~All fire equipment owned by the Town shall be kept and maintained in the custody and care of the Fire Chief of the fire company, or such other person as the Town Council may designate for the purpose. The fire company of the Town shall have the right to use all fire equipment owned by the Town for the purpose of extinguishing fires in the Town and at any other place allowed by this Code.~~

**~~§ 14-12. Removal of equipment from Town.~~**

~~It shall be unlawful for any person to carry, take or remove any of the fire equipment of the Town more than one mile beyond the corporate limits of the Town for any purpose without the consent of the Fire Chief, or Acting Fire Chief, the Mayor or any member of the Town Council.~~

**~~§ 14-13. Authority to enter buildings.~~**

~~The Fire Chief, or Acting Chief, may break and enter any building, or enter without breaking any building, or enter any premises where a fire is threatened or in progress, or any building or premises adjacent thereto, or, in his opinion, any property in danger by reason of a fire, remove property therefrom and do any and all things for the purpose of extinguishing fires and preventing the spreading thereof.~~

**§ 14-14. Violation of departmental rules and regulations.**

Any person, including members of the fire company, who shall violate any of the duly adopted and approved rules and regulations of the fire company shall be deemed guilty of a misdemeanor.

**§ 14-15. Duty of members to attend fires; discipline of members.**

Every member of the fire company shall be subject to such discipline and regulation as may be prescribed by the company and shall, upon any fire alarm, attend according to this Code and other ordinances of the Town, and the bylaws, rules and regulations of the company and endeavor to extinguish any fire. Any member of the company who shall willfully fail, refuse or neglect to abide by or perform same shall be expelled or dropped from membership in the fire company.

**§ 14-16. Control over persons at fire or drill.**

The Fire Chief, or in his absence the assistant or Acting Fire Chief, shall have command and control over all persons present at or during any fire or drill.

**§ 14-17. Speed limit of fire engines.**

It shall be unlawful for any person to drive or operate any fire engine in the Town at a speed in excess of 40 miles per hour; provided that such engine may be driven at a speed not to exceed 50 miles per hour on State Highway No. 460 outside of the Town.

## **Chapter 21. OFFICERS AND DEPARTMENTS**

### **Article I. Town Manager**

#### **§ 21-1. Appointment; compensation; residency requirements; term.**

A Town Manager appointed pursuant to this article shall be the administrative and executive head of the municipal government. He shall be chosen by the Council without regard to political beliefs and solely upon the basis of his executive and administrative qualifications. At the time of his appointment he need not be a resident of the Town or the Commonwealth but during his tenure of office shall reside within the Town, or in the immediate vicinity thereof. He shall be appointed for an indefinite term and shall hold office during the pleasure of the Council. He shall receive such compensation as shall be provided by the Council by ordinance or resolution, which may be changed from time to time. He may be bonded as the Council may deem necessary. During the absence or disability of the Town Manager or in case of a vacancy, the Council may designate some properly qualified person to perform the duties of the office during such absence, disability or vacancy. No Councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term. Neither the Council nor any of the members shall direct or request the appointment, as hereinafter provided, of any person to office by the Town Manager or by any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Town Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Town Manager or employee of the Town, either publicly or privately.

#### **§ 21-2. Powers and duties.**

The Town Manager shall have the authority and it shall be his duty to:

A. See that all laws, ordinances, resolutions, and bylaws of the Council are faithfully enforced.

B. Appoint such officers and employees, with the exception of the Town Attorney, Treasurer and Clerk, as the Council shall determine and authorize, as are necessary for the proper administration of the affairs of the Town with the power to discipline and remove any such officer or employee, but he shall report each appointment of any officer having supervisory or administrative authority to the Council for confirmation at the next meeting thereof following any such appointment. The Chief of Police so recommended for appointment by the Town Manager and confirmed by the Council shall have the power to discipline his subordinates and with the approval of the Town Manager to discharge any subordinate for just cause. Any officer or employee so removed shall have the right to appeal to the Council within 30 days after his removal and after notice to the Town Manager. The action of the Council on such appeal shall be final.

C. Attend all meetings of the Council, with the right to take part in the discussion, but having no vote.

D. Recommend to the Council for adoption such measures as he may deem necessary or expedient.

E. Make reports to the Council from time to time upon the affairs of the Town and to keep the Council fully advised of the Town's financial condition and its future financial needs.

~~F. Make and execute all contracts on behalf of the Town pursuant to a resolution or an ordinance of the Council and to act as Town purchasing agent.~~

~~G. Perform such other duties as may be prescribed or requested by (the) Council.~~

## **Article II. Town Treasurer**

### **§ 21-3. Creation of office; term; powers and duties.**

~~The office of Town Treasurer is hereby created. The Treasurer shall serve at the pleasure of the Council. The Treasurer shall collect and account for revenue receipts and disbursements, and perform such other duties as required by the Town Charter, the Mayor and the Council.~~

## **Article III. Town Recorder**

### **§ 21-4. Creation of office; term; powers and duties.**

~~The office of Town Recorder is created. The Recorder shall serve at the pleasure of the Council. The Recorder shall maintain the official records and minutes of the Council and perform such other duties as assigned by the Council.~~

## **Article IV. Town Attorney**

### **§ 21-5. Creation of office; term; powers and duties.**

~~The office of Town Attorney is hereby created. The Town Attorney shall serve at the pleasure of the Council and shall receive such compensation as fixed by the Council. The Town Attorney shall be a practicing attorney and admitted to practice in Virginia. The Town Attorney shall be the legal adviser to the Town and shall perform such other duties as required by the Council.~~

## **Article V. Town Departments**

### **§ 21-6. Designation of departments.**

~~The departments of the Town shall include the following:~~

~~A. Water.~~

~~B. Fire.~~

## **Article VI. General Provisions**

### **§ 21-7. Qualifying for and holding office generally.**

~~All Town officers, elected and appointed, shall qualify and hold office in accordance with the Constitution and general laws of the state, the Charter of the Town and amendments thereto and this Code.~~

**~~§ 21-8. Powers and duties generally.~~**

~~The Town and its officers shall have all the powers conferred by the Constitution and general laws of the state, the Charter and its amendments, this Code and such other powers as the Town Council may confer not in conflict therewith, and shall be subject to all the duties imposed therein.~~

**~~§ 21-9. Number of officers; salaries.~~**

~~The officers of the Town, elected and appointed, shall be as prescribed by the Charter, this Code and other ordinances and the Town Council. Their salaries shall be as prescribed in a like manner.~~

## **Chapter 25. PLANNING COMMISSION**

### **§ 25-1. Created.**

A Town Planning Commission is hereby created pursuant to the provisions of §§ 15.2-2210 through 15.2-2222, Code of Virginia.

### **§ 25-2. Appointment; qualifications; terms of office and removal of members; filling of vacancies.**

- A. The Commission shall consist of seven members, appointed by the 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.
- B. The Commission members shall be appointed on a four-year staggered term basis as provided by The Code of Virginia law.

### **§ 25-3. Powers and duties.**

The Planning Commission shall exercise such powers and have such duties as are conferred upon such commissions by The Code of Virginia state law.

### **§ 25-4. Violations and penalties.**

The Town of Windsor, Virginia, may institute and maintain equity proceedings in the Circuit Court of Isle of Wight County, Virginia, to prevent, abate, restrain and enjoin violations of this chapter.

## **Chapter 33. TOWN COUNCIL**

[HISTORY: Adopted by the Town Council of the Town of Windsor 11-10-1981 (Title 2, Chapter 1, Articles A and B, of the 1980 Code). Amendments noted where applicable.]

### **Article I. General Provisions**

#### **§ 33-1. Duties of Mayor.**

It shall be the duty of the Mayor to:

- A. Keep informed as to the Town's business;
- B. Sign all contracts, franchises or paper writings authorized by the Council;
- C. Appoint such committees, and outline their powers and duties, as deemed necessary to properly care for the affairs of the Town; and
- D. Make such recommendations as deemed necessary, or expedient, to the Council.

#### **§ 33-2. Compensation of Mayor and Council members.**

The Mayor and Council members shall receive compensation in such sum as may be fixed by resolution of the Council from time to time.

#### **§ 33-3. Employees hold office at pleasure of Council.**

All employees elected, or appointed, by the Council hold their offices at the pleasure of the Council and may be removed at any time by it for good cause.

#### **§ 33-4. Vacancies in appointive offices.**

All vacancies occurring either from death, disability, resignation or otherwise in any appointive office shall be filled by the Council at the next regular meeting, or as soon thereafter as possible.

#### **§ 33-5. Standing committees.**

A. The Mayor shall, after the first regular meeting of the Council after the qualification of the newly elected members of each Council, appoint the following standing committees of the Council:

- (1) Finance;
- (2) Streets, Public Health and Safety;
- (3) Utilities/Property.

~~B. The powers and duties of the standing committees shall be as prescribed by the Mayor and Council, which may increase or decrease their membership, terminate their existence and fill vacancies therein.~~

#### **§ 33-6. Special committees.**

~~The Mayor or Council may appoint special committees as deemed desirable.~~

#### **§ 33-7. Powers and duties of committees; membership.**

~~The Mayor or Town Council shall confer, impose and fix the powers and duties of all committees. The Mayor or Council may increase or reduce the membership of all committees; terminate the existence of all special committees and fill all vacancies in the membership of all committees.~~

#### **§ 33-8. Location of polling place.**

~~A. The location of the polling place for the precinct for the Town of Windsor for all elections provided for by the Windsor Charter and/or the Windsor Town Code shall be the Windsor Volunteer Fire Department building located at 80 East Windsor Boulevard, Windsor, Virginia.~~

~~B. This section shall be in effect immediately upon approval by the Department of Justice in accordance with the Federal Voting Rights Act.~~

### **Article II. Meetings**

#### **§ 33-9. Regular meetings.**

~~There shall be regular meetings of the Council, at the Municipal Building or at such other place as may be designated, on the second Tuesday of each month at 7:00 p.m.~~

#### **§ 33-10. Adjourned meetings.**

~~If a quorum shall fail to attend any regular or special meeting of the Council or if for any reason such meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.~~

#### **§ 33-11. Order of business; quorum.**

~~A. The order of business at all regular meetings shall be as follows:~~

- ~~(1) Call to order.~~
- ~~(2) Hearing delegations.~~
- ~~(3) Reading of minutes.~~



- ~~(4) Reports of Town officers.~~
- ~~(5) Petitions, communications and applications.~~
- ~~(6) Reports of standing committees.~~
- ~~(7) Reports of special committees.~~
- ~~(8) Unfinished business.~~
- ~~(9) New business.~~
- ~~(10) Bills and accounts.~~
- ~~(11) Resolutions and ordinances.~~
- ~~(12) General discussion.~~
- ~~(13) Adjournment.~~

~~B. A majority of the membership of the Council shall constitute a quorum.~~

#### **§ 33-12. Rules of procedure.**

~~Except as otherwise provided by ordinance, the procedure of the Council shall be governed by Robert's Rules of Order.~~

#### **§ 33-13. Previous questions.**

~~The previous questions may be called at any time by a majority of the members present. The "ayes" and "nays" may be called for by any member.~~

#### **§ 33-14. Motions having precedence.**

~~A. When a question is under consideration no motion shall be received except as follows:~~

- ~~(1) To lay on the table;~~
- ~~(2) To postpone to a time certain;~~
- ~~(3) To postpone indefinitely;~~
- ~~(4) To refer to a committee;~~
- ~~(5) To amend;~~
- ~~(6) To strike out or insert; and~~
- ~~(7) To divide.~~

~~B. Motions for any of these purposes shall have precedence in the order named.~~

#### **§ 33-15. Motion to adjourn.**

~~A motion to adjourn shall always be in order and shall be decided without debate.~~

#### **§ 33-16. Special meetings.**

~~The Mayor, or a majority of the Town Council, may, at any time, call a special meeting of the Council; provided that no business shall be transacted at a special meeting except that for which~~

~~it shall be called, unless the Council is unanimous. Special meetings shall be held at such time and place as the Mayor may prescribe.~~

**~~§ 33-17. Notice and purpose of special meetings.~~**

~~Notice and the purpose of special meetings of the Town Council shall be given by mail not less than 24 hours prior to any such meeting.~~

## Chapter 37. ADVERTISING MATERIALS

### § 37-1. Posting and placing on poles, etc.

No person shall print, paint, stamp or stain any notice, sign, advertisement or any other matter on any electric light, telephone or telegraph pole or any other pole or supporting device on any of the streets in or property of the Town.

## **Chapter 39. ALARMS**

### **Article I. False Alarms**

#### **§ 39-1. Purpose.**

The purpose of this article is to minimize unnecessary use of the county and Town's emergency services by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

#### **§ 39-2. Definitions.**

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

##### **ALARM SYSTEM**

Any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response. The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

##### **ALARM USER AND USER**

The occupant of premises protected by an alarm system.

##### **ANSWERING SERVICE**

A telephone answering service that receives emergency signals from alarm systems and informs the Town and county Emergency Communications Center.

##### **AUTOMATIC DIALING SERVICE**

A device interconnected to a telephone line and programmed to indicate a need for emergency response.

##### **FIRE CHIEF**

Any one of the volunteer fire department fire chiefs or their designee.

##### **COUNTY**

Isle of Wight County, Virginia.

##### **FALSE ALARM**

Any alarm signal received by the Town and County Emergency Communications Center which is not in response to an actual or possible emergency. False alarms include negligently activated signals, signals due to faulty, malfunctioning or improperly installed or maintained equipment, and signals purposely activated to summon fire, rescue and/or law enforcement personnel in nonemergency situations. False alarms do not include signals activated by unusually severe weather conditions, utility conditions or other causes which the Fire Chief or the Chief of Police determines were beyond the user's control.

##### **INDIRECT ALARM TRANSMITTAL**

Any alarm system which causes a third party or answering service to notify the Town and County Emergency Communications Center of an alarm activation.

##### **INSTALLER**

Any person who installs, services, monitors, sells or leases any alarm system.

##### **INTERCONNECT**

To connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

#### **NEGLIGENTLY ACTIVATED SIGNALS**

Signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

#### **NONEMERGENCY SITUATIONS**

Situations where an immediate response by fire personnel is not necessary to protect life or property.

#### **POLICE CHIEF**

The Chief of Police of the Town's police department or his designee.

### **§ 39-3. Violations punishable as Class 1 misdemeanors.**

Violations of §§ 39-4, 39-6 and 39-7 shall be punishable as a Class 1 misdemeanor.

### **§ 39-4. User data form.**

Upon installing an alarm system, all users shall submit a county data form to the Town and County Emergency Communications Center and a copy to the Town's police department. Said data form shall include the following information: name and location of the alarmed premises; type of alarmed premises (residential or commercial); normal operating hours, if commercial; individuals designated by the user to respond when notified; manufacturer, model and type of alarm system; name, address and telephone number of the service company; zone of alarm, if applicable; and other applicable information. This requirement shall not be applicable to single-unit heat and smoke detectors four or less in number.

### **§ 39-5. Training of persons using system; maintenance of system.**

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the appropriate county employees or agents. The user shall also be responsible for maintaining the alarm system in proper working order.

### **§ 39-6. Automatic dialing devices.**

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used, within the Town, automatic dialing devices or systems which are set or programmed to directly contact the Town and County Emergency Communications Center without the prior approval of the Chief of Police.

### **§ 39-7. Deliberate false alarms.**

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the Town and County Emergency Communications Center has been notified in advance.

**§ 39-8. Service fee for false alarms.**

A. Response by fire and/or rescue personnel. Fees in the following amount shall be assessed against commercial alarm system users for false alarms resulting in response by fire and/or rescue personnel and occurring during any period of 180 successive days, and against residential alarm system users during an period of 90 successive days. Alarm system users shall pay such service fee for false alarms within 30 days of billing.

- (1) First false alarm: No charge.
- (2) Second false alarm: No charge.
- (3) Third false alarm: \$100.
- (4) Fourth false alarm: \$265.
- (5) Fifth and subsequent false alarms: \$650.

B. Response by police department personnel. Fees in the following amounts shall be assessed against commercial alarm system users for false alarms resulting in response by the Town's police department personnel and occurring during any period of 180 successive days, and against residential alarm system users during any period of 90 successive days. Alarm system users shall pay such service fee for false alarms within 30 days of billing.

- (1) First false alarm: No charge.
- (2) Second false alarm: No charge.
- (3) Third false alarm: \$65.
- (4) Fourth false alarm: \$75.
- (5) Fifth and subsequent false alarms: \$165.

C. Exceptions. Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the Commonwealth of Virginia, political subdivisions of the Commonwealth of Virginia, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

D. Billing; interest on unpaid charges. The Fire Chief and the Police Chief shall notify the Town and County Emergency Communications Center of each false alarm to which they respond and

such information shall be retained and maintained by the Town and County Emergency Communications Center. At the end of each month, the Emergency Communications Manager shall notify the Treasurer of the Town of Windsor of service fee assessments for false alarms. The Emergency Communications Manager shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The Isle of Wight County Treasurer may bill the user for all false alarms responded to by fire and/or rescue personnel and notify the Emergency Communications Manager when any account is more than 30 days in arrears. The Treasurer of the Town of Windsor shall bill the user for all false alarms responded to by police department personnel and notify the Emergency Communications Manager when any account is more than 30 days in arrears. Any account more than 30 days in arrears shall be subject to interest at the legal rate provided by the Code of Virginia, commencing when the account is more than 30 days in arrears.

# **Chapter 40. ANIMALS**

## **Article I. General Provisions**

### **§ 40-1. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

#### **BOARD OF SUPERVISORS**

The Board of Supervisors of Isle of Wight County.

#### **COUNTY**

The County of Isle of Wight.

#### **LIVESTOCK**

~~Includes cattle, horses, sheep, goats, swine and enclosed domesticated rabbits or hares.~~

#### **OTHER OFFICER**

Includes all other persons employed or elected by the people of Virginia, or by any municipality, county or incorporated town thereof, whose duty it is to preserve the peace, to make arrests or to enforce the law.

#### **OWN and OWNER**

Includes any person having a right of property in a dog, and any person who keeps or harbors a dog or has it in his care, or who acts as its custodian, and any person who permits a dog to remain or about any premises occupied by him.

#### **POULTRY**

~~Includes all domestic fowl, and game birds raised in captivity.~~

#### **TREASURER**

~~Includes the Treasurer of Isle of Wight County and his assistants.~~

### **§ 40-2. Animal Control Officer.**

In accordance with § 3.1-796.66, Code of Virginia, 1950, as amended, there is hereby created the position of Animal Control Officer. The duties of the Animal Control Officer shall be those provided for in §§ 3.1-796.104 through 3.1-796.121 of such code and such other duties as may be provided for by the Board of Supervisors. The Animal Control Officer may employ assistants as shall be provided for by the Board of Supervisors. The Animal Control Officer shall enforce the provisions of this chapter in the Town of Windsor.

### **§ 40-3. Cruelty to animals generally.**

#### **A. Any person who:**

~~(1) Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with a bona fide scientific or medical experimentation to, 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, drink or shelter, or causes any of the above things, or, being the owner of such animal, permits such acts to be done by another;~~

~~(2) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or~~

~~(3) Carries or causes to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering, shall be deemed guilty of a Class 1 misdemeanor.~~

~~B. Nothing in this section shall be construed to prohibit the dehorning of cattle.~~

~~C. The word "animal," as used in this section, shall be construed to include birds and fowl.~~

#### **~~§ 40-4. Abandoning domesticated animal in public place or on property of another.~~**

~~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.~~

## **Article II. Dogs in General**

#### **~~§ 40-5. Dogs deemed personal property.~~**

~~All dogs shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of such dogs or injury thereto or unlawful detention or use thereof as in the case of other personal property. The owner of any dog which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. An animal control officer or other officer finding a stolen dog, or a dog held or detained contrary to the law, shall have the authority to seize and hold such dog pending action before a general district court or other court. If not such action is instituted within seven days, the Animal Control Officer or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the Animal Control Officer may take such dog in charge and notify its legal owner to remove him. The legal owner of the dog shall pay a reasonable charge as the Board of Supervisors by ordinance shall establish, for the keep of such dog while in the possession of the Animal Control Officer.~~

#### **~~§ 40-6. Dogs killing or injuring livestock or poultry.~~**

~~It shall be the duty of any Animal Control Officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith, whether such dogs bears a tag or not, and any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight. Any dog killing livestock or poultry for the third time shall be considered a confirmed killer. The Animal Control Officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city or town wherein such dog may be, to issue a warrant requiring the owner or custodian, if known, to appear before the Isle of Wight County General District Court. If the Court orders that the dog shall be killed immediately, the Animal Control Officer shall do so.~~

**~~§ 40-7. Violations and penalties:~~**

~~A. The following shall be unlawful acts and constitute Class 4 misdemeanors:~~

- ~~(1) License application. For any person to make a false statement in order to secure a dog license to which he is not entitled.~~
- ~~(2) License tax. For any dog owner to fail to pay the license tax required by this chapter before the first day of February for the year in which it is due. In addition, the Court may order confiscation and the proper disposition of the dog.~~
- ~~(3) Leash ordinance. For any dog owner to allow a dog to run at large in violation of this article.~~
- ~~(4) Rabies regulations. For any person to fail to comply with Article IV of this chapter.~~
- ~~(5) Dead dog. For any owner to fail to dispose of the body of his dog in compliance with § 3-1-796.121, Virginia Code.~~
- ~~(6) Diseased dogs. For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.~~
- ~~(7) Removing collar and tag. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog.~~
- ~~(8) Concealing a dog. For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a dangerous or vicious dog to keep the same from being killed.~~
- ~~(9) Others. Any other violation of this chapter for which a specific penalty is not provided.~~

~~B. Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided.~~

~~C. It shall be a Class 1 misdemeanor for any person to present a false claim or to receive any money on a false claim under the provisions of § 3.1-796.118, as amended.~~

## **Article III. Licensing**

### **§ 40-8. License required.**

~~The licensing of dogs shall be as established under §§ 3.1-796.85 through 3.1-796.92, Code of Virginia.~~

## **Article IV. Running at Large**

### **§ 40-9 3. “Running at large” defined.**

For the purpose of this article, 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, either by leash, cord or chain.

### **§ 40-10 4. Running at large prohibited.**

It shall be unlawful for any person who owns or is the custodian of any dog or dogs to allow such dog or dogs to run at large in the Town of Windsor.

### **§ 40-11 5. Duty to impound; reclaimable with proof of ownership and fee payment.**

Any dog found running at large as defined in this article shall be apprehended and placed in the county dog pound for safekeeping and may be reclaimed by the owner or custodian upon showing satisfactory proof that he is the owner or custodian of such dog and upon payment of such impoundment board fees as may be established by the Board of Supervisors.

### **§ 40-12. Disposition if dog unclaimed.**

~~If the dog is not reclaimed within 10 days, then the Animal Control Officer shall dispose of the dog in accordance with the provisions of § 40-13 for the disposal of unlicensed dogs.~~

### **§ 40-13. Disposition of unlicensed dogs running at large.**

~~It shall be the duty of the Animal Control Officer to kill or cause to be killed, in such manner as may be prescribed by the Board of Supervisors, any dog of unknown ownership found running at large without a license tag, or on which the license tax has not been paid; provided that the killing of such dog shall not relieve the owner of the payment of the fine and license tax already due; provided that such dog shall not be killed until after the expiration of 10 days from the date of conviction, during which ten-day period the Animal Control Officer shall advertise in a newspaper having circulation in the County of Isle of Wight that any dog in his custody may be released and adopted as and upon the conditions hereinafter provided for in this section; and~~

~~provided that any such dog taken into custody by the Animal Control Officer may be delivered by the Animal Control Officer to any person in the County or the Town of Smithfield or Windsor to be adopted by the person, provided that the person pays the required license fee on such dog, with the understanding that should the legal owner of such dog thereafter claim such dog and prove his ownership of such dog, he may recover such dog by paying the person to whom it was delivered by the Animal Control Officer the amount of the license fee paid by him and such impoundment and board fees as may be established by the Board of Supervisors, plus the actual medical and veterinary expenses incurred by such person. Any person, animal control officer or other officer killing a dog under this section shall cremate, bury or otherwise lawfully dispose of the same; and the Animal Control Officer or other officer may kill, on sight, any dog which the Animal Control Officer or other officer determines from personal observation, or from information provided by the Health Department of Isle of Wight County, to have a contagious or infectious disease without complying with the provisions hereof relating to giving notice of the availability of dogs for release and adoption. The Animal Control Officer or other officer may kill, on sight, any dog of unknown ownership found running at large without a license tag, or on which the license tax has not been paid, and which the Animal Control Officer or other officer has been unable to take into custody, after the expiration of five days from the date such dog was first found so running at large by such animal control officer or other officer without complying with the provisions hereof relating to giving notice of the availability of dogs for release or adoption.~~

**§ 40-14. Liability of owner subsequent to payment of impoundment fee.**

~~The payment of the impoundment fee and board bill shall not relieve the owner or custodian of his liability for failing to comply with the terms of this article.~~

**§ 40-15. Enforcement.**

~~It shall be the duty of the Animal Control Officer and other law enforcement officers of the Town to enforce the provisions of this article.~~

**Article V. Vicious or Destructive Dogs**

**§ 40-16. Vicious or destructive and other certain dogs running at large.**

~~A. It shall be unlawful and a Class 3 misdemeanor for any person to permit any vicious or destructive dog owned or kept by him, or any dog owned or kept by him which has not been inoculated or vaccinated against rabies, to run or be at large, whether such dog is licensed or not.~~

~~B. Any dog found running at large in violation of this section shall be taken into custody of the Animal Control Officer and impounded at the county dog pound. A dog so impounded shall be disposed of in accord with the provisions of § 40-13.~~

**§ 40-17. Owner to confine vicious dog and to notify authorities.**

~~It shall be unlawful for the owner or custodian of any dog that has bitten any person to knowingly fail to immediately confine such dog in an enclosure deemed satisfactory by the Animal Control Officer or in the dog pound of the county, or to knowingly fail to immediately notify the Animal Control Officer of the fact of such biting and of the name and address of the person bitten, if known, and the place, if known, where such biting occurred and the place, if known, where such dog is confined and, if such dog escapes from the immediate control of its owner or custodian, to fail to immediately notify such animal control officer of such escape.~~

**§ 40-18. Confinement for observation for rabies; release.**

~~Any dog that has bitten any person shall be quarantined by confinement in the approved enclosure or county dog pound under the observation, supervision and control of the Health Officer of Isle of Wight County for not less than 10 days and for such further time as may be necessary to determine a diagnosis as to whether or not such dog has rabies, and any such dog found not to have rabies or not to be vicious or dangerous, as defined in this article, shall be released forthwith from such confinement.~~

**§ 40-19. Confinement required if owner unknown.**

~~Any dog that has bitten a person and any vicious or destructive dog found running, going or being at large and whose owner or custodian is unknown, or who cannot be readily located, shall be taken into custody by the Animal Control Officer and confined in the county dog pound; provided that any such vicious or destructive dog whose owner or custodian is unknown, or who cannot be readily located, shall be confined in the county dog pound for not less than five days.~~

**§ 40-20. Release to owner upon payment of costs for care; destruction of dog in certain cases.**

~~Any vicious or destructive dog confined under this article in the county dog pound that has not been destroyed pursuant to this chapter shall be released to the owner or custodian thereof upon the payment of the cost of the keep and care of such dog and the assurance by such owner or custodian that such dog will be confined to the premises of such owner or custodian; provided that the judge of the Isle of Wight County General District Court may, after hearing evidence, order destroyed any dog whose owner or custodian is unknown, or who cannot be readily located, or whose owner or custodian fails to repossess such dog and pay the costs of the keep and care thereof at the expiration of the aforesaid five-day period, which dog is confined in the dog pound and which the judge determines, in the public interest, to be vicious or destructive at the expiration of such five-day period.~~

**§ 40-21. Recovery from owner of costs of care.**

~~The county may recover, by warrant, action, motion or other legal proceedings, from the owner or custodian of any dog confined in the county dog pound under this article, such impoundment and fees as may be established by the Board of Supervisors, plus all sums expended by the county for the keep and care of such dog.~~

**~~§ 40-22. Declaration of rabies emergencies; disposition of dogs suspected as rabid.~~**

~~A. When there is sufficient reason to believe that a rabid animal is at large, and notwithstanding any other ordinance requiring restraint of animals by their owners and/or custodians, the Town Council shall have the power to pass an emergency ordinance which shall become effective immediately upon passage, requiring the owners of all dogs and cats herein to keep the same confined on their premises unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed 30 days unless renewed by the Town Council. The Town Council shall also have the power and authority to pass ordinances restricting the running at large of dogs which have not been inoculated or vaccinated against rabies and to provide penalties for the violation thereof.~~

~~B. Dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog shall be destroyed.~~

~~C. Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the Isle of Wight County Health Department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.~~

~~D. Any dog or cat bitten by an animal believed to be afflicted with rabies shall be destroyed immediately or confined in a pound, kennel or enclosure approved by the Health Department for a period not to exceed six months at the expense of the owner; provided that if the bitten dog or cat has been vaccinated against rabies within one year, the dog or cat shall be revaccinated and confined to the premises of the owner for 30 days.~~

~~E. At the discretion of the Director of the Isle of Wight County Health Department; any animal which has bitten a person shall be confined under competent observation for 10 days, unless the animal develops active symptoms of rabies or expires before that time; provided that a seriously injured or sick animal may be humanely euthanized and its head sent to the Health Department for evaluation~~

**~~§ 40-23. Vaccination or inoculation of dogs and cats for rabies.~~**

~~A. It shall be unlawful for an owner to keep, harbor or have in his care, custody, or control, any dog or cat four months old or older unless such dog or cat has been vaccinated or inoculated against rabies by a licensed veterinarian annually or triannually, depending upon the initial vaccine utilized as approved by the State Department of Health.~~

~~B. The vaccination or inoculation referred to in Subsection A above shall be by a vaccine approved by the State Department of Health and shall be certified to by a licensed veterinarian. Such certificate shall state that the dog or cat has been properly vaccinated or inoculated in accord with the provisions of this section, shall be dated as of the date of inoculation or vaccination, shall show the rabies tag number, the sex and breed of the dog or cat and the name of the owner thereof, and shall state whether the initial vaccine utilized was for a one year or~~

~~three-year period, together with such information as may reasonably be required by the Director of Public Health or the veterinarian administering the vaccine.~~

~~C. Should any person who owns, keeps or harbors any dog or cat fail or refuse to comply with any of the provisions of this section or with any instructions given by the Animal Control Officer, a veterinarian, a health district representative or other appropriate official, pursuant to this section, the Animal Control Officer or any other animal control officer may immediately take such dog or cat into custody and confine it in the Isle of Wight county pound, and the person owning, keeping or harboring such dog or cat shall then be summoned forthwith by the Animal Control Officer or any other animal control officer to appear in the Isle of Wight County General District Court, where the matter shall be heard as all other matters are heard on criminal warrants. Upon finding that such person either owns, keeps or harbors a dog or cat and has failed or refused to comply with any provision of this section or with instructions properly given pursuant to this section, the judge, in addition to any sentence which he or she may impose for violation of this chapter, shall order the confinement of the animal appropriate under the circumstances and pursuant to this section, and shall order the convicted person to pay for any required vaccination, and confinement related expenses.~~

~~D. Any person owning, keeping or harboring any dog or cat four months old or older shall have the required vaccination performed within 60 days of the passage of this chapter.~~

## **Article VI. Animal Waste**

### **§ 40-24. Prohibited acts.**

~~It shall be unlawful for any owner or person in control of any animal to allow any animal to defecate on the property of other persons without their consent or that of the authorized agent or persons having control of the premises, or on public property. Immediate removal and sanitary disposal of the defecated matter shall not constitute a violation of this section. The defecated matter shall be placed in a container and disposed of in a proper waste receptacle. A violation of this section shall constitute a Class 3 misdemeanor.~~

## **Chapter 46. BUILDING CODE ENFORCEMENT**

[Building Code enforcement in the Town is performed by the county.]



## **Chapter 49. BUILDINGS, NUMBERING OF**

### **§ 49-1. Numbering required.**

The principal structure on each parcel of real estate in the Town, together with each other structure on any such parcel which is used for any purpose not ancillary to that of the principal structure, shall be assigned a building number by the Town where house numbers are less than 5 digits and by Isle of Wight County in areas where house numbers are 5 digits.

### **§ 49-2. Location, size and appearance of numbers.**

A. All building numbers shall be installed or affixed to the side of the structure facing the principal street on which the structure fronts, in such a manner and in such a location as to make them readily legible from such street.

B. For single-family residential buildings, the building numbers shall be not less than three inches in height. For single-structure businesses, duplexes, and multiunit residential structures containing up to six residential units, building numbers shall be not less than four inches in height. For industrial facilities, shopping centers, buildings containing three or more stories, and all other structures, building numbers shall be not less than 10 inches in height.

C. In any event, the building numbers shall be of durable material contrasting in color to the building color or the background color to which the numbers are affixed.

### **§ 49-3. Variances.**

Variances from the minimum size requirement for building numbers may be granted in writing by the ~~Town~~ Zoning Administrator, upon application by the owner.

### **§ 49-4. Violations and penalties.**

It shall be unlawful and a Class 4 misdemeanor for the owner of any real estate to fail or refuse to comply with this chapter.

## **Chapter 51. BUILDINGS, UNSAFE**

### **§ 51-1. Notification of owner to remove or correct conditions.**

Upon the Town Council finding by a majority vote that in its opinion a particular building or structure within the Town constitutes a hazard or menace from any standpoint, the Town Attorney shall immediately advise the record owner, at his last known post office address, by letter dispatched by certified mail with return receipt, of the findings of the Town Council and giving to the owner 90 days from the date of the dispatch of the notice to either remove the building or structure, or place it in a safe condition both from a physical and health standpoint.

### **§ 51-2. Inspection of premises upon owner's failure to comply; report of inspectors.**

Upon the record owner of the property refusing, or failing, to comply with the terms of the notice given in the preceding section, and the Town Council not having rescinded its previous action in the premises, the Mayor shall select a disinterested person having experience in the erection and maintaining of dwellings and other structures, who, with the Isle of Wight County Health Officer, and after giving the record owner of the property 10 days' prior written notice of the place, date and time, shall meet upon the premises involved and make such an examination thereof as he in his opinion shall deem necessary, after which he shall make a written report to the Mayor together with his recommendations. The Mayor shall make a written report to the Town Council with his recommendations with reference thereto and shall furnish a copy of the report to the record owner of the building or other structure involved, at his last known post office address.

### **§ 51-3. Removal by Town upon owner's refusal to correct; collection of cost of removal.**

Upon receipt of the recommendation of the Mayor and the report made to him pursuant to § 51-2, the Town Council shall proceed forthwith to make final disposition of the case. If the hazard is found to still exist, written notice by the Town Attorney to the record owner at his last known post office address, by certified mail with return receipt, shall be given to such property owner advising that the Town will remove the hazard or menace at the cost of the record property owner. All money expended by the Town in and about the removal of any such hazard or menace shall be a lien upon the subject property of like dignity to a lien for unpaid real estate taxes. Such costs shall be placed by the Town Treasurer on the list of unpaid real estate taxes filed in the Clerk's office of the Circuit Court of Isle of Wight County according to law. The collection thereof shall be in the same manner as the collection of unpaid real estate taxes.

### **§ 51-4. Removal by owner; procedure when hazard not removed.**

In the event the owner removes the hazard or menace in accordance with the provisions of this chapter, he shall so notify the Mayor, in writing, and the latter shall inspect the premises and report his findings to the Town Council with his recommendations. In the event the Town Council is of the opinion that the hazard or menace has not been completely removed, it shall have the right to invoke such of the provisions of this chapter as it deems necessary, and convenient, in order to remove such hazard or menace.

## **Chapter 54. CEMETERIES**

### **§ 54-1. Burial in vaults in Town cemetery required.**

All burials in the Town Cemetery of the Town of Windsor shall be in burial vaults constructed of concrete or stronger material.

### **§ 54-2. Motor vehicles in cemetery.**

A. It shall be unlawful for any person to operate any motor vehicle, as defined hereinbelow, over and upon any land owned by the Town and now occupied by or reserved for future use as the Town Cemetery, except in conjunction with a funeral procession or a bona fide visitation of a grave site, and in any case all motor vehicles shall be operated only within established driveways and parking areas.

B. For purposes of this section, the term “motor vehicle” shall mean any motor vehicle as defined by ~~§ 46.2-100~~, Virginia State Code, as amended, ~~and all pedal bicycles with helper motors commonly known as “mopeds.”~~

C. Violations of the provisions of this section shall be punishable as Class 3 misdemeanors.

## **Chapter 61. CURFEW**

### **§ 61-1. Prohibited conduct by parent or guardian.**

It shall be unlawful for any parent, guardian or other adult person having the care and custody of any minor under 18 years of age to permit, allow or encourage such minor to be in and upon any playground, vacant lot, place of amusement or entertainment, or other unsupervised place, or public area, in the Town between the hours of 12:00 midnight and 5:00 a.m. of the following day, unless such minor is accompanied by his parent, guardian or other adult person having the care and custody of such minor, or is on an emergency errand or legitimate business.

### **§ 61-2. Prohibited conduct by minor.**

It shall be unlawful for any minor under the age of 18 years to be in and upon any playground, vacant lot, place of amusement or entertainment, public building, or other unsupervised place, or public place, in the Town between the hours of 12:00 midnight and 5:00 a.m. of the following day, unless such minor is accompanied by his parent, guardian or other adult person having the care and custody of such minor, or is on an emergency errand or legitimate business.

### **§ 61-3. Presumptive evidence.**

In any court proceedings involving this chapter, the fact that the minor was unaccompanied by parent, guardian or other adult person having the care and custody of such minor, when found upon any of the aforesaid prohibited places, between the hours of 12:00 midnight and 5:00 a.m. of the following day, shall be prima facie evidence that such minor is in violation of this chapter, that no reasonable excuse exists therefor and that the parent, guardian or other adult person having the care and custody of such minor is permitting, allowing or encouraging such minor to violate this chapter.

### **§ 61-4. Violations and penalties.**

Any parent, guardian or other adult person having the care and custody of such minor who shall violate any of the provisions of this chapter or who shall fail to appear pursuant to a summons or other notice issued or given by an officer shall be deemed guilty of a Class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in § 1-3 of this Code, and each such violation by a minor or a parent, guardian or other adult person having the care or custody of such minor shall constitute a separate offense.

## **Chapter 70. FIREARMS**

### **§ 70-1. Willfully discharging in public places.**

If any person willfully discharges or causes to be discharged any firearm in any street in the Town, or in any place of public business or place of public gathering, he shall be guilty of a misdemeanor; provided that this section shall not apply to any law enforcement officer in the performance of his official duties or to any other person whose willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.

### **§ 70-2. Shooting in or along road or in street.**

A. If any person discharges a firearm in or along any road, or within 100 yards thereof, or in a street of the Town, he shall, for each offense, be guilty of a misdemeanor punishable by a fine of not more than \$250.

B. The provision of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law enforcement officers and military personnel in performance of their lawful duties.

### **§ 70-3. Shooting within Town limits.**

A. No person shall discharge a rifle of any kind within the Town limits, except black powder rifles and rifles chambered in rimfire .22lr.

B. No person shall discharge any firearm on any property within the Town limits, except for those properties zoned Agricultural (A-1) or Low-Density Residential (R-4).

C. No Person shall discharge any firearm within 100 yards of any structure.

D. This section shall not apply to law enforcement officers in performance of their lawful duties, or those individuals acting under a permit issued by any Federal, State, or Local government.

## **Chapter 73. FIRE PROTECTION**

### **§ 73-1. Fire zones designated.**

~~An area for a radius of 75 yards at all points from a fire shall constitute and is hereby established as a fire zone.~~

### **§ 73-2. Entering fire zones restricted.**

~~No person, except firemen, police officers, fire police and those requested by the Fire Chief, or Acting Chief, to assist in extinguishing a fire, shall enter a fire zone during a fire without permission of the Fire Chief, Acting Chief, Town or fire police or some member of the fire company.~~

### **§ 73-3. Driving over fire hose.**

~~No person shall drive any vehicle, or cause the same to be driven or passed, over any fire hose when the hose is lying on the ground or upon any street, alleyway, or sidewalk, without permission of the Fire Chief, or Acting Fire Chief.~~

### **§ 73-4. Interference with fire equipment.**

~~Any unauthorized person who shall in any way interfere or tamper with or damage any fire equipment, hose or apparatus, or who shall interfere with or obstruct or hinder the use or movement of any fire equipment at or going to or returning from a fire or drill shall be deemed guilty of a misdemeanor.~~

### **§ 73-5. Interference with firemen prohibited.**

~~No person shall in any manner interfere with or obstruct any firemen in the performance of their duties during any fire or drill.~~

### **§ 73-6. Disobeying orders of Fire Chief at fire.**

~~Any person, at a fire, including members of the fire company, who shall fail, refuse or neglect to obey any order or request of the Fire Chief, or Acting Fire Chief, shall be deemed guilty of a misdemeanor.~~

### **§ 73-7. Disobeying orders of police or firemen at fires.**

~~Any person, other than members of the fire company, at or during a fire, who shall fail, refuse or neglect to obey any order or request given by the Town police, fire police or any member of the fire company authorized to give orders and act as policemen, shall be deemed guilty of a misdemeanor.~~

**~~§ 73-8. Entering burning or burned buildings.~~**

~~No person, other than firemen, shall enter a burning building without the permission of the Fire Chief, or Acting Fire Chief. No person, other than firemen, shall enter such building after the fire has been extinguished until authorized by the Fire Chief, or Acting Fire Chief.~~

**~~§ 73-9. False fire alarms prohibited.~~**

~~No person shall turn in or give any false alarm of fire.~~

**§ 73-10. Sale, use and possession of fireworks.**

No person shall, at any time, buy, sell, offer for sale, expose for sale, use, keep, possess, give away or in any manner dispose of, shoot, set off, ignite, or explode any firecracker, torpedo, skyrocket, Roman candle or any other substance or thing, of whatever size, form or construction, containing any explosive or inflammable compound or substance, and intended, or commonly known as "fireworks," except and other than sparklers and caps for pistols; provided that the Town Council may, by resolution, suspend the operation of this section for a specified period of time and permit any person to buy, sell, offer for sale, expose for sale, use, keep, possess, give away or in any manner dispose of, shoot, set off, ignite or explode any of such fireworks at such other time as the Town Council may designate. The period of suspension shall be specifically stated in the resolution. The Town Council may issue a written permit, upon application in writing, for the display of fireworks by fair associations, amusement parks or by any organization or group of individuals, under such terms and conditions as the Council may prescribe. After such permit has been issued, sales of fireworks may be made for use under such permit. The association, organization or group to which it is issued may make use of such fireworks under the terms and conditions of such permit. This section shall not be construed to prohibit the buying, selling, using, keeping, possessing or the disposition of or shooting, setting off, igniting or exploding of sparklers and caps for pistols as hereinbefore in this section excepted. This section shall have no application to the sale or use of materials or equipment, otherwise prohibited by this section, when such material or equipment is used or to be used by any person in the operation of any railroad train or other vehicle for the transportation of persons or property for signaling or other emergency use.

**~~§ 73-11. Transportation of explosives.~~**

~~No person shall carry, transport of any gunpowder, blasting powder, dynamite or other explosives on any vehicle, unless such explosives are secured in kegs, boxes or containers so that no part thereof can fall out or escape.~~

**§ 73-12. Open air burning.**

A. It shall be unlawful for any person to burn leaves in the open at any time within the Town, except on the property where the person resides between the hours of 9:00 a.m. and 7:00 p.m., provided that:

- (1) All embers of any such fire or burning shall be totally extinguished by 7:00 p.m.;

(2) The location of the fire or burning shall not be less than 50 feet from any occupied building or structure;

(3) At no time shall the fire or burning be unattended;

(4) Any person doing such burning shall take reasonable care to prevent the spread of any fire or burning to buildings, structures, or lands other than those owned or occupied by the person burning such leaves; and

(5) The burning is not otherwise prohibited by applicable state or county fire laws.

B. Nothing in this section shall be construed to prevent, prohibit, limit or restrict the power and authority of the Town to institute and maintain equity proceedings in the Circuit Court of Isle of Wight County, Virginia to prevent, abate, remove, restrain and enjoin any violation or threatened violation of this section.



# **Chapter 75. FLOODPLAIN DISTRICT**

## **Article I. Intent and Applicability**

### **§ 75-1. Intent.**

The intent of this chapter is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

### **§ 75-2. Effect on other provisions.**

This chapter supersedes any other ordinances of the Town of Windsor currently in effect in flood-prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

### **§ 75-3. Applicability.**

Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this chapter and the need of the Town of Windsor to minimize the hazards of damage resulting from flooding. Where any term of this chapter shall conflict with the Virginia Uniform Statewide Building Code in effect in Isle of Wight County, then the Virginia Uniform Statewide Building Code shall apply.

## **Article II. Terms Defined**

### **§ 75-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **BASE FLOOD/ONE-HUNDRED-YEAR FLOOD**

A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

#### **BASE FLOOD ELEVATION (BFE)**

The Federal Emergency Management Agency designated one-hundred-year water surface elevation.

#### 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.

#### BUILDING CODE

The Virginia Uniform Statewide Building Code.

#### DEVELOPMENT

Any man-made 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.

#### FLOOD

A general and temporary inundation of normally dry land areas.

#### FLOODPLAIN

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

#### FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

#### 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 a designated height.

#### FREEBOARD

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

#### LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement).

#### MANUFACTURED HOME

A structure, transportable in one or more sections, which is building 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. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

#### MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) have been provided.

#### NEW CONSTRUCTION

New construction means, for the purposes of determining insurance rates, structures for which the "state of construction" commenced on or after the effective date of the initial FIRM, August 1, 1990, and includes any subsequent improvements to new 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 ordinance adopted by a community and includes any subsequent improvement to such structures.

#### PERMIT OFFICER

The Town of Windsor Permit Officer.

#### PERSON

Any individual or group of individuals, corporation, partnership, association, or other entity, including state and local governments and agencies.

#### PRINCIPALLY ABOVE GROUND

Where at least 51% of the actual cash value of a structure, less land value, is above ground.

#### RECREATIONAL VEHICLE

A vehicle which is:

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

#### START OF CONSTRUCTION

The first placement of permanent construction of a structure (other than a manufactured home on a site) such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 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 as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or manufactured home subdivision, "start of construction" means the affixing of facilities for servicing the site on which the manufactured home is to be affixed (including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

#### STRUCTURE

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% 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 equal or exceeds 50% 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 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 any alternation of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.

### **Article III. Establishment of District**

#### **§ 75-5. Areas included in District.**

The Floodplain District shall include all areas subject to inundation by the waters of the one-hundred-year flood. The source of this delineation shall be the Flood Insurance Rate Map for the Town of Windsor, as prepared by the Federal Emergency Management Agency, effective September 4, 2002.

#### **§ 75-6. Determination of base flood elevation and floodway.**

For purposes of this chapter, the base flood elevation, i.e., the one-hundred-year flood elevation and floodway, if available, shall be used. In determining the elevation and floodway, if available, the following methods shall be used:

A. When available, the following sources of data:

- (1) Corps of Engineers: floodplain information reports.
- (2) U.S. Geological Survey: flood-prone quadrangles.
- (3) U.S.D.A. Soil Conservation Service: flood hazard analyses or county soil surveys (alluvial soils)
- (4) Known high-water marks from past floods.
- (5) Other sources.

B. When no base flood data from another source is available, a flood elevation shall be approximated by determining the actual ground elevation at the point on the boundary of the special flood hazard area nearest to the development site.

C. All building permit applications issued for the Floodplain Overlay District, as defined in this chapter, shall incorporate the following information:

- (1) For structures that have been elevated, the elevation of the lowest floor (including basement);
- (2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed;
- (3) The elevation of the one-hundred-year flood.

#### **§ 75-7. Changes in designation of area(s).**

The delineation of any of the identified flood-prone area(s) may be revised by the Board of Supervisors of Isle of Wight County where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission or other qualified agency or individual documents the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

#### **§ 75-8. Boundary disputes.**

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the Board of Supervisors of Isle of Wight County. The burden of proof shall be on the appellant.

#### **§ 75-9. Design criteria for utilities and facilities.**

A. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the

floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage away from buildings and on-site waste disposal sites. The Town Council may require a primarily underground system to accommodate frequent flood and a secondary surface system to accommodate larger, less-frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities. All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

## **Article IV. Utilization of District**

### **§ 75-10. Development; relocation of water courses.**

A. In the Floodplain District in the Town of Windsor, any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with applicable zoning ordinances and with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations, including the Building Code. For any manufactured home park or subdivision, an evacuation plan which indicates alternate access routes shall be filed with the Town of Windsor and the appropriate disaster preparedness authorities of Isle of Wight County.

B. In addition, whenever a developer intends to alter or relocate a watercourse within the Floodplain District, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure the Town of Windsor in writing that the flood capacity within the altered or relocated portion of the watercourse in question will be maintained.

C. No development shall be permitted in any floodway area which would cause any increase in the base flood elevation.

## **Article V. Building and Site Plan Approval**

### **§ 75-11. General permit required.**

A. Floodplain permits issued by the Permit Officer are required in order to determine whether all new construction or substantial improvements are:

- (1) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement.
- (2) Constructed with materials and utility equipment resistant to flood damage.
- (3) Constructed by methods and practices that minimize flood damage.

B. Such floodplain permits shall be in the form as prescribed by the Permit Officer and include such information as to elevation and floodproofing as shall be required by the Virginia Uniform Building Code.

### **§ 75-12. Site plan criteria.**

The owner or developer of any proposed subdivision, manufactured home park or subdivision, or other development shall submit a site plan to the Permit Officer which includes the following information:

A. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

B. A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood-prone areas, proposed lots and sites, fills, flood- or erosion-protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, shall include base flood elevation data.

C. Where the subdivision and/or development lies partially or completely in the flood-prone areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two or five feet, depending upon the slope of the land and identify accurately the boundaries of the flood-prone areas.

### **§ 75-13. Elevation and floodproofing.**

Depending on the type of structure involved, the following information shall also be included in the floodplain permit for work within the Floodplain District:

A. For structures to be elevated to the base flood elevation:

- (1) A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- (2) A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a registered professional engineer, surveyor or architect.
- (3) Plans showing the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion-protection measures, etc. When

required by the Permit Officer, these plans shall be prepared by a registered professional engineer or architect.

(4) All new construction shall be constructed with electrical, HVAC systems (heating and air conditioning), ventilation, plumbing and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**B. For structures to be floodproofed to the base flood elevation (nonresidential structures only):**

(1) Plans showing details of all floodproofing measures, prepared by a registered professional engineer or architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(2) A determination of elevations of the existing ground, proposed finished ground, lowest floor, and floodproofing limits, certified by a registered professional engineer, surveyor, or architect.

(3) A certificate prepared by the registered professional engineer or architect who prepared the plans in Subsection B(1) above, that the structure in questions, together with attendant utility and sanitary facilities, is designed so that:

(a) Below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water.

(b) The structure will withstand the hydrostatic, hydrodynamic buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the base flood.

## **Article VI. Administration**

### **§ 75-14. Approval required.**

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). Further notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

### **§ 75-15. Time restrain on start of construction.**

Work on the proposed construction shall begin within six months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

### **§ 75-16. Inspection and revocation.**



During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances and any building permit may be revoked as provided in the Building Code.

## **Article VII. Appeals and Penalties**

### **§ 75-17. Appeals.**

Whenever any person is aggrieved by a decision of the Permit Officer with respect to the provision of this chapter, it is the right of that person to appeal to the Board of Zoning Appeals. Such appeal must be filed, in writing, within 30 days after the determination by the Permit Officer. Upon receipt of such appeal, the Board of Zoning Appeals shall set a time and place not less than 10 nor more than 30 days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time and place they may appear and be heard. The determination by the Board of Zoning Appeals shall be final in all cases.

### **§ 75-18. Appeal review criteria.**

A. All appeals contesting only the permit fee established by the Permit Officer may be handled at the discretion of the Board of Zoning Appeals. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Town's Zoning Ordinance and consider the following additional factors:

- (1) 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 one hundred-year flood elevation.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continue designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors which are relevant to the purposes of this chapter.

(14) An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.

B. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

C. The Board of Zoning Appeals shall maintain a record of all decisions including justification for their issuance and report such decisions issued in its annual report submitted to the Federal Insurance Administration.

#### **§ 75-19. Violations and penalties.**

Any person who fails to comply with any or all of the requirements or provisions of this chapter or direction of the Permit Officer or any other authorized employee of the Town of Windsor shall be guilty of an offense and, upon conviction, shall pay a fine to the Town of Windsor of not less than \$25 nor more than \$300 plus costs of prosecution. In default of such payment, such person shall be incarcerated for a period not to exceed 10 days. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation of noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the Town Council to be a public nuisance and abatable as such.

### **Article VIII. Existing Structures**

#### **§ 75-20. Preexisting nonconforming structures.**

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. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.

B. The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a floodplain district to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.

C. Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

## **Article IX. Municipal Liability**

### **§ 75-21. No liability upon Town.**

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area shall not constitute a representation, guarantee, or warranty of any kind by the Town of Windsor, or by any official or employee thereof, of the practicability or safety of the proposed use, and shall create no liability upon the Town of Windsor, its officials or employees.

## **Chapter 78. HAZARDOUS MATERIALS**

### **§ 78-1. Self-service flammable liquid dispensers prohibited.**

It shall be unlawful for any person to:

~~A. Install, manage, lease, operate or use, or make available for use or operation by the public, or permit such use or operation of, any self-service dispensing device of any kind and description, such as, but not limited to, a coin-operated, card-operated or remote preset type of device, for dispensing flammable liquids, except at service stations and/or other places of business; or~~

~~B. Dispense flammable liquids from any such dispensing device into any portable container unless such portable container is constructed of metal and has a tight closure with screwed or springed cover and fitted with a spout or is so designed and constructed that the contents therein can be poured therefrom without spilling or is approved by the Town Council; or~~

~~C. Install, manage, lease, use or operate, or make available for use or operation or permit the use or operation of any such dispensing device unless:~~

~~(1) A qualified attendant is present and on duty at all times on the premises or at the place where any such dispensing device is used or operated or is available for use or operation and where any such dispensing device may be viewed or observed by such attendant without obstruction;~~

~~(2) Emergency controls for the control of any such dispensing device are located in the building or at the place customarily occupied by such attendant;~~

~~(3) Not less than two portable operational fire extinguishers are kept in the building or at the place customarily occupied by such attendant; and~~

~~(4) Instructions for using and operating any such dispensing device are conspicuously posted at any such dispensing device.~~

### **§ 78-2. Duties of attendant.**

~~A. In addition to the functions, duties and responsibilities that may, from time to time, be assigned to or required of the attendant hereinbefore provided for, it shall also be the function, duty and responsibility of such attendant to:~~

~~(1) Supervise, observe and control the use and operation of any such dispensing device and the dispensing of flammable liquids therefrom;~~

~~(2) Prevent the dispensing of flammable liquids into any portable container except in accordance with the provisions and requirements set out above § 78-1B;~~

~~(3) Immediately remove or clear away flammable liquids that are spilled incident to the use or operation of such dispensing devices on the premises or at the place where such dispensing devices are located;~~

~~(4) Use the portable fire extinguishers to extinguish fires on the premises or at the place of any such dispensing device if needed; and~~

~~(5) Control all sources of ignition.~~

~~B. It shall be unlawful for such attendant to intentionally or willfully fail to perform any of the aforesaid functions, duties and responsibilities. The attendant's intentional or willful failure to perform the aforesaid functions, duties and responsibilities shall be punishable as a Class 3 misdemeanor.~~

### **§ 78-3. Nonconforming uses.**

~~All such dispensing devices in existence, use and operation or available for use and operation at the time of the adoption of this chapter which do not conform to or comply with the requirements of this chapter are to be considered nonconforming devices, uses and operations, and it shall be unlawful for the owner, lessee or operator of all such dispensing devices to fail to make such dispensing devices, the use and operation thereof and the premises or places where such devices, uses and operations are located conform to and comply with the requirements of this chapter within three months from the date of the adoption of this chapter.~~

### **§ 78-4. Enforcement.**

~~Nothing in this chapter shall be construed to prevent, prohibit, limit or restrict the power and authority of the Town of Windsor, Virginia, to institute and maintain equity proceedings in the Circuit Court of Isle of Wight County, Virginia, to prevent, abate, remove, restrain and enjoin any violation or threatened violation of this chapter.~~

# **Chapter 89. LICENSED OCCUPATIONS**

## **Article I. License Tax**

### **§ 89-1. 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 occupations and upon the persons, firms and corporations engaged therein within this locality.

### **§ 89-2. Definitions.**

For the purposes of this article, unless otherwise required by the context, the following terms shall have the meanings indicated:

#### **AFFILIATED GROUP**

A. One or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of each of the includible corporations, except the common parent corporation, is owned directly by one or more of the other includible corporations; and the common parent corporation directly owns stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of at least one of the other includible corporation. As used in this definition, the term “stock” does not include nonvoting stock which is limited and preferred as to dividends. The term “includible 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.

B. Two or more corporations if five or fewer persons who are individuals' estates or trusts own stock possessing:

(1) At least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of the stock of each corporation; and

(2) More than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% 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.

C. When one or more of the includible corporations, including the common parent corporation, is a nonstock corporation, the term “stock” as used in this definition shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

#### ASSESSMENT

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 the 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

The Treasurer of this jurisdiction.

#### BASE YEAR

The calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715, Code of Virginia, as amended.

#### BUSINESS

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:

A. Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

B. Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

#### CONTRACTOR

Has the meaning prescribed in § 58.1-3714, Subdivision B, 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

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

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 article.

### A. BROKER

— An agent of a buyer or a seller who buys or sell stocks, bonds, commodities, or services, usually on a commission basis.

### B. COMMODITY

— Staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

### C. DEALER

— 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.

### D. SECURITY

— Shall have the same meaning as in the Securities Act (§ 13.1-501 et seq., Code of Virginia, as amended) or in similar laws of the United States regulating the sale of securities.

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

- (1) Buying installment receivables.
- (2) Chattel mortgage financing.
- (3) Consumer financing.
- (4) Credit card services.
- (5) Credit unions.
- (6) Factors.
- (7) Financing accounts receivable.
- (8) Industrial loan companies.
- (9) Installment financing.
- (10) Inventory financing.
- (11) Loan or mortgage brokers.



- (12) Loan or mortgage companies.
- (13) Safety deposit box companies.
- (14) Security and commodity brokers and services.
- (15) Stockbrokers.
- (16) Working capital financing.

#### GROSS RECEIPTS

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, Code of Virginia, as amended.

#### LICENSE YEAR

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

#### PERSONAL SERVICES

Rendering for compensation any repair, personal, business or other estate or professional service under this article or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Title 58.1, Code of Virginia, as amended.

#### PROFESSIONAL SERVICES

Rendering any service specifically enumerated below or engaging in any 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 words "profession" and "professional" imply attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others as a vocation, and including, but without limitation, such attainments attributed to the following:

- A. Architects.
- B. Attorneys-at-law.
- C. Certified public accountants.
- D. Dentists.
- E. Engineers.
- F. Land surveyors.
- G. Practitioners of the healing arts (the art or science or group of arts or science dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities).

H. Surgeons.

I. Veterinarians.

#### PURCHASES

All goods, wares and merchandise received or offered for sale at each definite place of business of every wholesaler or wholesale merchant, and shall not be construed to exclude any goods, wares or merchandise otherwise coming within the meaning of such word, including such goods, wares and merchandise manufactured by a wholesale or wholesale merchant and sold or offered for sale as merchandise.

#### REAL ESTATE SERVICES

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 article, and such services include, but are not limited to, the following:

A. Appraisers of real estate.

B. Escrow agents, real estate.

C. Fiduciaries, real estate.

D. Lessors of real property.

E. Real estate agents, brokers and managers.

F. Real estate selling agents.

G. Rental agents for real estate

#### RETAILER or RETAIL MERCHANT

Any person or merchant who sells 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

Things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

#### WHOLESALE or WHOLESALE MERCHANT

Any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users which, because of the quantity, price, or other terms, indicate that they are consistent with sales at wholesale.

### **§ 89-3. License requirement; payment schedule; late-filing penalties.**

A. License required.

(1) Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter “a business”) as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

(a) In the case of professional services, such person:

[1] Maintains a definite office in this jurisdiction; or

[2] Does not maintain a definite office in the Commonwealth of Virginia but does maintain an abode in this jurisdiction, which abode for the purposes of this article shall be deemed a definite place of business; or

(b) In the case of any other business, such person has a definite place of business or maintains an office in this jurisdiction; or

(c) Such person is engaged as a peddler or itinerant merchant, carnival or circus as specified in §§ 58.1-3717, 58.1-3718, or 58.1-3728, Code of Virginia, respectively, as amended, or is a contractor subject to § 58.1-3715, Code of Virginia, as amended, or is a public service corporation subject to § 58.1-3731, Code of Virginia, as amended.

(2) 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:

(a) 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;

(b) 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

(c) 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 licensable in this jurisdiction on or before January 1 of the license year, or no 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 or purchases. If the tax is measured by the gross receipts or purchases of the business, the tax shall be paid on or before March 1.

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 good cause. The extension may 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 10% of the portion paid after the due date.

E. A penalty of 10% 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 penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days the Treasurer may impose a late payment penalty of 10%. 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.

(1) "Acted responsibly" means that:

(a) 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

(b) 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 it occurred was removed or the failure discovered.

(2) 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 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 article 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, Code of Virginia, as amended. No interest shall accrue on an adjustment of estimate tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charge on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund, or the due date of the tax, or the date of the taxpayer's application for a refund, whichever is later.

#### **§ 89-4. Situs of gross receipts.**

A. General rule. Whenever the tax imposed by this article 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. 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, Code of Virginia, as amended.
- (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.
- (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 leased, or if the property is not leased 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 personal 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 jurisdictions are unable to reach an apportionment agreement, the gross receipts of the business shall be apportioned between the definite places of businesses as provided in § 58.1-3709, Code of Virginia, as amended. 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 attributed to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction in the event 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 or in the event the assessing official is notified or becomes aware 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% 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.

#### **§ 89-5. Limitations, extensions, appeals and rulings.**

The enforcement of the provisions of this article, including limitations with respect thereto, the correction of any assessment hereunder and any appeal by this jurisdiction of a correction made by its assessing official or by any person assessed with taxes hereunder and aggrieved by such assessment shall be pursuant to Chapter 39, Title 58.1, Code of Virginia, as amended; provided, however:

A. Any person assessed with a licensing tax under this article as the result of an audit may, within the period provided in § 58.1-3980, Code of Virginia, as amended, apply 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 of 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 30 days after the 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 § 89-3F of this article, but no 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 to:

- (1) Depart quickly from the locality;
- (2) Remove his property therefrom;
- (3) Conceal himself or his property therein;
- (4) 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 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 of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or 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 there is a change in the law, a court decision, or 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.

#### **§ 89-6. 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, 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.

#### **§ 89-7. 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 allowances 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.
- (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 receipt 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 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.

## **Article II. Contractors**

### **§ 89-8. Amount of tax.**

The license tax on each person engaged in contracting shall be either \$30 or \$0.10 per \$100 of gross receipts ~~up to \$1,500,000 and, or \$1,500 plus~~ \$0.08 per \$100 over \$1,500,000, whichever is greater.

### **§ 89-9. Contractors defined.**

For purposes of this article, contracting generally includes, but is not limited to, persons engaged in the following occupations, business or trades:

- A. Air-conditioning, except nonpermanent installation of window units.
- B. Brick contracting and other masonry.
- C. Building.
- D. Cementing.
- E. Dredging.
- F. Electrical contracting.
- G. Elevator installation.
- H. Erecting signs which are assessed as realty.
- I. Floor scraping or finishing.
- J. Foundations.
- K. House moving.
- L. Paint and paper decorating.
- M. Plastering.
- N. Plumbing, heating, steamfitting.



O. Refrigeration.

P. Road, street, bridge, sidewalk or curb and gutter construction.

Q. Roofing and tinning.

R. Sewer drilling and well digging.

S. Sign painting, where the sign is painted on the side of a building or structure assessed as realty.

T. Structural metal work.

U. Tile, glass, flooring and floor covering installation.

V. Wrecking, moving or excavating.

## **Article III. Retail Sales**

### **§ 89-10. Amount of tax.**

The license tax on each person engaged in retail sales shall be either \$30 or \$0.12 per \$100 of gross receipts ~~up to \$1,500,000 and or \$1,800 plus~~ \$0.08 per \$100 of gross receipts over \$1,500,000, whichever is greater.

### **§ 89-11. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **ITINERANT MERCHANT**

Any person who engages in, does or transacts any temporary or transient business in Virginia, either in one locality or in traveling from place to place in the sale of goods, wares and merchandise, and who, for the purpose of carrying on such business, hires, leases, uses or occupies any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or houses of private entertainment, or in any street, alley or public place in any city or town, or in any public road in any county, for a period of less than one year, for the exhibition of or sale of such goods, wares or merchandise.

#### **PEDDLER**

Any person who carries from place to place any goods, wares or merchandise and offers to sell or actually sells and delivers at the same time; any person who does not keep a regular place of business, whether it be a house or vacant lot or elsewhere, with regular business hours, but at that place offers to sell goods, wares and merchandise, is a peddler; any person who keeps a regular place of business, with regular business hours at the same place, who, other than at that regular place of business, personally or through agents offers for sale or sells and, at the time of such offering for sale, delivers goods, wares and merchandise.

#### **RETAIL MERCHANT**

Any person who makes retail sales.

#### RETAIL SALE

The sales of goods, wares and merchandise for any purpose other than resale, but not including sales at wholesale to institutional, commercial and industrial users.

#### **§ 89-12. Peddlers and itinerant merchants.**

Peddlers and itinerant merchants who sell goods, wares or merchandise at retail are engaged in retail sales.

#### **§ 89-13. Merchants conducting both wholesale and retail businesses.**

When a merchant conducts both a wholesale and a retail business, the merchant may, at his election, pay the license tax on that portion of the business derived from retail sales. The merchant may, at his election, pay the license tax as a retailer on both and the retail and wholesale portions of the business.

### **Article IV. Wholesalers**

#### **§ 89-14. Amount of tax.**

The license tax on each wholesaler shall be either \$30 or \$0.05 per \$100 of purchases, whichever is greater.

#### **§ 89-15. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### WHOLESALER

Any person who sells to others for resale or who sells at wholesale to institutional, commercial or industrial users.

#### **§ 89-16. Merchants conducting both wholesale and retail businesses.**

When a merchant conducts both a wholesale and a retail business, the merchant may, at his election, pay the license tax as a retailer on the wholesale portion of his business as provided in § 89-13.

#### **§ 89-17. Peddlers to dealers and retailers.**

A. Peddlers, as defined in § 89-11, who sell to licensed dealers or retailers are wholesalers, except that this section shall not apply to:

(1) A wholesale dealer regularly licensed by this Town and who shall, at the same time, sell and deliver merchandise to retail merchants;

- (2) A distributor or vendor of motor vehicle fuels and petroleum products, or seafood;
- (3) A farmer;
- (4) A dealer in forest products;
- (5) A farmers' cooperative association;
- (6) A producer of agricultural products; or
- (7) A manufacturer taxable on capital by the Commonwealth of Virginia who peddles the goods, wares or merchandise manufactured by him at a plant, the capital of which is taxable by the Commonwealth of Virginia, and who peddles no other goods, wares or merchandise.

B. Every person, firm or corporation claiming to be a distributor or vendor of motor vehicle fuels or petroleum products, a farmer, a dealer in forest products, tobacco or seafood, a producer of agricultural products, a wholesale dealer, a manufacturer taxable on capital by the Commonwealth of Virginia or a distributor of manufactured goods paying a Commonwealth of Virginia license tax on his purchases and selling and delivering at the same time or offering to sell and deliver at the same time to licensed dealers or retailers such goods, wares or merchandise shall, upon request of any police, tax or revenue officer of the Town, furnish evidence of his claim other than his mere statement that he is exempt from the provisions of this article, and failure to furnish such evidence shall be sufficient ground for charging the person operating the vehicle with a violation of this article.

C. Every person, firm or corporation claiming exemption from the provisions of this article on the ground that it is delivering goods, wares or merchandise previously sold to the customer shall, upon request of any police, tax or revenue officer of the Town, furnish evidence of its claims other than its mere statement. The evidence may be an invoice or signed order describing the goods, wares or merchandise involved and the amount and price thereof. Failure to furnish such evidence shall be sufficient ground for charging the person operating the vehicle with a violation of this article.

D. The exemption accorded a distributor or vendor of motor vehicle fuels and petroleum products and a dealer in forest products is restricted to such peddling of motor vehicle fuels and petroleum products and forest products; and in the case of a farmer, a producer of agricultural products or a manufacturer taxable on capital by the Commonwealth of Virginia, the exemption is restricted to such peddling of goods, wares or merchandise actually manufactured, produced or grown by the seller.

## **Article V. Financial, Real Estate and Professional Services**

### **§ 89-18. Amount of tax.**

The license tax on each person engaged in financial, real estate and professional services shall be either \$30 or \$0.35 per \$100 of gross receipts ~~up to \$1,500,000 and, or \$5,250 plus~~ \$0.223 per \$100 over \$1,500,000, whichever is greater.

### **§ 89-19. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

## FINANCIAL SERVICE

Unless otherwise specifically provided herein, any person rendering a service for compensation in the form of a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange. Those engaged in rendering financial services include, but are not limited to, the following:

- A. Buying installment receivables.
- B. Chattel mortgage financing.
- C. Consumer financing.
- D. Credit card services.
- E. Credit unions.
- F. Factors.
- G. Financing accounts receivable.
- H. Industrial loan companies.
- I. Installment financing.
- J. Inventory financing.
- K. Loan or mortgage brokers.
- L. Loan or mortgage companies.
- M. Safety deposit box companies.
- N. Security and commodity brokers and services.
- O. Stockbrokers.
- P. Working capital financing.

## PROFESSIONAL SERVICE

A person is engaged in providing a professional service if engaged in rendering any service specifically enumerated below or engaged in any 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 as a vocation. Those engaged in rendering a professional science include, but are not limited to, the following:

- A. Architects.
- B. Attorneys-at-law.

- C. Certified public accountants.
- D. Dentists.
- E. Engineers.
- F. Land surveyors.
- G. Pharmacists.
- H. Practitioners of the healing arts.
- I. Surgeons.
- J. Veterinarians.

#### REAL ESTATE SERVICE

Unless otherwise specifically provided herein, any person rendering a service for compensation as lessor, buyer, seller, developer, agent or broker is providing a real estate service.

A. Those rendering real estate services include, but are not limited to, the following:

- (1) Appraisers of real estate.
- (2) Escrow agents, real estate.
- (3) Fiduciaries, real estate.
- (4) Lessors of real property.
- (5) Owner-operators and lessors of hotels, motels, motor lodges, auto courts, tourist courts, transient trailer parks, lodging houses, rooming houses and boardinghouses.
- (6) Real estate agents, brokers and managers.
- (7) Real estate selling agents.
- (8) Rental agents for real estate.

B. This tax shall not apply to any person engaging in the business of renting, as owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, transient trailer parts, lodging houses, rooming houses, boardinghouses.

## **Article VI. Operators of Coin-Operated Machines, Carnivals, Fortune Tellers and Massage Parlors**

### **§ 89-20. Amount of tax on coin-operated machines; applicability.**

The license tax on each operator (person, firm or corporation selling, leasing, renting or otherwise furnishing such a device) shall be \$100 or \$.025 per \$100 of gross receipts, whichever is greater.~~\$200.~~

The tax shall apply to an operator when any such coin-operated machine or device operated on the coin-in-the-slot principal of such operator is located within the Town of Windsor.

A. Peddlers. The license tax on peddlers shall be \$50 per day.

B. Farm vendors. The license tax on farm vendors shall be:

(1) Town market: \$30 per year.

(2) Others: \$5 per day.

#### **§ 89-21. Amount of tax on carnivals.**

The license tax on each carnival shall be \$100 per day.

#### **§ 89-22. Amount of tax on fortune tellers.**

The license tax on each fortune teller shall be \$200 per day.

#### **§ 89-23. Amount of tax on massage parlors.**

The license tax on each massage parlor shall be \$1,000 per day.

#### **§ 89-24. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

##### **CARNIVAL**

An aggregation of shows, amusements, concessions and riding devices or any of them operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether the same are owned and actually operated by separate persons or not. The term includes but is not limited to sideshows, dog and pony shows, trained animal shows, circuses and menageries.

##### **FORTUNE TELLER**

A clairvoyant, a practitioner of palmistry, a phrenologist, a faith healer, a star analyst, a handwriting analyst who attempts to predict the future, or any other person who attempts to predict the future.

##### **OPERATOR**

Any person, firm or corporation selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle; provided, however, the term "operator" shall not include a person, firm or corporation owning less than three coin machines and operating such machines on property owned or leased by such person, firm or corporation.

## **Article VII. Alcoholic Beverages**

### **§ 89-25. License taxes.**

Every person engaged in selling or dispensing alcoholic beverages shall pay the following license taxes:

- A. For each retail mixed alcoholic beverage license: \$200.
- B. For each retail on-premises beer license: \$25.
- C. For each retail off-premises beer license: \$25.
- D. For each retail off-premises wine and beer license: \$37.50.
- E. For each retail on- and off-premises wine and beer license: \$75.

### **§ 89-26. State license also required.**

No license shall be issued under this article to any person unless such person shall hold or shall secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act, which state license shall be exhibited to the Treasurer of the Town.

### **§ 89-27. Applicability of other Town licenses.**

Each license required under this article shall be in lieu of a merchant's or restaurant's license on that portion of the business of the license covered thereby, but no such license shall relieve any license of any other Town license required by this Code or other ordinance.

### **§ 89-28. Transferability; amendment.**

No license required under this article shall be transferable from one person to another, but it may be amended to show a change in the place of business within the Town.

## **Article VIII. Public Service Companies**

### **§ 89-29. Amount of tax on telephone and telegraph companies.**

The license tax on each telephone or telegraph company shall be 0.5% of gross receipts, except that charges for long distance telephone calls shall not be considered as part of such gross receipts.

### **§ 89-30. Amount of tax on water or heat, light and power companies.**

The license tax on each corporation furnishing water or heat, light and power, whether by means of electricity or gas, shall be 0.5% of gross receipts.

## **Article IX. Repair, Personal and Business Services and Other Businesses and Services**

### **§ 89-31. Amount of tax.**

The license tax on each repair, personal and business services and all other businesses and services not specifically enumerated or excepted in this chapter shall be either \$30 or \$0.20 per \$100 of gross receipts ~~up to \$1,500,000 and, or \$3,000 plus~~ \$0.133 per \$100 per \$1,500,000, whichever is greater.

### **§ 89-32. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **BUSINESS SERVICE**

Any service rendered for compensation to any business, trade, occupation or governmental agency, unless the service is specifically provided for under another section of this chapter.

#### **PERSONAL SERVICE**

Any service rendered for compensation either upon or for persons, animals or personal effects, unless the service is specifically provided for under another section of this chapter.

#### **REPAIR SERVICE**

The repairing, renovating, cleaning or servicing of some article or item of personal property for compensation, unless the service is specifically provided for under another section of this chapter.

### **§ 89-33. Repair, personal and other services enumerated.**

Those rendering a repair, personal or other service as provided in § 89-32 include, but are not limited to the following:

Advertising agencies

Airports

Ambulance service

Amusements and recreation services (all types)

Animal hospitals, grooming services, kennels, or stables

Auctioneers and common criers

Automobile driving schools



Barber shops, beauty parlors, and hairdressing establishments, schools and services

Bid or building reporting service

Billiard or pool establishments or parlors

Blacksmiths or wheelwrights

Bondsmen

Booking agents or concert managers

Bottle exchanges

Bowling alleys

Brokers and commission merchants other than real estate or financial brokers

Business research and consulting services

Chartered clubs

Child-care attendants or schools

Collection agents or agencies

Commercial photography, art and graphics

Commercial sports

Commission merchants

Dance halls, studios and schools

Data processing, computer and systems development services

Developing or enlarging photographs

Detective agencies and protective services

Drafting services

Engraving

Erecting, installing, removing or storing awnings

Extermination services, except those constituting contracting

Freight traffic bureaus

Fumigating or disinfecting

Funeral services and crematories

Golf courses, driving ranges and miniature golf courses

Hauling of sand, gravel or dirt

Hotels, motels, tourist courts, boarding- and rooming houses and transient trailer parks and campsites

House cleaning services

Impounding lots

Information bureaus

Instructors, tutors, schools and studios of music, ceramics, art, sewing, sports and the like

Interior decorating

Janitorial services

Laundry cleaning and garment services, including laundries, dry cleaners, linen supply, diaper service, coin-operated laundries and upholstery cleaning

Hailing, messenger and correspondent services

Marinas and boat landings

Movie theaters and drive-in theaters

Nickel plating, chromizing and electroplating

Nurses and physician registries

Nursing and personal care facilities, including nursing homes, convalescent homes, homes for the retarded, old age homes and rest homes

Packing, crating, shipping, hauling or moving goods or chattels for others

Parcel delivery services

Parking lots, public garages and valet parking

Pawn brokers

Personnel services, labor agents and employment bureaus

Photographers and photographic services

Piano tuning

Picture framing and gilding

Porter services

Press clipping services

Printers

Private hospitals

Promotional agents and agencies

Public relations services

Renting or leasing any items of tangible personal property

Reproduction services

Secretarial services

Septic tank cleaning

Shoe repair, shoe shine and hat repair shops

Sign painting, except as set forth in § 89-7

Speculative builders

Storage, all types

Subdividers and developers

Swimming pool maintenance and management

Tabulation services

Taxidermists

Telephone answering services

Theaters

Theatrical performers, bands and orchestras

Towing services

Transportation services, including buses and taxis

Travel bureaus

Tree surgeons, trimmers and removal services

Turkish, Roman or other like baths or parlors

Wake-up services

Washing, cleaning or polishing automobiles

## **Chapter 92. LITTERING**

### **§ 92-1. Definitions.**

For the purpose of this chapter, the following terms and their derivations shall have the meanings ascribed to them herein:

#### **AUTHORIZED PRIVATE RECEPTACLE**

A litter storage and collection container constructed so as to reasonably confine and retain litter and trash.

#### **GARBAGE**

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

#### **LITTER**

Garbage, refuse, and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

#### **NEWSPAPER**

Any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

#### **PARK**

A park, reservation, playground, recreation center or any other public area in the Town, owned or used by the Town and its inhabitants, and devoted to active or passive recreation.

#### **PRIVATE PREMISES**

Any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

#### **PUBLIC PLACE**

Any street, sidewalk, boulevard, alley or other public way and any public park, square, space, or grounds or building.

## REFUSE

All putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned motor vehicles and solid market and industrial wastes.

## RUBBISH

Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, plastic and similar materials.

## VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

### **§ 92-2. Placement in receptacles.**

A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in public receptacles, or in authorized receptacles for collection.

B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

### **§ 92-3. Sweeping litter into gutters; maintenance of sidewalks.**

No person shall sweep into or deposit in any gutter, street, or other public place within the Town the accumulation of litter from any building or lot or from any private or public sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

### **§ 92-4. Merchants' duty to keep sidewalk free of litter.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Town shall keep all premises, including sidewalks, service alleys and parking areas of their business, free of litter.

### **§ 92-5. Litter thrown from vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Town, or upon private property.

**§ 92-6. Truck loads causing litter.**

No person shall drive or move any truck or other vehicle within the Town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

**§ 92-7. Litter in parks.**

No person shall throw or deposit litter in any park within the Town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

**§ 92-8. Litter in lakes and fountains.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, ditch, canal or any other body of water in a park or elsewhere within the Town.

**§ 92-9. Litter on occupied private property.**

No person shall throw or deposit litter on any occupied or unoccupied property within the Town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

**§ 92-10. Owner to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter on any open or vacant private property within the Town, whether owned by such person or not.

**§ 92-11. Litter on vacant lots.**

No person shall throw or deposit litter on any open or vacant private property within the Town, whether owned by such person or not.

**§ 92-12. Violations and penalties.**

A violation of the provisions of this chapter shall be punishable as a Class 3 misdemeanor.

# **Chapter 100. NUISANCES**

## **Article I. General Provisions**

### **§ 100-1. Nuisance prohibited within Town.**

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the Town at any place within the Town.

### **§ 100-2. Certain nuisances enumerated.**

A. The following acts when committed, or conditions when existing, within the Town are hereby defined and declared to be nuisances:

- (1) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.
- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (4) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other articles thrown or placed by any person on or in any street, sidewalk or other public place, which in way may cause any injury or annoyance to the public.
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair.
- (7) All stables, cattle yards, sheep or cow pens or yards or structures for poultry, permitted by the owner thereof or the person responsible thereof or found to be harboring or breeding places for rodents or otherwise to be in such a condition as to become offensive, annoying or injurious to the public or to persons in the neighborhood thereof.
- (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.



(9) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.

B. The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the Town limits, is hereby declared to constitute a nuisance.

### **§ 100-3. Responsibility of property owners, occupants and others.**

Each owner, lessee, tenant, occupant or person in charge of any real property within the Town, and each agent or representative of any such person, is hereby charged with responsibility for the maintenance and use of such real property in such manner that no use of, or activity or condition upon or within, such real property shall constitute a nuisance; and all such persons are hereby charged with the duty of observing all of the provisions of this chapter, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the Town.

### **§ 100-4. Care of premises; storage of inoperative motor vehicles.**

A. It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any inoperative motor vehicle which is not housed within a garage or building completely obstructed from public view. It shall be the duty of and responsibility of every such owner or occupant to keep the premises of residential property clean and to remove from the premises all inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, building rubbish, or other debris, including but not limited to weeds, dead trees, trash and garage, etc., upon notice from an authorized agent of the Town.

B. For the purpose of this section, an "inoperative motor vehicle" is defined as one that 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, wheels, the engine, or other essential parts required for operative of the vehicle; or which does not display both of the following: current valid license plate, current inspection sticker.

C. The owner or occupant of any residential property found to be in violation of Subsection A or B above shall, within 10 days of notice thereof, remove such inoperative motor vehicle or other item specified in Subsection A. Notice shall be made by certified, registered letter or personal delivery of notice by an authorized agent of the Town to the owner.

D. In the event that the owner of such inoperative motor vehicle(s) or other item specified in Subsection A, or the occupant of any residential property upon which such inoperative motor vehicle(s) or other item specified in Subsection A is located, fails to remove such inoperative vehicle or such other item specified in Subsection A within 10 days of notice thereof, employees or agents of the Town shall,

upon direction of the Chief of Police ~~or Planning and Zoning Administrator~~, remove it from the premises of the owner. The costs of such removal shall be taxed to the owner of the real estate as provided in Article II of this chapter.

E. In the event that any inoperative motor vehicle is removed from the premises of the owner by employees or agents of the Town, then the Town may dispose of it, after giving the owner 10 days' additional notice of its intention to do so.

F. In the event the owner of such inoperative motor vehicle or such other item specified in Subsection A or the owner of the premises on which such motor vehicle or such other item specified in Subsection A was kept wishes to obtain the property before it is disposed of, such owner shall pay a removal fee of \$75 to the Town, or the towing and storage fee to any agent of the Town who has removed such vehicle or such other item specified in Subsection A from the premises, whichever is applicable.

G. For the purposes of this section, inoperative vehicles kept in any manner other than within a structural building shall be in violation of this chapter.

H. Fences, partially or totally obstructing views, or car covers shall not exempt any vehicle from being in violation of this section.

## **Article II. Abatement**

### **§ 100-5. Inspections, investigations and complaints.**

It shall be the duty of the ~~Mayer~~ Planning and Zoning Administrator and/or Chief of Police to cause inspections to be made from time to time of all portions of the Town to determine whether any condition exists or activity is being practiced which constitutes a nuisance; and he shall cause an investigation to be made upon complaint made by any responsible person.

### **§ 100-6. Right to enter private premises; duty of occupants.**

Town officers shall have the right to enter upon private premises for the purposes specified in § 100-5, upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with law.

### **§ 100-7. Notice to cease activities constituting nuisances.**

If at any time a Town officer shall find that an activity or practice which constitutes a nuisance is occurring within the Town, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

### **§ 100-8. Notice to abate conditions constituting nuisances; appeal.**

If at any time a Town officer shall find that a condition which constitutes a nuisance exists within the Town, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than 10 days; and it shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided that any owner, occupant or person in charge may, within two days from the service thereof, appeal to the Council, in which case the terms of such notice shall be stayed pending action of the Council, which shall be final; provided, further, that if the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

#### **§ 100-9. Recourse of Town when notice to abate is ignored.**

A. Upon the failure of any person to whom notice has been given pursuant to § 100-8 to comply with the terms of such notice, or with the terms imposed by the Council on appeal, as the case may be, the officer giving such notice shall forthwith direct the appropriate Town officer to remedy the condition which is the subject of such notice, and the expense incurred by the Town in so doing shall be charged to the addressee of such notice, to be collected as Town taxes or in any other manner authorized by law.

B. Abatement by the Town of any condition which constitutes a nuisance and reimbursement to the Town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance and shall not bar the Town Attorney from seeking an injunction for the abatement of such nuisance.

#### **§ 100-10. Additional remedies.**

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

#### **§ 100-11. Quiet Hours.**

There shall be quiet hours from the hours of 11pm to 6am and 11pm to 8am on Sundays. During these hours no excessive or unnecessary noise should be created on any property within the Town of Windsor.

### **Article III. Penalties**

#### **§ 100-11. Violations and penalties.**

A violation of the provisions of this chapter shall be punishable as a Class 2 misdemeanor.

# **Chapter 104. PARADES AND PROCESSIONS**

## **§ 104-1. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

### **PARADE**

Any parade, march, ceremony, show, exhibition, pageant or demonstration constituting or being a procession of any kind, or any similar display in or upon any street or municipally operated parking lot in the Town.

### **PARADE PERMIT**

A permit as required by this chapter.

## **§ 104-2. Permit required; exceptions.**

A. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the Town Manager or his designee.

B. This chapter shall not apply to:

- (1) Funeral processions.
- (2) Students accompanied by and under the direction and supervision of adult school authorities going to and from school classes or participating in educational activities approved by school authorities; provided that this exception shall apply to a school band marching in formation.
- (3) A governmental agency acting within the scope of its functions.

## **§ 104-3. Permit application.**

A. A person seeking issuance of a parade permit shall file an application with the Town Manager or his designee on forms provided by such officer.

B. An application for a parade permit shall be filed with the Town Manager or his designee not less than five days nor more than 60 days before the date on which it is proposed to conduct the parade.

C. The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade.
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
- (3) The name, address and telephone number of the person who will be the parade marshal and who will be responsible for its conduct.

- (4) The date when the parade is to be conducted.
- (5) The route to be traveled, the starting point and the termination point.
- (6) The location by streets of any assembly areas for such parade.
- (7) The hours when such parade will start and terminate.
- (8) The time at which units of the parade will begin to assemble at any assembly area or areas.
- (9) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and a description of the vehicles.
- (10) The interval of space to be maintained between units of such parade.
- (11) A statement as to whether the parade will occupy all or only a portion of the width of the streets, between the sidewalks, proposed to be traversed.
- (12) A statement as to whether the parade will occupy any portion of the width of the sidewalks of the streets proposed to be traversed and, if so, what portion thereof.
- (13) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Town Manager or his designee a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
- (14) Any additional information which the Town Manager or his designee shall find reasonably necessary to a fair determination as to whether a permit should be issued.

#### **§ 104-4. Standards for permit issuance.**

The Town Manager or his designee shall issue a permit as provided for under this chapter when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other pedestrian and vehicular traffic contiguous to its route.
- B. The conduct of the parade will not require the diversion of so great a number of police officers of the Town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the Town.
- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Town other than that to be occupied by the proposed line of march and areas contiguous thereto.
- D. The concentration of persons, animals and vehicles at assembly and termination points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

E. The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire.

F. The conduct of the parade is not reasonably likely to cause physical injury to persons at the assembly areas, termination point or on the route to be traveled.

G. The parade is scheduled to move from its point of origin to its termination expeditiously and without unreasonable delays en route.

H. The parade is not designed to be held purely for the private profit of the person holding the same or for the sole purpose of advertising any product or goods of such person.

#### **§ 104-5. Notice of rejection.**

The Town Manager or his designee shall act upon the application for a parade permit within three days after the filing thereof. If the Town Manager or his designee disapproves the application, he shall mail to the applicant, within three days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

#### **§ 104-6. Notice to Town and other officials of permit issuance.**

Immediately upon the issuance of a parade permit, the Town Manager or his designee shall send a copy thereof to the following:

A. The police officer of the Town.

B. The Fire Chief.

C. The general manager or reasonable head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

#### **§ 104-7. Permit contents.**

Each parade permit shall state the following information:

A. Assembly time.

B. Starting time of parade.

C. Minimum speed.

D. Maximum speed.

E. Maximum interval of space to be maintained between the units of the parade.

F. The portions of the streets to be traversed that may be occupied by the parade.

G. The maximum length of the parade in miles or fractions thereof.

H. The assembly area.

I. The termination area.

J. Such other information as the Town Manager or his designee shall find necessary to the enforcement of this chapter.

**§ 104-8. Permit not assignable.**

No permit issued pursuant to the provisions of this chapter shall be assigned to another person by the permittee.

**§ 104-9. Permit revocation.**

The Town Manager or his designee shall have the authority to revoke a parade permit issued under this chapter upon violation of the standards for issuance as set forth in this chapter.

**§ 104-10. Alternate permit.**

The Town Manager or his designee, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within one day after notice of the action of the Town Manager or his designee, file a written notice of acceptance with the Town Manager or his designee. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this chapter.

**§ 104-11. Duties of permittee; possession of permit.**

A. A permittee under this chapter shall comply with all permit directions and conditions and with all applicable laws and ordinances.

B. The parade marshal or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

**§ 104-12. Interference with parade prohibited.**

No person shall unreasonably hamper, obstruct or impede, or interfere with any parade, or parade assembly or with any person, vehicle or animal participating or used in a parade.

**§ 104-13. Driving through parades.**

No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

**§ 104-14. Parking on parade route.**

The Town Manager or his designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a

parade. The Town Manager or his designee shall cause to be posted signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

**§ 104-15. Appeals.**

Any person who shall be aggrieved by the denial of the Town Manager or his designee to issue the permit which such person requests shall have the right, within 10 days after the notice of rejection given to such person pursuant to § 104-5, to appeal the decision of the Town Manager or his designee to the Town Council, to be considered by it at its next regular meeting to be held after notice of appeal is given in writing by the person claiming to be aggrieved. Any person desiring to appeal from the decision rendered by the Town Council on the appeal from the decision of the Town Manager or his designee shall have the right to appeal the same to the circuit court of the county; provided that notice of appeal is given within 10 days after the decision of the Town Council in writing is given to the person.



## **Chapter 107. PEACE AND GOOD ORDER**

### **§ 107-1. Assault and battery.**

Any person who shall commit a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor in accordance with § 18.2-57, Code of Virginia.

### **§ 107-2. Attempts.**

Every person who attempts to commit an offense which is a misdemeanor under the provisions of this Code shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt in accordance with § 18.2-27, Code of Virginia. In no event shall the punishment for an attempt to commit an offense exceed the maximum punishment had the offense been committed, in accordance with § 18.2-28, Code of Virginia.

### **§ 107-3. Disorderly conduct.**

A. Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in danger to the safety of his life, limb or health.
- (2) Any person who shall act in a violent or tumultuous manner toward another, whereby public property or property of any person is placed in danger of being destroyed or damaged.
- (3) Any person who shall endanger lawful pursuits of another by acts of violence or threats of bodily harm.
- (4) Any person who shall cause, provide or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.
- (5) Any person who shall assemble or congregate with another or others and cause, provide or engage in any fight or brawl.
- (6) Any person who shall collect in bodies or in crowds and engage in unlawful activities.
- (7) Any person who shall assemble or congregate with another or others and do bodily harm to another.
- (8) Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation.
- (9) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered to do so by a peace officer or other person having authority.

B. Any person convicted of disorderly conduct, as defined in this section, shall be guilty of a Class 1 misdemeanor as provided in § 1-3 of this Code.

## **§ 107-4. Gambling.**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **GAMBLING DEVICE**

Includes:

- (1) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity; and
- (2) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided, further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color shall not be deemed gambling devices within the meaning of this subsection. Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations, nor are they any less a gambling device because, apart from their use of adaptability as such, they may also sell or deliver something of value on a basis other than chance.

### **ILLEGAL GAMBLING**

The making, placing or receipt of any bet or wager in the Town of money or other things of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event, occurs or is to occur inside or outside the limits of the state, shall constitute illegal gambling.

### **OPERATOR**

Includes any person who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operator.

B. Violations and penalties.

- (1) Except as otherwise provided in this chapter, any person who illegally gambles shall, upon conviction, be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gambles, each person therein shall be guilty of illegal gambling.
- (2) Owners of gambling places who permit continuance. If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified

a law enforcement officer of the presence of such illegal gambling activity, he shall, upon conviction, be guilty of a Class 1 misdemeanor.

(3) Accessories to gambling activity. Any person, other than those persons specified in other sections of this chapter, who knowingly aids, abets or assists in the operation of an illegal gambling activity, shall upon conviction be guilty of a Class 1 misdemeanor.

C. Illegal possession of gambling device. A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Any person violating any provision of this subsection shall, upon conviction, be guilty of a Class 1 misdemeanor.

#### **§ 107-5. Obstructing free passage of others.**

Any person or persons who in any public place or on any private property open to the public unreasonably or unnecessarily obstruct the free passage of other persons to and from, or within, such place or property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law enforcement officer shall, upon conviction, be guilty of a Class 2 misdemeanor.

#### **§ 107-6. Alcoholic beverages; drinking in public.**

No person shall take a drink of alcoholic beverages or shall tender a drink of alcoholic beverages to another, whether accepted or not, at or in any public place. This section shall not apply to the drinking, or tendering of a drink, of beer sold in a legally licensed establishment.

#### **§ 107-7. Petit larceny.**

Any person who commits larceny from the person of another of money or other thing of value of less than \$5, or commits simple larceny not from the person of another of goods and chattels of the value of less than \$200 shall, upon conviction, be guilty of a Class 1 misdemeanor, in accordance with § 18.2-96, Code of Virginia.

#### **§ 107-8. Throwing or depositing certain substances upon highway or street; removal of such substances.**

No person shall throw or deposit or cause to be deposited upon any highway or street any glass bottle, glass, nail, tack, wire, can or any other substance likely to injure any person or animal, or damage any vehicle upon such highway or street, nor shall any person throw or deposit or cause to be deposited upon any highway or street any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway or street any destructive, hazardous or injurious material shall immediately remove same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway or street shall remove any glass or other injurious substance dropped upon the highway or street from such vehicle. Any

persons violating the provisions of this section shall, upon conviction, be guilty of a Class 1 misdemeanor.

**§ 107-9. Indecent exposure.**

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor, in accordance with § 18.2-387, Code of Virginia.

**§ 107-10. Prohibited noises.**

A. Generally. It shall be unlawful for any person to make or cause any unreasonable, excessive, unnecessary or unusually loud noise, annoying or injuring the comfort, repose, health, peace or safety of others at any location within the Town, or to allow the creation of any such noise upon property such person owns, leases, occupies or otherwise controls, within the Town limits.

B. Prohibited acts enumerated. The following acts are declared to be noise disturbances in violation of this section, but such enumeration shall not be deemed exclusive:

(1) Construction equipment. Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto, in the outdoors between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(2) Vehicle repair. Repairing, rebuilding or modifying any motor vehicle or other mechanical device in residential zoning districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(3) Exhausts. The discharge into open air of the exhaust of any steam or diesel engine, stationary internal combustion engine, chain saw, power mower, motor boat or motor vehicle, except through a muffler or other device which will effectively reduce the noise or sound.

(4) Trash collection. The collection of trash, refuse or garbage in residential and business zoning districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(5) Loading and unloading. Loading and unloading trucks outdoors within 100 yards of a residence between the hours of 10:00 p.m. and 6:00 a.m. the following day.

(6) Vehicle horns. Sounding the horn or warning device of a motor vehicle, except when necessary as a warning during the operation of the vehicle.

(7) Music, television, radio, etc. The playing of any television set, radio, tape player, phonograph, or any musical instrument or any other device for the production of sound in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of reasonable persons and also more specifically operating or permitting the use or operation of any television set, radio, tape player, musical instrument, phonograph or any other device for the production of sound in such a manner as to be plainly audible across property boundaries or through partitions common to two residences within a building or plainly audible at 50 feet from such

device, when operated within a motor vehicle driving or parked on a public right-of-way or in a public place.

(8) Animals. Owning, keeping, possessing or harboring any animal which frequently or habitually howls, barks, meows, squawks or makes such other noise as is plainly audible across property boundaries or through partitions common to two residences within a building.

(9) Unusually loud conversation. Any unreasonably loud or raucous conversation, yelling, shouting, whistling or singing that is plainly audible across property boundaries, through partitions common to two residences within a building or in any public place.

C. Exemptions. This section shall have no application to the following:

(1) Fire, rescue, police, ambulance or other emergency vehicles, to any noise or sound created thereby or by any person to sound a warning or call attention to a bona fide emergency or to any sound made in the performance of emergency work.

(2) Noise or sound which customarily accompanies parades, sporting events, public functions or commemorative events except to the extent that such activities are subject to conditions set forth in any required permits therefor.

(3) Noise or sound which customarily accompanies activities conducted in any gymnasium, theater, swimming pool, stadium or similar sporting facility.

(4) Any agricultural activities.

(5) Any industrial activity in an industrially-zoned area.

D. Any person violating any provision of this section shall be deemed guilty of a Class 2 misdemeanor. Each day such violation is committed shall constitute a separate offense and shall be punishable as such hereunder.

### **§ 107-11. Trick or treat activities.**

A. If any person 13 years of age or older shall engage in the activity commonly known as "trick or treat" or any other activity of similar character or nature under any name whatsoever, he or she shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$25 nor more than \$100 or by confinement in jail for not more than six months, or both. Nothing herein shall be construed as prohibiting any parent, guardian or other responsible person having lawfully in his custody a child less than 13 years old, from accompanying such child who is playing "trick or treat" for the purpose of caring for, looking after or protecting such child. However, no accompanying parent or guardian shall wear a mask of any type.

B. If any person shall engage in the activity commonly known as "trick or treat" or any other activity of similar character or nature under any name whatsoever after 8:00 p.m., he or she shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10 nor more than \$100 or by confinement in jail for not more than 30 days or both.

# **Chapter 110. POLICE PROTECTION**

## **§ 110-1. Establishment and composition of department; Chief of Police.**

There is hereby established a Town Police Department to consist of a Chief of Police and such other officers as are authorized by the Council. The Chief of Police shall be appointed by the Town ~~Manager Council~~ and shall serve at the pleasure of the ~~Town Manager Council~~. The Chief shall have general supervision of the department and shall have such powers and duties as are prescribed by the ~~Town Manager Council~~ and by state law.

## **§ 110-2. Violations and penalties.**

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 1 misdemeanor.

## **§ 110-3. Resisting or obstructing officers.**

It shall be unlawful for any person to resist, hinder or obstruct any of the police officers or special policemen of the Town in the discharge of their duties.

## **§ 110-4. Refusal to assist officers.**

No person, on being required by any sheriff or other police officer, shall refuse or neglect to assist him in the execution of his office in a criminal case, in the preservation of the peace, in apprehending or securing any person for a breach of the peace or in any use of escape or rescue. A violation of this section shall constitute a Class 2 misdemeanor.

## **§ 110-5. Impersonating officers.**

No persons shall falsely assume or exercise the functions, powers, duties and privileges incident to the office of sheriff, police officer, marshal or other peace officer or falsely assume or pretend to be any such officer.

## **§ 110-6. Unlawful wearing of officer's uniform.**

It shall be unlawful for any person, who is not a member of the Police Department of the Town, to wear any such uniform as is designated for the use of the members of such department.

## **§ 110-7. False reports to police.**

It shall be unlawful for any person to knowingly give a false report as to the commission of any crime to any of the police officers or special policemen of the Town, with intent to mislead.

## **Chapter 112. POOL AND BILLIARD ROOMS**

### **§ 112-1. Use by minors.**

It shall be unlawful for any minor under 18 years of age to frequent, play in or loiter in any public poolroom or billiard room or to be permitted by the owner, operator or proprietor thereof or his agent, employee or lessee to frequent, play in or loiter in any such public poolroom or billiard room in the Town of Windsor, Virginia.

### **§ 112-2. Interior to be visible; hours of operation.**

It shall be unlawful for the owner, operator or proprietor, or his agent, employee or lessee, of any such poolroom or billiard room to open or permit to remain open or to operate or cause to permit the operation of any such poolroom or billiard room in said Town unless the interior thereof is at all times visible to the public, or to open or permit to remain open or to operate or cause or permit the operation of any such poolroom or billiard room in said Town between the hours of 12:00 midnight and 7:00 a.m. ~~on the next ensuing and succeeding day~~, except that no such poolroom or billiard room shall be opened or permitted to remain open or operated or caused or permitted to be operated in said Town between the hours of 12:00 midnight on each Saturday and 12:00 noon ~~on each next ensuing and succeeding Sunday~~, the hours and time referred to above being the legal time in effect in the Town of Windsor, Virginia.

### **§ 112-3. Revocation or suspension of license.**

The Town Council may, in its discretion, at any time or from time to time, revoke, or suspend for a definite or indefinite period of time the license issued for the operation of any such poolroom or billiard room for the violation of any of the provisions of this chapter without any judicial determination thereof.

### **§ 112-4. Violations and penalties.**

Any person, partnership, firm, association, organization or corporation who shall violate any of the provisions of this chapter shall be deemed guilty of a Class 2 misdemeanor.

# **Chapter 119. SEWERS**

## **§ 119-1. Mandatory connection.**

All new premises, buildings or dwelling units where sewer service is available shall connect to such sewer main. All other existing premises, buildings or dwelling units where sewer service is available shall connect to such sewer main within one year of receipt of official connection notice, unless specifically otherwise provided for in this chapter. Where service becomes available by virtue of extending the Isle of Wight County sewerage system to serve other subdivisions or neighborhoods, connection to such main shall be mandatory. All premises, buildings or dwelling units connected directly to the Hampton Roads Sanitation District sewerage system may elect not to connect to the Isle of Wight County sewerage system; however, payment of all remaining balances of applicable fees and charges as established by Isle of Wight County shall be required. Sewer is deemed to be available to the property to be connected if service can be provided without unreasonable cost or unusual construction techniques. As an example, a sewer is not available to a property when it is within the right-of-way but, in order for said property to be served, the extension will involve unusual construction techniques such as boring and casing, unusual traffic problems, etc. Availability of sewer may be declared by the Town Manager or his designee based on costs to provide service, construction techniques or other unusual condition.

## **§ 119-2. Responsibility of owner or tenant.**

The owner or tenants of each improved property connected to the Isle of Wight County sewerage system shall be responsible for all acts insofar as such acts shall be governed by this chapter.

## **§ 119-3. Placing certain wastes prohibited.**

It shall be unlawful for any person with access to public sewage collection facilities to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, any human excrement or other objectionable sewerage wastes.

## **§ 119-4. Violations and penalties.**

A violation of the provisions of this chapter shall be punishable as a Class 3 misdemeanor.



# **Chapter 123. SOLID WASTE**

## **Article I. Garbage and Refuse Collection and Disposal**

### **§ 123-1. Applicability of certain provisions.**

Sections 123-2 through 123-10 apply only to refuse and garbage containing animal and vegetable matter subject to decay or fermentation (herein collectively referred to as "garbage"), bottles, cans and like materials.

### **§ 123-2. Containers.**

A. Receptacles generally.

(1) All refuse to be collected by the Town shall be stored in proper receptacles between times of collection. ~~Except in those areas serviced by automated collection equipment, such receptacles shall be metallic or plastic, with a capacity of not more than 32 gallons or a total weight of not more than 50 pounds.~~ Any automated refuse receptacle serviced by the Town shall not be filled to exceed 200 pounds total weight, and all refuse therein must fit inside the receptacle. Refuse may be placed in plastic or polyethylene bags which meet the standards set by the Town Manager or his designee. Each receptacle shall have a tight-fitting cover, and each bag shall be tightly secured. The cover of any receptacle shall be kept on at all times except when the receptacle is being filled, emptied or cleaned.

(2) Any areas serviced by automated collection equipment shall use automated refuse receptacles as approved by the Town Manager or his designee. All garbage or receptacle material shall be placed within the automated refuse receptacles. Medical waste or any other similar refuse shall not be placed in any container used for collection by the Town or a Town contractor. No other types of receptacles are permitted for use in the automated collection areas. If more than one receptacle is needed, the resident or business must contact the contractor and pay for the collection of more containers. No more than three containers per household or business are allowed. Exceptions to these requirements may only be made by the Town Manager or his or her designee.

### **§ 123-3. Placement of containers for collection.**

A. All receptacles containing garbage to be hauled out and disposed of shall be placed or located at a convenient place as near the street as practicable so that they can be easily and conveniently reached by those hauling away the garbage.

B. Containers shall be out by 6:00 ~~7:30~~ a.m. on the day of collection and ~~should~~ shall be removed on the same day.

### **§ 123-4. Disposal of refuse and garbage.**

All such refuse and garbage shall be disposed of at least once each week and more frequently if necessary to prevent odor or decay which would be injurious to the health of the community.

**§ 123-5. Inspections.**

In order to protect the health and welfare of the public, the Town shall have the right to send employees on the premises for the purpose of making inspection of such garbage.

**§ 123-6. Additional regulations.**

The Council shall have the authority to promulgate any additional reasonable regulations pertaining to garbage and refuse collection and disposal as may be deemed desirable.

**§ 123-7. Frequency of collection.**

A. Garbage and household trash at residences shall be collected by the Town one time each week, except when otherwise designated by the Town Manager or his or her designee. Oversized household trash, and bulky items such as refrigerators, water heaters and washing machines shall be collected only on special days as designated by the Town Manager and advertised by the Town.

B. Yard waste may be collected in conjunction with weekly household refuse removal. Limbs must be bundled in accordance with contractor requirements and no more than 10 bags of lawn clippings, bagged in accordance with contractor requirements, will be accepted at any one time.

**§ 123-8. Points of collection.**

The Town will not make refuse collections on private property.

**§ 123-9. Limitation on the number of mobile containers.**

A. Commercial establishments may place more than three mobile containers of refuse each collection day if authorized by the Town Manager or his or her designee.

B. Refuse collection service shall be provided by the Town on official holidays only as designated by the Town Manager.

**§ 123-10. (Reserved)**

**~~§ 123-11. When effective.~~**

~~This article shall be effective on and after July 1, 2008.~~

## **Chapter 126. STREETS AND SIDEWALKS**

### **§ 126-1. Street repair.**

When any part of any street, sidewalk, alley or other public place of the Town shall be torn or dug up for any purpose, the person, firm or corporation making such excavation or opening shall have the duty of refilling the excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening within a reasonable time.

### **§ 126-2. Protection of excavations.**

It shall be unlawful for any person, firm or corporation to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the Town without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the same, sufficient to warn the public of such excavation or work, and to protect all persons using reasonable care from injuries on account of same.

### **§ 126-3. Streets and sidewalks not to be damaged.**

It shall be unlawful for any person, firm or corporation to drag, or run, or cause to be dragged or run any harrow or other implement, engine, machine, tool or vehicle upon any asphalt, bithulitic, warrenite or other type of permanently paved street or sidewalk of the Town which shall be liable in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

### **§ 126-4. Sidewalks not to be obstructed or damaged by trees and shrubbery; pruning of trees.**

It shall be unlawful for any person, firm or corporation to obstruct or damage in any manner any sidewalk in the Town by allowing trees, shrubbery, hedges, branches, roots or other debris to interfere therewith. Trees shall be pruned to a minimum height of eight feet above the sidewalk.

### **§ 126-5. Use and operation of motor vehicles, motor-power-assisted skateboards, electric power-assisted bicycles and mopeds on sidewalks and crosswalks; violations and penalties.**

A. No person shall use or operate any motor vehicle, motor-power-assisted skateboards, or ride an electric power-assisted bicycle or a moped, as such devices are defined by the Code of Virginia, upon any sidewalk or crosswalk, including those of any church, school, recreational facility or any business property open to the public, within the Town, provided that motor vehicles may be operated upon the entranceways leading to parking areas and/or driveways and which traverse across sidewalks or crosswalks.

B. Notwithstanding § 126-6 of this chapter, a violation of this section shall be punishable by a civil penalty of \$50.

### **§ 126-6. Violations and penalties.**

All persons found guilty of a violation of this chapter shall be guilty of a Class 2 misdemeanor as provided in § 1-3 of this Code.

# **Chapter 130. TAXATION**

## **Article I. Property Tax**

### **§ 130-1. Property subject to taxation.**

All real estate, tangible personal and chattel property and machinery and tools and all other taxable property not exempt from taxation, except as otherwise provided in this article, and except such property as is exempted by law, shall be subject to such annual taxation as may be prescribed by the Town Council.

### **§ 130-2. Lien for taxes and levies on real estate.**

There shall be a lien upon real estate for the payment of the taxes and levies assessed thereon by the Town Council, prior to any other lien or encumbrance thereon, from the commencement of the year for which they are assessed. Such lien shall continue to be such prior lien until actual payment shall have been made to the Treasurer or collection is barred by law. The words “taxes” and “levies” as used in this article shall include the penalties accruing on such taxes and levies pursuant to law. The lien imposed hereby shall be enforceable by all means provided by law for the collection of taxes and levies.

### **§ 130-3. Assessment of property.**

A. The Town ~~Recorder~~ Treasurer shall ascertain and assess, at the fair market value, taxes on all real estate and tangible personal and chattel property, machinery and tools and all other property subject to taxation, not exempt from taxation, in the Town on the first day of each year, except as otherwise provided in this article, at the rate and penalty prescribed by this article upon the values so ascertained. Until otherwise provided by the Town Council, the Town ~~Recorder~~ Treasurer shall make such assessments upon the basis of the assessments made upon the property and furnished by the Commissioner of Revenue of the county to the Town ~~Recorder~~ Treasurer of this town or upon the basis of any other information.

### **§ 130-4. Tax year.**

Except where otherwise specifically provided, the tax year shall begin on January 1 of each year and shall end on December 31 of each year, and all assessments shall be made as of January 1 of each year.

### **§ 130-5. Personal property tax on motor vehicles and mobile homes.**

A. There shall be a personal property tax at a rate established each year by the Town Council on motor vehicles and mobile homes (hereafter referred to in this section as “taxable property”) which have a situs within the Town on January 1 of each year and which acquire a situs within the Town on or after January 2 of each year. When taxable property acquires a situs within the Town on or after January 2, the personal property tax for that year shall be assessed to the owner prorated on a monthly basis for the portion of the tax year during which the taxable property has situs within the Town. When taxable

property with a situs in the Town is transferred to a new owner within the Town, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of 1/2 of a month or more shall be counted as a full month and a period of less than 1/2 of a month shall not be counted. All taxable property shall be assessed as of January 1 of each year or, if it acquires situs or has its title transferred after January 1, as of the first day of the month in which the taxable property acquires situs within the Town or has its title transferred. The owner of taxable property acquiring situs within the Town or to whom taxable property is transferred shall file a declaration of property ownership to the Commissioner of Revenue for the County of Isle of Wight within 30 days of the date on which such property acquires a situs within the Town or has its title transferred to such owner.

B. When any taxable property loses its situs within the Town or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the Treasurer of the Town, on a monthly prorated basis, upon application to the Commissioner of Revenue for the County of Isle of Wight, provided that application is made within one year from the last day of the tax year which the taxable property lost situs or had its title transferred.

C. Any person who fails to pay personal property taxes on or before the date due shall incur a penalty of 10% of the tax due, or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. Said sum shall become part of the taxes due. Interest at the rate of 10% per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

D. An exemption from this tax and any penalties arising therefrom shall be granted for any tax year or portion thereof during which the property was legally assessed by another jurisdiction and proof is presented to the Treasurer of the Town indicating that such tax on the assessed property was paid.

#### **§ 130-6. Taxes to be extended on basis of assessment.**

Taxes for each year on all property subject to assessment shall be extended by the Town ~~Recorder~~ Treasurer on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made.

#### **§ 130-7. Tax rate.**

There shall be levied, assessed and collected a general levy or tax, in an amount determined annually by the Town Council, upon each \$100 worth of property subject to local levy or taxation at its assessed value, except the net capital of banks as is otherwise provided for in this chapter.

#### **§ 130-8. Deduction of taxes due by persons in whose favor warrants are drawn.**

In the payment of any warrants lawfully drawn on account of allowances made against the Town, the Treasurer of the Town paying the warrants shall first deduct all taxes due by the party in whose favor

the warrant is drawn. If such warrant is insufficient to pay the entire amount due, then such Treasurer shall credit the tax bill by the amount of the warrant.

**§ 130-9. Tax ~~tickets~~ bill.**

The Town Council shall prescribe the forms of tax ~~tickets~~ bill to be used by the Town, and the Treasurer shall follow the forms so prescribed, in which shall be stated the name and address of the taxpayer, the year for which the taxes and levies are due, the subjects of taxation, the value of the property taxed, the tax rate, the rate and amount of penalty, when the penalty attaches, the rate and amount of interest, when the interest attaches, the total amount of taxes, levies, penalty and interest, the date of payment, when delinquent and when to be recorded in the Clerk's office of the county. The Treasurer shall deliver to each taxpayer from whom he has collected taxes or levies such tax ~~tickets~~ bill as are so prescribed showing the date of payment.

**§ 130-10. Mailing of tax bills to taxpayers.**

The Treasurer shall, as soon as possible in each year, but not later than December 1, mail to each taxpayer assessed with taxes and levies for that year a bill in the form prescribed in § 130-9.

**§ 130-11. Due date.**

All taxes shall be due and payable on December 5 of the year for which such taxes are assessed. The Treasurer shall commence to receive taxes and levies as soon as the assessments provided for in this article are completed and continue to receive the same up to and including December 5 without penalty.

**§ 130-12. Penalty and interest on delinquent payments.**

A. Any person failing to pay any taxes and levies on or before December 5 of the year for which the tax was assessed shall incur a penalty thereon in the amount of 10% of the tax past due on such property or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. The penalty shall be added to the amount of taxes and levies due from such taxpayer.

B. Interest at the rate of 8% per annum from June 30 of the year next following the assessment year shall be collected upon the principal and penalties of all taxes and levies then remaining unpaid.

C. Such interest and penalty shall be collected by the Treasurer along with the principal sum of such taxes and levies.

**§ 130-13. Determination of delinquency; reporting and recording of delinquent list.**

All taxes and levies assessed in the Town which are not paid on or before December 5 of the assessment year shall be, for the purposes of this article, deemed to be delinquent, and the Treasurer shall make ~~and furnish~~ available to the Town Council a list of all property which is delinquent for the nonpayment of taxes and levies thereon, with the amount of such taxes and levies charged thereon, not later than its first regular meeting after December 5 of the assessment year. The Treasurer shall return

to and file with the Clerk of the circuit court of the county a list of all real estate which is delinquent for the nonpayment of taxes and levies, with the amount of such taxes, levies and penalties charged thereon, not later than January 15 of the year next following the assessment year.

**§ 130-14. Exemption for motor vehicles owned by members of volunteer rescue squads or volunteer fire departments.**

A. One motor vehicle which is regularly used by each member of a volunteer rescue squad or volunteer fire department to respond to calls shall be classified for local taxation separately from other classifications of tangible personal property, provided that in January of each year, said volunteer shall furnish the Commissioner of Revenue of Isle of Wight County, or other assessing officer, and the Treasurer of the Town of Windsor with a certification by the chief or head of the volunteer organization that said volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purpose.

B. Such motor vehicles enumerated in Subsection A shall be exempt from taxation as tangible personal property.

**§ 130-15. Personal property of small value.**

If any taxpayer owns tangible personal property of such small value that the Town levies thereon for any year result in a tax of less than \$5, such property may be omitted from the personal property book of the Town of Windsor and no assessment made thereon.

## **Article II. Bank Franchise Tax**

**§ 130-16. Definitions.**

For the purposes of this article, the following words shall have the meanings ascribed to them by this section:

**BANK**

As defined in § 58.1-1201, Code of Virginia.

**NET CAPITAL**

A bank's net capital computed pursuant to § 58.1-1205, Code of Virginia.

**§ 130-17. Imposition of bank franchise tax.**

A. Pursuant to the provisions of Chapter 12 of Title 58.1, Code of Virginia, there is hereby imposed upon each bank located within the boundaries of the Town a tax on net capital equaling 80% of the state rate of franchise tax set forth in § 58.1-1204, Code of Virginia.

B. In the event that any bank located within the boundaries of the Town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporation limits hereof, the tax upon such branch shall be apportioned as provided by § 58.1-1211, Code of Virginia.

#### **§ 130-18. Filing of return and payment of tax.**

A. On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within the Town shall prepare and file with the Town Treasurer a return as provided by § 58.1-1207, Code of Virginia, which shall set forth the tax on net capital computed pursuant to Chapter 12 of Title 58.1, Code of Virginia. The Town Treasurer shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

B. In the event that the principal office of a bank is located outside the corporate boundaries of this Town and such bank has a branch office located within this Town, in addition to the filing requirements set forth in Subsection A hereof, any bank conducting such branch business shall file with the Commissioner of Revenue of Isle of Wight County a copy of the real estate deduction schedule, apportionment and other items which are required by §§ 58.1-1203, 58.1-1207 and 58.1-1211, Code of Virginia.

C. Each bank, on or before June 1 of each year, shall pay into the Town Treasurer's office of this Town all taxes imposed pursuant to this article.

#### **§ 130-19. Violations and penalties.**

Any bank which shall fail or neglect to comply with any provision of this article shall be fined not less than \$100 nor more than \$500, which fine shall be recovered upon motion, after five days' notice in the Circuit Court of Isle of Wight County, Virginia. The motion shall be in the name of the commonwealth and shall be presented by the attorney for the Commonwealth of Isle of Wight County, Virginia.

#### **§ 130-20. Effective date.**

The provisions of this article shall be effective for the year beginning January 1, 1980.

### **Article III. Utility Consumers Tax**

#### **§ 130-21. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

##### **CONSUMER**

Every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of local telecommunications, including mobile telecommunications, electricity or natural gas services in this jurisdiction.

##### **KILOWATT HOURS (kWh) DELIVERED**



One thousand watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called “cogenerators”) as defined in § 56-594, Code of Virginia, 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

Any individual, corporation, company or other entity.

#### RESIDENTIAL CONSUMER

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

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.

### **§ 130-22. Consumer electric utility tax.**

A. In accordance with § 58.1-3814, Code of Virginia, effective April 1, 2008, 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 20% times the minimum monthly charge imposed by the service provider plus the rate of \$0.015626 on each kWh delivered monthly to residential consumers by the service provider, not to exceed \$3 monthly.
- (2) Nonresidential consumers. Such tax on nonresidential consumers shall be 20% times the minimum monthly charge imposed by the service provider plus the rate of \$0.014766 on each kWh delivered monthly, not to exceed \$200 per month.
- (3) The conversion of tax pursuant to this article to monthly kWh delivered shall not be effective before the first meter reading after April 1, 2008, 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:

- (1) Any public safety answering point as defined in § 58.1-3813.1, Code of Virginia.
- (2) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(3) Any property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers, as permitted by Virginia Code § 58.1-3816.2.

C. Billing, collection and remittance of tax.

(1) 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 § 58.1-3814, Subdivisions F and G, and § 58.1-2901, Code of Virginia. 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.

(2) 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 bimonthly bill (approximately 60 days) shall be determined as follows:

- (1) The kWh will be divided by two;
- (2) A monthly tax will be calculated using the rates set forth above;
- (3) The tax determined by Subsection D(2) shall be multiplied by two;
- (4) The tax in Subsection D(3) may not exceed twice the monthly maximum tax.

**§ 130-23. Consumer local telecommunications tax.**

A. In accordance with § 58.1-3812, Code of Virginia, there is hereby imposed and levied a monthly tax on purchases of local telecommunications services delivered to consumers by a service provider, as follows:

(1) Residential consumers. Such tax shall be in the amount of 10% of the gross charge made by the service provider against the consumer with respect to such residential telecommunications utility service; however, if any monthly bill submitted by any service provider for telecommunications utility service shall exceed \$15, there shall be no tax computed on so much of the bill as shall exceed \$15.

(2) Commercial and industrial consumers. Such tax shall be in the amount of 10% of the gross charge made by the service provider against the consumer with respect to such commercial or industrial telecommunications utility service; however, if any monthly bill submitted by any service provider for telecommunications utility service shall exceed \$700, there shall be no tax computed on so much of the bill as shall exceed \$700.

B. In accordance with § 58.1-3812, Code of Virginia, there is hereby imposed and levied a monthly tax on purchases of mobile telecommunications services delivered by a service provider to consumers, when such consumer's service address is located in the Town of Windsor, at a rate equal to 10% of the monthly gross charge to the consumer of such mobile telecommunications services; however, if any monthly bill submitted by any service provider for telecommunications utility service shall exceed \$25, there shall be no tax computed on so much of the bill as shall exceed \$25 per month for each mobile service consumer.

C. Exemptions. The following consumers are exempt from the tax imposed by this section:

- (1) Any public safety answering point as defined in § 58.1-3813.1, Code of Virginia.
- (2) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

D. Billing, collection and remittance of tax.

(1) The service provider shall bill the local telecommunications consumer tax to all users who are subject to the tax and to whom it delivers telecommunications utility service 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 § 58.1-3812, Subdivisions F and G, Code of Virginia. If any consumer receives and pays for telecommunications utility service 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 telecommunications service and the tax and remit the tax portion to this jurisdiction.

(2) 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.

E. Computation of bills not on monthly basis. Bills shall be considered as monthly bills for the purposes of this section submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall not be computed on so much of the bill as shall exceed \$30 for a residential consumer of telecommunications utility services, nor \$1,400 for a commercial or industrial consumer of telecommunications utility services.

### **§ 130-24. Violations and penalties.**

Any consumer of local telecommunications, including mobile telecommunications, electricity or natural gas, 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 \$100 nor more than \$250, or by imprisonment in jail for not more than 30 days, or by both such fine and imprisonment. 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.

## **Article IV. Meals Tax**

### **§ 130-25. 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**

The furnishing of food, beverages, or both on the premises of another, for compensation.

#### **COLLECTOR**

The Treasurer for the Town of Windsor, or designee.

#### **FOOD**

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**

Any place in or from which food or food products are prepared, packaged, sold or distributed in the Town of Windsor, 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 shop, 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**

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 which 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.

#### **TREASURER**

The Treasurer and any duly designated deputies, assistants, inspectors or other employees.

### **§ 130-26. Amount of tax.**

There is hereby imposed and levied by the Town of Windsor on each person a tax at the rate of 5% 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. There shall be no tax if the total amount paid is \$0.50 or less; on larger amounts a fractional cent of tax due shall be rounded to the next higher cent.

**§ 130-27. Collection of tax by seller.**

A. 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.

B. All tax collections shall be deemed to be held in trust for the Town of Windsor.

**§ 130-28. Exemptions; limits on application.**

A. The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

- (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.
- (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.
- (3) 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.
- (4) Alcoholic and nonalcoholic beverages sold in factory-sealed containers.
- (5) 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.
- (6) 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 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 non-factory-sealed beverages. This subsection shall not affect provisions set forth in Subsection C(3), (4) and (5) hereinbelow.

B. 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.

C. 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.
- (5) Food and beverages furnished by a public or private nonprofit 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 a central location.
- (6) Food and beverages sold on an occasional basis, not exceeding six times per calendar year, by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fund-raising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes,
- (7) Food and beverages sold through vending machines.

**§ 130-29. Gratuities and service charges.**

A. Where 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.

B. An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages, is subject to the tax imposed by this article.

**§ 130-30. 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 of Windsor the taxes imposed by this article to make a report thereof to the Town of Windsor for each calendar quarter, 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. The report shall be delivered to the Treasurer on or before the twentieth day of the calendar month following the quarter being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the Town. 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.

**§ 130-31. (Reserved)**

**§ 130-32. Penalty and interest.**

If any seller 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 10% of the tax, and interest thereon at the rate of 10% per annum, which shall be computed upon the tax and penalty from the date such were due and payable.

**§ 130-33. Duty of seller going out of business.**

Whenever any seller required to collect and remit to the Town any tax imposed by this article shall cease to operate or otherwise dispose of his or her business, the tax shall immediately become due and payable, and the seller shall immediately make to the Treasurer a report and remittance thereof.

**§ 130-34. Violations and penalties.**

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 1 misdemeanor, except that any person failing 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 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.

B. Except as provided in Subsection A above, any corporate or partnership officer, as defined in § 58.1-3906, Virginia Code, 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 1 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.

**§ 130-35. Regulations.**

The Treasurer may issue regulations for the administration and enforcement of this article not in conflict with this article.

**Article V. Cigarette Tax**

### **§ 130-36. 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:

#### **DEALER**

Every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

#### **PACKAGE**

Every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, in which retail sales of cigarettes are normally made or intended to be made.

#### **PURCHASER**

Every person to whom title to any cigarettes is transferred by a seller for any valuable consideration within the corporate limits of the Town.

#### **SALE**

Every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller to any other person within the corporate limits of the Town for any valuable consideration.

#### **SELLER**

Every person who transfers for any valuable consideration title to any cigarettes, or in whose place of business title to any cigarettes is transferred, within the corporate limits of the Town, for any purpose other than resale.

#### **STAMP**

A small gummed piece of paper or decalcomania to be sold by the Treasurer and to be affixed to every package of cigarettes sold at retail in the Town, and also any insignia or symbols printed by a meter machine upon any such package under the authorization of the Treasurer.

#### **TOWN**

The Town of Windsor, Virginia.

#### **TREASURER**

The Treasurer of the Town and any of her duly authorized deputies and agents.

### **§ 130-37. Amount of tax.**



There is hereby levied and imposed by the Town, upon each and every sale of cigarettes within the Town, a tax. The rate of this tax shall be set each year by the Town Council as part of its operating budget.

**§ 130-38. Payment of tax; purchase of stamps.**

The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp of the proper denominational or face value to each and every package of cigarettes sold within the Town, in the manner and at the time provided in § 130-87. Every dealer and every seller of cigarettes shall have the right to buy such stamps from the Treasurer and to affix the stamps to packages of cigarettes as provided in this article.

**§ 130-39. Duties of dealers and sellers.**

A. Every local dealer in cigarettes is required, and it shall be his duty, to purchase such stamps at the office of the Treasurer as shall be necessary to pay the tax levied and imposed by this article and to affix, or cause to be affixed, a stamp of the monetary value prescribed by this article to each package of cigarettes prior to delivery or furnishing of such cigarettes to any seller; however, nothing contained in this section shall preclude any dealer from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.

B. Stamps, or the printed markings of a meter machine, shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

C. Every seller is required to examine each package of cigarettes prior to exposing the package for sale, for the purpose of ascertaining whether such package has the proper stamps affixed to or imprinted on the package, as provided by this article.

D. If upon such examination unstamped or improperly stamped packages of cigarettes are discovered, the seller, where such cigarettes were obtained from a local dealer, shall immediately notify such dealer; and upon such notification, such dealer shall forthwith either affix to or imprint upon such unstamped or improperly stamped packages the proper amount of stamps, or shall replace such packages with others to which stamps have been properly affixed or on which stamps have been imprinted.

E. Should a seller have in his possession any unstamped or improperly stamped cigarettes, or should a seller obtain or acquire possession from any person other than a local dealer any unstamped or improperly stamped cigarettes, such seller shall, forthwith, before selling, offering or exposing such cigarettes for sale in the Town, purchase and affix or cause to be affixed to each package of cigarettes the proper stamps, or the markings of a meter machine, covering the tax imposed by this article.

**§ 130-40. Preparation and sale of stamps; discount.**

For the purpose of making stamps available for use, the Treasurer shall prescribe, prepare and sell stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this article.

**§ 130-41. New design of stamps.**

The Treasurer, as often as he may deem advisable, may provide for the issuance and exclusive use of stamps of a new design, and forbid the use of stamps of any other design.

**§ 130-42. Meter machines.**

The Treasurer is authorized to permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of stamps upon original packages by the use of meter machines in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and to prescribe and enforce the necessary regulations setting forth the method to be employed and the conditions to be observed in the use of such meter machines.

**§ 130-43. Use by wholesaler of dual die to evidence payment of cigarette taxes.**

The Treasurer may enter into an arrangement with the Department of Taxation for the Commonwealth of Virginia, under which any tobacco wholesaler who so desires may use a dual die to evidence the payment of both the tax levied by this article and the state tax on cigarettes.

**§ 130-44. Refund for unused stamps and imprints.**

A. Should any person, after acquiring from the Treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use of such stamps, or should any such stamps become mutilated and unfit for use other than by a cancellation, such person shall be entitled to a refund of the denominational or face amount of any such stamps so acquired and not used by him less 8% of their denominational or face amount, upon presenting the stamps to the Treasurer with an affidavit showing to the Treasurer's satisfaction that the stamps were acquired by such person and have not in any manner been used, and the reason for requesting the refund.

B. In the case of any authorized meter machine, should any imprints of such machine heretofore paid for not be used, such person shall, upon furnishing the Treasurer with similar affidavit, be entitled to a refund of the denominational or face amount of the machine less 8% of the denominational or face amount of the imprints of the machine not so used.

C. Any and all refunds for unused and mutilated stamps and for nonuse of imprints of such stamps by meter machines provided for under this section are authorized to be made on vouchers approved by the Treasurer; and, when made, they shall be charged against the sums collected from the sale of the stamps and for the use of such imprints.

**§ 130-45. Seizure and sale of cigarettes by Treasurer.**

Whenever the Treasurer shall discover any cigarettes subject to the tax imposed by this article and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax shown by the printed markings of an authorized meter machine, the Treasurer is hereby authorized and empowered to forthwith seize and take possession of such cigarettes, which shall thereupon be deemed to be forfeited to the Town; and he may, within a reasonable time thereafter, after written notice

posted on the bulletin board in the Town Hall at least five days before the date of sale, sell such forfeited cigarettes at the time and place designated in such notice, and from the proceeds of such sale shall collect the tax due, together with a penalty of 50% and the costs incurred in such proceedings, and pay the balance, if any, of such proceeds to the person in whose possession such forfeited cigarettes were found; however, such seizure and sale shall not be deemed to relieve any person from any fine provided for the violation of the provisions of this article. All moneys collected under the provisions of this section shall be paid to the Treasurer and treated as other taxes collected under this article.

#### **§ 130-46. Illegal acts.**

It shall be unlawful and a violation of this article for any person to:

- A. Perform any act or fail to perform any act, for the purpose of evading the payment of any tax imposed by this article; for any dealer or seller, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon him under the provisions of this article or to fail to refuse to obey any lawful order the Treasurer may issue under this article;
- B. Falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of any meter machine, or to procure or cause to be made, forged, altered or counterfeited any such stamp or printed markings of a meter machine, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps or printed markings of a meter machine;
- C. Sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment of the tax is not shown on each package of cigarettes;
- D. Reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been heretofore paid, have been removed; or
- E. Remove from any package any stamp or the printed markings of a meter machine with intent to use or cause them to be used after they have already been used, or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps or printed markings of a meter machine to any person, or to reuse any stamp or printed markings of a meter machine which had theretofore been used for evidence of the payment of any tax prescribed by this article, or, except as to the Treasurer, to sell or offer to sell any stamp or printed markings of a meter machine provided for in this article.

#### **§ 130-47. Presumption of violation against seller.**

If any package of cigarettes is found in the possession of a seller without the proper stamps being affixed to or without authorized printed markings of a meter machine on the package, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding 48 hours, and that he has not offered the package for sale, the presumption shall be that such package is being kept by such seller in violation of the provisions of this article and shall subject him to the penalties provided in this article.

#### **§ 130-48. Keeping of records.**

It shall be the duty of every local dealer and seller, and he is so required, to maintain and keep for a period of two years such record of cigarettes sold and delivered by him as may be required by the Treasurer, and to make all such records available for examination by the Treasurer, upon demand, at any and all reasonable times.

**§ 130-49. Rules and regulations; examination of records and premises by Treasurer.**

A. The Treasurer is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of required stamps, and to any and all other matters pertaining to the administration and enforcement of the provisions of this article.

B. The Treasurer is further authorized and empowered to examine books, records, invoices, papers and any and all cigarettes in and upon any premises where they are placed, stored, sold, offered for sale or displayed for sale by a seller.

**§ 130-50. Tax in addition to other applicable taxes.**

The tax levied and imposed by this article shall be in addition to all other taxes of every kind levied and imposed by any other ordinance of the Town or law.

**§ 130-51. Violations and penalties.**

Any person violating any of the provisions of this article shall, upon conviction, be guilty of a Class 4 misdemeanor punishable as provided in § 1-3. Such conviction and payment of fine shall not relieve any such person from the payment of any tax imposed by this article.

## **Article VI. Personal Property Tax Relief**

**§ 130-52. Purpose; definitions; relation to other ordinances.**

A. The purpose of this article is to provide for the implementation of the changes to PPTRA[1] effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

B. Terms utilized in this article that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 58.1-3523, as amended.

C. To the extent that the provisions of this article conflict with any prior ordinance or provision of the Town Code, this article shall control.

**§ 130-53. Method of computing and reflecting tax relief.**

A. For tax years commencing in 2006, the Town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset

against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

B. The Council shall, as part of the annual budget adoption pursuant to Chapter 25 of Title 15.2 of the Code of Virginia, set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the Town by the commonwealth. Any amount of PPTRA relief not utilized within the Town's fiscal year shall be carried forward and utilized to increase the funds available for personal property tax relief in the following fiscal year.

C. Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

#### **§ 130-54. Allocation of relief among taxpayers.**

A. Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the Town's annual budget relating to PPTRA relief.

B. Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.

C. Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a rate, annually fixed in the Town budget and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to utilize all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the Town.

#### **§ 130-55. Transitional provisions.**

A. Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the Town Treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100% of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year that remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

B. Penalty and interest with respect to bills issued pursuant to Subsection A of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in the Town's Code.

### **Article VII. Agricultural, Horticultural, Forest and Open Space Real Estate Tax**

#### **§ 130-56. Purpose.**

The Town finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use

plan, ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, § 58.1-3231 et seq., and of this article.

**§ 130-57. Applications for special assessment, effect of delinquency; compliance.**

A. The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233 may, on or before May 1 of each year, apply to the Town ~~Clerk~~ Treasurer for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Code of Virginia § 58.1-3236, and such application shall be on forms provided by the state tax commissioner and supplied by the Town ~~Clerk~~ Treasurer and shall include such additional schedules, photographs and drawings as may be required by the ~~Clerk~~ Treasurer. Late applications may be accepted until June 15 of each year, as provided in Code of Virginia § 58.1-3234, upon payment of a late filing fee established by the Town council and on file in the Town ~~Clerk's~~ Treasurer's office.

B. A separate application shall be filed for each parcel for which qualification is sought.

C. The application shall be filed with a fee established by the Town council and on file in the Town ~~Clerk's~~ Treasurer's office, which fee shall be paid at the time the application is filed. The fee shall be paid for each separate parcel on which application is made. A parcel is deemed to be a separate parcel where it is listed separately for real estate taxation on the records of the ~~Clerk~~ Treasurer.

D. A revalidation fee established by the Town council and on file in the Town ~~Clerk's~~ Treasurer's office shall be paid every six years thereafter, along with the submission of a revalidation form for each separate parcel qualifying under this section.

E. No application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

F. Continuation of use valuation shall depend on continuance of the real estate in the use for which classification is granted, continued payment of taxes as referred to in § 130-59 and compliance with the other requirements of this article, and not upon continuance in the same owner of title to the land.

**§ 130-58. Determination of qualifications.**

A. Promptly upon receipt of any application, the Town ~~Clerk~~ Treasurer shall determine whether the subject property meets the criteria for taxation under this article. If the ~~Clerk~~ Treasurer shall determine that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.

B. In determining whether the subject property meets the criteria for agricultural use or horticultural use, the ~~Clerk~~ Treasurer may request an opinion from the commissioner of agriculture and consumer services; in determining whether the subject property meets the criteria for forest use, he or she may

request an opinion from the state forester; and in determining whether the subject property meets the criteria for open space use, he or she may request an opinion from the director of the department of conservation and recreation. Upon the refusal of the Commissioner of Agriculture and Consumer Services, the Director of the Department of Conservation and Recreation or the State Forester to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the statements filed pursuant to this article, the party aggrieved may seek relief from the circuit court wherein the real estate in question is located. If the court finds in his or her favor, it may issue an order, which shall serve in lieu of an opinion for the purposes of this article.

C. The Town manager is authorized to enter into recorded commitments on behalf of the Town as prescribed in § 58.1-3233.3 of the Code of Virginia (1950), as amended.

### **§ 130-59. Removal of parcels from program if taxes delinquent.**

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment, as provided for in this article, are delinquent, the Town treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first class mail. If, after sending such notice, such delinquent taxes remain unpaid on June 1, the Town treasurer shall ~~notify the Town Clerk, who shall~~ remove such parcel from the land use program. [State law references: Similar provisions, Code of Virginia, § 58.1-3235]

### **§ 130-60. Use and fair market value.**

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value. [State law references: Similar provisions, Code of Virginia, § 58.1-3236D; change in use or zoning; roll back taxes imposed, Code of Virginia, § 58.1-3237]

### **§ 130-61. Rollback tax.**

A. Imposed. There is hereby imposed a rollback tax, and interest thereon, in such amounts as may be determined under Virginia Code § 58.1-3237 on real estate which has qualified for assessment and taxation on the basis of use under this ordinance, upon one or more of the following occurrences:

- (1) When the use by which it qualified changes to a more intensive use;
- (2) When it is rezoned to a more intensive use, as described in § 58.1-3237 of the Code of Virginia; or
- (3) When one or more parcels, lots or pieces of land are separated or split off from the real estate, as described in § 58.1-3241 of the Code of Virginia.

B. Reports.

(1) The owner of any real estate liable for rollback taxes shall report to the ~~Clerk~~ Treasurer, on forms to be prescribed, any change in the use of such property to a nonqualifying use, more intensive use or rezoning at the request of the property owner, and shall pay the rollback tax. On failure to report the change which is the subject of the rollback tax within 60 days following such change in use, or to pay the rollback tax within 30 days of the assessment, such owner shall be liable for an additional penalty equal to 10% of the amount of the rollback tax, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of 1/2 of 1% of the amount of the rollback tax for each month or fraction of a month during which the failure continues.

(2) Any person making a material misstatement of fact in any application filed pursuant to this article shall be liable for all such taxes, in such amounts and such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties. If such material misstatement was made with the intent to defraud the Town, he shall be further assessed with an additional penalty of 100% of such unpaid taxes.

#### **§ 130-62. Application of Title 58.1 of the Code of Virginia.**

The provisions of Title 58.1 of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the rollback taxes shall be considered to be deferred real estate taxes.

#### **§ 130-63. Alternate qualification.**

Any owner of real estate which is qualified for land use taxes by meeting the requirements of Isle of Wight County may qualify for the Town's program by submitting to the Town ~~Clerk~~ Treasurer a copy of the approved county application with the fee set by Town Council.

### **Article VIII. Administrative Fees**

#### **§ 130-64. Fees imposed to cover additional costs in collection of delinquent taxes or other charges.**

A. There is hereby imposed upon each person chargeable with delinquent taxes or other delinquent charges a fee to cover administrative costs, which shall be in addition to all penalties and interest and shall not exceed \$30 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for



administrative costs shall be \$150 or 25% of the cost, whichever is less: however, in no event shall the fee be less than \$25.

B. There is also imposed upon each person chargeable with delinquent taxes or other delinquent charges, reasonable attorney's or collection agency's fees which shall not exceed 20% of the taxes or other charges so collected.

# **Chapter 137. VEHICLES, ABANDONED AND JUNK**

## **§ 137-1. Definitions.**

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section:

### **ABANDONED MOTOR VEHICLE**

Any motor vehicle, trailer or semitrailer or part thereof that:

- A. Is inoperable and is left unattended on public property for more than 48 hours; or
- B. Has remained illegally on public property for a period of more than 48 hours; or
- C. Has remained, without consent, on private property, including, but not limited to, any commercial parking place, motor vehicle storage facility or establishment for the service, repair, maintenance or sale of motor vehicles, whether or not such vehicle was brought onto or left at such property with or without the consent of the owner or person in control of the property, for more than 48 hours.

### **DEMOLISHER**

Any person whose business is to convert a motor vehicle, trailer or semitrailer into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicles.

## **§ 137-2. Authority to remove.**

The Town may remove and take into custody any abandoned motor vehicle. In this connection, the Town may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who may be independent contractors for the purpose of removing, preserving and storing abandoned motor vehicles.

## **§ 137-3. Notice of removal.**

A. When the Town removes and takes an abandoned motor vehicle into custody under this chapter, the Town **Clerk Planning and Zoning Administrator or his designee** shall notify, within 15 days thereof, by certified mail, return receipt requested, the owner of record of the motor vehicle and all persons having security interests therein of record, that the vehicle has been taken into custody. The notice shall set forth the year, make, model and serial number of the abandoned vehicle, the location of the facility where the vehicle is being held, inform the owner and any persons having security interests of their right to reclaim the vehicle within 15 days after the date of the notice, after payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, and state that the failure of the owner or persons having security interests to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all persons having any security interests of all right, title and interests in the vehicle and a consent to the sale of the abandoned motor vehicle at public auction.

B. If the records of the Virginia Division of Motor Vehicles contain no address for the owner and no address of any person shown by such records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty,

notice by publication once in a newspaper of general circulation in the Town of Windsor shall be sufficient to meet all the requirements of notice pursuant to this section as to any person who cannot be notified pursuant to the provisions of this section. Such notice by publication may contain multiple listings of abandoned motor vehicles. Any such notice shall be within the time requirements prescribed for notice by mail and shall have the same contents for a notice by mail.

C. The consequences and the fact of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice in accordance with and pursuant to this section.

#### **§ 137-4. Sale.**

A. If an abandoned motor vehicle has not been reclaimed as provided for in § 137-3, the Town or its authorized agent shall sell the vehicle at public auction. The purchaser of the vehicle shall take title thereto free and clear of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to a certificate of title and registration card therefor, in accord with the provisions of state law. The sales receipt at such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling and, in such case, no further titling of the vehicle shall be necessary.

B. From the proceeds of the sale of an abandoned motor vehicle pursuant to this section, the Town or its authorized agent shall reimburse itself for the expense of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs incurred pursuant to this chapter. Any remainder from the proceeds of such sale shall be held for the owner of the vehicle or any person having security interests therein, as their interests may appear, for 90 days, and then shall be deposited into the Treasury of the Town.

#### **§ 137-5. Vehicles abandoned in garages.**

A. Any motor vehicle, trailer, semitrailer or part thereof left for more than 10 days in a garage operated for commercial purposes, after notice by certified mail, return receipt requested, to the owner to pick up the vehicle, or for more than 10 days after the period when, pursuant to contract, the vehicle was to remain on the premises, shall be deemed an abandoned motor vehicle and may be reported by the garagekeeper to the Town Manager. All abandoned motor vehicles left in garages may be taken into custody by the Town in accordance with § 137-2 and shall be subject to the notice and sale provisions contained in §§ 137-3 and 137-4; provided, that if such vehicle is reclaimed in accordance with § 137-3, the person reclaiming such vehicle shall, in addition to the other charges required to be paid, pay the charges of the garagekeeper, if any; and provided, further, that if such vehicle is sold as provided in § 137-4, the garagekeeper's charges, if any, shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of such auction, the costs of towing, preserving and storing such vehicle which resulted from placing such vehicle in custody and all notice and publication costs incurred under § 137-3.

B. For the purpose of this section, "garagekeeper" means any operator of a parking place, motor vehicle storage facility or establishment for the servicing, repair or maintenance of motor vehicles.

#### **§ 137-6. Demolition of inoperable vehicles.**

A. Notwithstanding the other provisions of this chapter, when, in the opinion of the authorized agent of the Town Council designated by the Council to have duties which include the disposal of abandoned

vehicles, any abandoned motor vehicle is inoperable and, by virtue of its condition, cannot be feasibly restored to operable condition, such vehicle may be disposed of to a demolisher, without title and without the notification procedures prescribed by this chapter, by the Town or by the person on whose property or in whose possession such vehicle is found. The demolisher, upon taking custody of such vehicle, shall notify the State Division of Motor Vehicles, on forms and in the manner prescribed by the Commissioner of such Division and, notwithstanding any other provision of law, no other report or notice shall be required in such instance.

B. When a motor vehicle, trailer, semitrailer or major portion thereof has been disposed of to a demolisher in accordance with the provisions of this section, the person disposing of such vehicle shall so certify to the State Division of Motor Vehicles, upon forms provided by such Division, and apply for reimbursement for whatever sum of money is provided for by § 46.2-1207, Code of Virginia, for each vehicle so disposed of at the expense of the Town and shall otherwise comply with such rules and regulations as the Commissioner of such Division may make with reference thereto.

### **§ 137-7. Removal and disposal of inoperative motor vehicles.**

A. Notwithstanding any provisions of this chapter pertaining to abandoned motor vehicles, it shall be unlawful for any person, except within a fully enclosed building or structure on any property zoned for residential, commercial, or agricultural purposes, to keep or maintain any motor vehicle, trailer or semitrailer as such are defined in Title 46.2, Code of Virginia, which is inoperative. As used in this section, an “inoperative motor vehicle” shall mean 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 is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

B. With respect to inoperative motor vehicles:

(1) The owners of property zoned for residential or commercial or agricultural purposes shall, at such times as the Town body may prescribe, remove therefrom any such inoperative motor vehicles, trailers, or semitrailers that are not kept within a fully enclosed building or structure.

(2) The Town, through its own agents or employees, may remove any such inoperative motor vehicles, trailers, or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so.

(3) In the event 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 semi- trailers after giving additional notice to the owner of the vehicle.

(4) The cost of any such removal and disposal shall be chargeable by the Town to the owner of the vehicle or premises and may be collected by the Town as taxes and levies are collected.

(5) Every cost authorized by this section 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 after the actual payment of such costs has been made to the Town.

# **Chapter 140. VEHICLES AND TRAFFIC**

## **Article I. General Provisions**

### **§ 140-1. Operating motor vehicle while under influence of alcohol or certain drugs.**

Pursuant to the provisions of § 46.2-1313 of the Code of Virginia, 1950, as amended, all of the provisions and requirements of the laws of the Commonwealth of Virginia relative to the operation of motor vehicles while under the influence of alcohol or certain drugs, as contained in Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia, 1950, as amended (§ 18.2-266 et seq.), except those which by their very nature can have no application in the Town, are hereby adopted and made a part of this chapter by reference as fully as if set forth herein verbatim, and are hereby made applicable within the Town. 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. Local regulations enacted pursuant to the provisions of the laws of the Commonwealth of Virginia and this chapter shall not be affected by the application and adoption of laws of the Commonwealth of Virginia under and by this section. It shall be unlawful for any person, within the Town, to violate or to fail, neglect, or refuse to comply with any section of the said laws of the Commonwealth of Virginia made applicable or adopted by reference hereby.

### **§ 140-2. Adoption of state law pertaining to general motor vehicle operation.**

A. Pursuant to the provisions of § 46.2-1313 of the Code of Virginia, all the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, except those the violation of which constitutes a felony and except those which, by their very nature, can have no application in the Town, are hereby adopted and made a part of this chapter as fully as though set out herein and are hereby made applicable within the Town; provided that local regulations enacted pursuant to the provisions of state law and this chapter shall not be affected by the application and adoption of state law under and by this section.

B. It shall be unlawful for any person, within the Town, to violate or to fail, neglect or refuse to comply with any section of the state law made applicable or adopted by this section; provided, however, 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 of the Code of Virginia.

C. All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases when used in this chapter, unless clearly indicated to the contrary.

### **§ 140-3. Placement of traffic control signs, signals, markings and devices.**

When the Council designates an intersection as one at which the driver of a vehicle is required to stop or to yield the right-of-way before entering such intersection, or designates a street upon which traffic is to proceed only in one direction, or designates a place at which U-turns are prohibited or at which turning movements are otherwise prohibited or restricted, or imposes any other regulation of traffic for which a traffic control sign, signal, marking or device which by state law is required to be in place to give notice to drivers of vehicles or pedestrians, the Council shall cause such traffic control sign, signal, marking or device to be installed and maintained as required by law.

**§ 140-4. Required compliance with official traffic control signs, signals, markings and devices.**

All traffic control signs, signals, markings and devices which are in place anywhere within the Town pursuant to authority of state law, this Code or other ordinance shall be complied with, and it shall be unlawful for the driver of any vehicle or for any pedestrian to violate or fail to comply with any requirement, prohibition or directive contained in any such traffic control sign, signal, marking or device except by directive of a police officer.

**§ 140-5. Speed limits.**

(Reserved)

**§ 140-6. Driving through funeral processions; manner of driving in funeral processions.**

A. No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral procession, except when otherwise directed by a police officer. The provision shall not apply to the specified emergency vehicles defined in § 46.1-920, Code of Virginia.

B. Each driver in a funeral procession shall drive as near to the right-hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.

**§ 140-7. Identification of vehicles in funeral processions; vehicles to have right-of-way.**

A. All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated head lamps thereon and such other identification as the Chief of Police may prescribe.

B. All motor vehicles so designated shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police vehicles at any street or highway intersection within the Town and may proceed through a stop street or signalized intersection with proper caution and safety.

**§ 140-8. Boarding or alighting from motor vehicles.**

No person shall board or alight from any vehicle while such vehicle is in motion.

**§ 140-9. Unlawful riding.**

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

**§ 140-10. Unnecessary noise in operation of motor vehicles.**

A. No vehicle shall be loaded with material likely to create loud noises by striking together, without using every reasonable effort to deaden the noise.

B. The use in, upon or attached to any motor vehicle operating on any street of the Town of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever

whereby sound therefrom is cast upon any street to promote or advertise the sale of goods, wares or merchandise, or for the purpose of advertising auction sales, sporting events or other businesses or things advertised thereby, is prohibited. The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade. The use of a loudspeaker on a motor vehicle for making auction sales in streets directly in front of the property then being sold, and entirely outside of the business districts of the Town, shall not be construed as a violation of this subsection when such use is limited strictly to the selling at auction of such property.

C. It shall be unlawful for any person in operating a motor vehicle or motorcycle within the Town to create in the operation thereof any unreasonably loud, disturbing or unnecessary noise.

D. In operating a motor vehicle or motorcycle, the following acts, among others, are declared to create loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:

- (1) The use of a motor vehicle or motorcycle so out of repair as to cause thereby loud and unnecessary grating, grinding, rattling or any of such noises, or any other unnecessary noise.
- (2) The practice of unnecessarily racing the motor of a motor vehicle or motorcycle while standing or moving thereby causing unnecessary noise from such motor.
- (3) The practice of unnecessarily retarding the spark to the motor of a motorcycle and thereby causing unnecessary, loud and explosive noise from the motor.
- (4) In starting a motor vehicle or motorcycle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing unnecessary and loud noise from the motor and the screeching of tires, or either of such noises.
- (5) The practice of coming to an unreasonably quick stop with a motor vehicle or motorcycle and thereby causing unnecessary grinding of brakes or screeching of tires or either of such noises.

#### **§ 140-11. Backing.**

The operator of a vehicle in the Town shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic.

#### **§ 140-12. Blocking intersections.**

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

#### **§ 140-13. Display of state license plates with current year decals required.**

It shall be unlawful for any person to operate, or for the owner or person in control thereof to knowingly permit the operation of, upon a street or highway of the Town, any motor vehicle, trailer or semitrailer without having displayed thereon the license plate or plates assigned thereto by the State Division of Motor Vehicles for the current registration year, with license plate decals designating the current registration year, whenever such license plate or plates are required by § 46.2-711, Code of Virginia.

#### **§ 140-14. State inspection sticker required.**

Except as otherwise expressly provided by state law, it shall be unlawful for any person to operate or cause or permit the operation of a motor vehicle, trailer or semitrailer upon the streets or highways of the Town unless there is properly displayed thereon a valid state inspection sticker showing that such vehicle, trailer or semitrailer has been inspected and approved under the provisions of §§ 46.2-1157 through 46.2-1175.1, Code of Virginia.

#### **§ 140-15. 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.

#### **§ 140-16. Violations and penalties.**

Every person convicted of a violation of any of the other provisions of this chapter for which no other penalty is provided shall, for a first conviction thereof, be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment in jail for not less than one day nor more than 10 days, or by both such fine and imprisonment; for a conviction for a second such violation within one year such person shall be punished by a fine of not less than \$20 nor more than \$200 or by imprisonment in jail for not less than one day nor more than 20 days, or by both such fine and imprisonment; for a conviction of a third or subsequent violation within one year, such person shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment in jail for not less than 10 days nor more than six months, or by both such fine and imprisonment.

## **Article II. Stopping, Standing and Parking**

#### **§ 140-17. Parking prohibited in specified places; interference with parked vehicles.**

A. No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;



(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;

(8) Within 50 feet of the nearest rail of a railroad grade crossing;

(9) Within 15 feet of the driveway entrance to any fire station on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction where such parking would obstruct traffic;

(11) On the roadway side of any vehicle parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a street or highway;

(13) At any place where official signs prohibit parking;

(14) Within a designated fire lane; and

(15) Within a parking space reserved for persons with disabilities that limit or impair their ability to walk unless such vehicle displays a disabled parking license plate, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under the § 46.2-1241, Code of Virginia, or a disabled veterans (DV) disabled parking license plates issued under the § 46.2-739, Code of Virginia.

B. No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

#### **§ 140-18. Parking rules and regulations.**

A. The Town Council shall make and promulgate additional rules and regulations for the parking or stopping of vehicles upon the highway, streets and Town parking lots in the Town of Windsor, including rules and regulations providing for classification of vehicles with reference to parking or stopping, designation of the time, place and manner such vehicles may be allowed to park or stop on the highways and streets, and designation of areas for bus stops, taxicab stands and loading zones.

B. At such times when, in the opinion of the Mayor, traffic conditions and the use of the highways require immediate action in order to provide for proper regulation of parking or stopping of vehicles, the Mayor is authorized to make and promulgate emergency rules and regulations for the parking or stopping of vehicles upon highways, streets and Town parking lots in the Town of Windsor, which emergency rules and regulations shall only be in force and effect for such time as ordered by the Mayor, but in no case shall such emergency rules and regulations remain in force and effect longer than the second succeeding Town Council meeting.

#### **§ 140-19. Enforcement of parking rules and regulations.**

It shall be unlawful for any person to fail, refuse or neglect to observe and comply with any such rule or regulation made and promulgated by the Town Council or by the Mayor; provided, however, that no

such rule or regulation shall be deemed to have been violated unless appropriate and adequate signs, markers or other devices are erected to inform ordinarily observant persons using the highways, streets and Town parking lots of such rule or regulation, and which signs, markers or other devices shall have been so placed that they may be readily and easily seen. The term "signs, markers or other devices" shall include white lines or markers painted on highways and streets and yellow curb markings, customarily indicating parking spaces and no-parking zones.

**§ 140-20. Parking violations.**

A. Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be tried for the offenses set forth in the notice. Such waiver shall be effective upon voluntary payment of \$20 to the Town so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing \$20 and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not thereafter be required to appear before the general district court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) On a crosswalk;
- (5) On the roadway side of any vehicle parked at the edge or curb of a street;
- (6) Upon any bridge or other elevated structure upon a street or highway; and
- (7) At any place where official signs prohibit parking.

B. Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be formally tried for the offense set forth in the notice. Such waiver shall be effective upon voluntary payment of \$25 to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing \$25 and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not be thereafter required to appear before the general district court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle:

- (1) Within 15 feet of a fire hydrant;
- (2) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
- (3) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;
- (4) Within 50 feet of the nearest rail of a railroad grade crossing;

(5) Within 15 feet of the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(6) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic; and

(7) Within a designated fire lane.

C. Every person receiving written notice from a police officer that he has committed any of the offenses listed in this section may waive his right to appear and be tried for the offense set forth in the notice. Such waiver shall be effective upon voluntary payment of \$100 to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice or upon voluntarily placing \$100 and a signed waiver of right to trial in the return envelope provided with the notice and mailing it to the Town Treasurer so that it is received and certified by the Town Treasurer within five days after issuance of such notice. Such person shall not thereafter be required to appear before the general district court for trial upon the charge set forth in such notice. Such offenses shall include parking a vehicle:

(1) Within a parking space reserved for persons with disabilities that limit or impair their ability to walk unless such vehicle display a disabled parking license plate, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under the § 46.2-1241, Code of Virginia, or disabled veterans (DV) disabled parking license plates issued under § 46.2-739, Code of Virginia.

D. Whenever the return envelope provided with the notice is used for transmitting any check, draft or money order by mail to the Town Treasurer, pursuant to the provisions of this section, the responsibility for receipt of the check, draft or money order by the Town Treasurer so that it can be received and certified within five days of issuance of the notice shall be that of the registered owner of the vehicle parked in violation, on which such notice has been placed.

E. Any person who has received a notice pursuant to Subsection A, B or C of this section and wishes to contest the offense cited in such notice may, within five days after issuance of such notice, appear at the Town's Police Department and certify the contesting of such offense.

F. Any person who has received a notice pursuant to Subsection A, B or C of this section and who fails to comply with Subsections A through E of this section within five days after issuance of such notice shall be subject to a fine of not more than \$50; and, in addition, a summons or arrest warrant may be issued for such person pursuant to § 46.2-941, Code of Virginia.

G. The Town Treasurer shall be the administrative official responsible for the collection of parking citation penalties. The Town Treasurer shall render a report to the Chief of Police on those persons who have paid such parking citation penalties. The Chief of Police shall be the administrative official responsible for certifying, in writing, any contest of a parking violation to the general district court; and the Chief of Police shall cause complaints, summonses or warrants to be issued for delinquent parking citations.

H. The registered owner of any vehicle parked in violation of any provision of this article shall be prima facie guilty of such violation. Such presumption of guilt shall be rebuttable in court by competent evidence.

## **Chapter 142. VEHICLE LICENSE FEES**

### **§ 142-1. License year.**

The license year for the licensing of motor vehicles, trailers and semitrailers under this chapter shall commence on January 1 of each year and shall expire on December 31 of the same calendar year.

### **§ 142-2. Levy of license fee; situs.**

A. For each license year, there is hereby levied and shall be collected from every person owning a motor vehicle, trailer or semitrailer, which is normally garaged, stored or parked within the city limits for any portion of the year between January 1 and December 31, a license fee for each such vehicle, etc., at the rate set forth in § 142-7. If it cannot be determined where such personal property described is normally garaged, stored or parked, the situs for the purpose of imposing this license fee shall be the domicile of the owner of such personal property. In the event the owner of the personal property is a full-time student attending an institution of higher education, the situs for the purpose of imposing this license fee shall be the domicile of the student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The license fee imposed by this chapter shall be in addition to any other city license tax, including personal property tax.

### **§ 142-3. Exemptions.**

The following vehicles are hereby exempt from the license fee authorized by § 46.2-752 of the Code of Virginia:

A. Vehicles owned or leased by disabled American veterans, and prisoners of war, as reflected in the records of the Virginia Division of Motor Vehicles.

B. Vehicles owned or leased solely by members of the armed forces living in the City, but who have permanent residence elsewhere as evidenced by a leave and earnings statement.

C. Vehicles owned solely by members of the volunteer fire departments, police auxiliary, fire auxiliary, and volunteer rescue squads.

D. Every person claiming an exemption under this section who owns and operates a motor vehicle, trailer or semitrailer which is normally garaged, stored or parked within the boundaries of the Town must provide to the Town Treasurer proof that the owner of a vehicle is exempted under this section. If the status of the owner of the vehicle changes so as to no longer qualify the vehicle for the exemption provided herein, the owner shall forthwith notify the Town Treasurer within 30 days of the date of such change in status, give the reason for the status change, and shall comply with all other provisions of this chapter.

### **§ 142-4. Payment of to Town Treasurer required.**

It shall be unlawful for any person to operate a motor vehicle, trailer or semitrailer during any license year established in this chapter without having paid the requisite license fee to the City Treasurer.

### **§ 142-5. Due date and delinquent charge for late payment of license fee.**

If any license fee imposed by this chapter is not paid by December 5 or due date as indicated on the personal property tax bill of any license year, there shall be added to such license fee a delinquent charge of \$10 to be assessed and paid along with the license fee as part thereof.

**§ 142-6. Invoice for license fee.**

After a motor vehicle, trailer or semitrailer has been assessed for personal property tax purposes by the Town Treasurer, or registered with and assessed by the Commissioner of the Revenue for personal property tax purposes, the Town Treasurer shall mail the taxpayer a bill for the license fee for the current and each subsequent year. The license fee shall be listed as a separate item on each year's annual personal property tax bill, which payment shall be due on or before December 5 or as indicated on the tax bill.

**§ 142-7. Amount of license fee.**

A. The license fee imposed in this chapter for motor vehicles, trailers, semitrailers shall be as follows:

| Type           | Fee  |
|----------------|------|
| Vehicles - all | \$20 |

B. The license fee for motor vehicles, trailers and semitrailers not designed and used for transportation of passengers shall be determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to maximum capacity for which it is licensed, according to the schedule of license fees set forth in Subsection A of this section. For a combination of a tractor-truck and semitrailer, each vehicle constituting a part of such combination shall be considered a separate vehicle, and a separate license fee shall be charged on the treasurer's records. For the purpose of determining the gross weight group of vehicles of which such vehicle constitutes a part shall be considered a unit and the aggregate gross weight of the entire combination shall determine such gross weight group. There shall be paid to the treasurer the license fee indicated in the schedule in Subsection A of this section immediately opposite the weight group into which such vehicle or any combination of vehicles of which it is a part falls when loaded to the maximum capacity for which it is licensed.

**§ 142-8. Special rates for certain classifications.**

Members of the state National Guard shall be entitled to pay the license fee for their motor vehicles at 1/2 the prevailing rate, upon presentation to the Town Treasurer, a current state registration card which indicates that the state issued the motor vehicle a National Guard license plate for that year. This section shall only apply to passenger cars and pickup or panel trucks.

# **Chapter 145. WATER**

## **Article I. Water Supply**

### **§ 145-1. Meters; responsibility for water rents.**

A. Every regular consumer of water shall be supplied with a meter by the Town, which meter shall be under the exclusive control of the Maintenance Supervisor, for which the consumer shall deposit an amount as determined by the Council and filed in the Treasurer's office; this amount shall be refunded by the Town in the event that such consumer discontinues the use of Town water, less all charges that may stand against such consumer.

B. Water meters shall be located at the property line adjacent to a street or alleyway or at such other location as determined by the Maintenance Supervisor. The person in whose name the service is rendered shall be responsible for water rents.

### **§ 145-2. Schedule of water rates.**

The schedule of water rates are set from time to time by the Council shall be kept current and maintained in the office of the Treasurer.

### **§ 145-3. Deposit required.**

Each user of water supplied by the Town waterworks system shall deposit with the Treasurer an amount determined by the Council as a water deposit. This amount shall remain on deposit in the Town Treasury as a guarantee for water rent. In the event that such customer fails to pay the water rent, then the Treasurer shall apply the deposit towards liquidation of amount due by the customer, and the water supply to his premises shall be disconnected and shall be resumed only when the delinquent account has been paid in full.

### **§ 145-4. Payments due after discontinuance.**

Each customer, from whose premises the supply of water has been discontinued, shall pay any and all water rents due.

### **§ 145-5. Connection required prior to building occupancy.**

It shall be unlawful for any person to occupy any building of any kind unless the same is connected with the water and sewerage system of the Town if those services are readily available.

### **§ 145-6. Tampering with meters.**

It shall be unlawful for any person to remove, tamper or in any way meddle with any water meter box, rim cover thereto, or any part of such water meter box.

### **§ 145-7. Maintenance of and accessibility to water meters.**

Every customer of water supplied from the Town's waterworks system shall maintain the area around and above the location of the water meter in such a manner that the water meter can be accessed by the Town's personnel, for purpose of reading and maintenance, without restriction or prohibition. Should the Town's personnel be unable to have reasonable access to the water meter, thereby prohibiting the Town's personnel from reading and maintaining the water meter, the customer shall be billed for that particular billing cycle based upon the average of the consumption of water during the last three billing cycles, and a notice of inaccessibility to the water meter shall be delivered to the customer, and the customer shall alleviate the circumstances creating the inaccessibility before the next scheduled meter reading. Thereafter, should the Town's personnel be unable to have reasonable access to the water meter at and during any future meter reading of such customer, then a penalty of \$50 shall be assessed against the customer, which shall be paid in addition to the billing of water services provided to the customer, as provided hereinbefore. Once accessibility is restored to the water meter, adjustments will be made in the next billing cycle to account for the actual amount of water consumed during the period for which the estimated bills were sent.

**§ 145-8. Use of water from public hydrants.**

No person, except the Maintenance Supervisor, or the Chief of the Fire Department or other authorized persons, shall take water from any public hydrant, plug, street washer or drain cock.

**§ 145-9. Certain water systems and waterworks and disposition of certain water prohibited.**

No person, corporation, partnership, firm, cooperative, association, group or other organization shall locate, construct, maintain and operate a water system or waterworks, including water pipes, waterlines, water mains, motors, tanks, pumps, wires, tools and other related equipment and accessories, in the Town of Windsor, Virginia and sell, give away, furnish and supply water from such water system or waterworks located outside of said Town to another or others in said Town, either with or without charge, compensation or other consideration, without first having obtained a certificate of public convenience and necessity from the Virginia State Corporation Commission or the written permission and authority of the Town Council of said Town.

## **Article II. Cross-Connection Control**

**§ 145-10. Adoption of standards.**

The Town of Windsor hereby adopts by reference Section 6, Cross-Connection and Backflow Prevention Control in Waterworks, Commonwealth of Virginia Waterworks Regulations.

**§ 145-11. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AIR GAP SEPARATION**

The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture, or other device and the rim of the receptacle.

**AUXILIARY WATER SYSTEM**

Any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks; or water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

#### BACKFLOW

The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases, or nonpotable waters into any part of a waterworks.

#### BACKFLOW PREVENTION DEVICE

Any approved device, method, or type of construction intended to prevent backflow into a waterworks.

#### CONSUMER

The owner or person in control of any premises supplied by or in any manner connected to a waterworks.

#### CONSUMER'S WATER SYSTEM

Any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

#### CONTAMINATION

Any introduction into pure water of microorganisms, wastes, wastewater, undesirable chemicals, or gases.

#### CROSS-CONNECTION

Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

#### DEGREE OF HAZARD

This is a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

#### DOUBLE GATE-DOUBLE CHECK VALVE ASSEMBLY

An approved assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

#### HEALTH HAZARD

Any condition, device or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

#### INTERCHANGEABLE CONNECTION

An arrangement or device that will allow alternate but not simultaneous use of the two sources of water.



## POLLUTION

The presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

## POLLUTION HAZARD

A condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

## PROCESS FLUIDS

Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollutional, or system hazard if introduced into the waterworks. This includes, but is not limited to:

- A. Polluted or contaminated water;
- B. Process waters;
- C. Used waters originating from the waterworks which may have deteriorated in sanitary quality;
- D. Cooling water;
- E. Contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- F. Chemicals in solution or suspension; and
- G. Oils, gases, acids, alkalis, and other liquid and gaseous fluids used in industrial or other processes, or for fire-fighting purposes.

## PURE WATER or POTABLE WATER

Water fit for human consumption and use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the person served.

## REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION DEVICE

A device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

## SERVICE CONNECTION

The terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

## SYSTEM HAZARD

A condition posing an actual, or threat of, damage to the physical properties of the waterworks of a consumer's water system.

## USED WATER

Any water supplied by a water purveyor from waterworks to a consumer's water system after it has passed through the service connection.

## WATER PURVEYOR

An individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county, or authority which supplies water to any person within this state from or by means of any waterworks.

## WATERWORKS

All structures and appliances used in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers as set forth in Title 62.1, Chapter 4, § 62.1-45a, Code of Virginia, 1950, as amended.

### **§ 145-12. Inspections.**

It shall be the duty of the Town of Windsor to cause inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections, and reinspections, based on potential health hazards involved, shall be established by the Mayor or authorized agent in the Cross-Connection Control and Backflow Prevention Program and as approved by the Virginia Department of Health.

### **§ 145-13. Access to properties; furnishing of information to inspectors.**

The representative of the Town of Windsor shall have the right to enter, at any reasonable time, properties served by a connection to the waterworks of the Town of Windsor for the purpose of inspecting the piping system or systems for cross-connections. Upon request, the owner, or occupants, or property served shall furnish to the inspection agency pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

### **§ 145-14. Backflow prevention device required.**

The water purveyor may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device(s) has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below 10 psi gauge, the purveyor shall take positive action to insure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with the Commonwealth of Virginia Waterworks Regulations and to the satisfaction of the purveyor.

### **§ 145-15. Potable water.**

The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this article and the Isle of Wight County Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled as "Water Unsafe for Drinking" in a conspicuous manner.

### **§ 145-16. Effect on plumbing codes.**

This article is a supplement to the applicable plumbing codes.

### **§ 145-17. Violations and penalties.**

Any person or customer found guilty of violating any of the provisions of this article, or any written order of the Town of Windsor, in pursuance thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of \$100 for each violation. Each day upon which a violation of the provisions of this article shall occur shall be deemed a separate and additional violation for the purposes of this article.

## **Article III. Water Conservation and Water Supply Emergencies**

### **§ 145-18. Water conservation during normal conditions.**

A. Flow rates for plumbing fixtures. In all new construction and in all remodeling and/or replacement of plumbing fixtures, only fixtures not exceeding the following flow rates and/or water consumption shall be permitted:

| <b>Fixture</b>                  | <b>Permissible Flow Rate</b>     |
|---------------------------------|----------------------------------|
| Water closet                    | 1.6 gallons per flush            |
| Urinal                          | 1.0 gallon per flush             |
| Shower head                     | 2.5 gallons per minute at 80 psi |
| Lavatory, nonpublic             | 2.2 gallons per minute at 60 psi |
| Lavatory, public                | 0.5 gallon per minute at 80 psi  |
| Lavatory, public (self-closing) | 0.25 gallon per metering cycle   |
| Sink faucet                     | 2.2 gallons per minute at 60 psi |

B. Car washes. All new car wash installations shall be equipped with an approved water recycling system. All existing car wash installations shall be equipped with such recycling devices no later than one year from the effective date of this article.

C. Waste of water; leak repairs.

(1) Any owner of any residential unit, commercial or industrial establishment who is found to be an excessive user of water due to leakage from water lines or plumbing fixtures on the premises and who fails to repair and stop such leakage after notice by the governing authority shall be subject to penalties provided under § 145-20 of this article.

(2) No person shall permit the water to run from any hydrant, meter, or fixture without proper care to prevent waste.

D. Continuous flow equipment. In all new construction and all repair or replacement construction, any device or appliance requiring a continuous flow of five gallons per minute or more and not covered by § 145-18 of this article shall be equipped with an approved water recycling system.

#### **§ 145-19. Water conservation during water supply emergencies.**

A. Should the Town Council, the Town Manager, or the Director of the State Department of Environmental Quality (DEQ) find that a water supply emergency exists, the Town will, by public declaration, limit or prohibit the following uses of water:

(1) The use of water to wash down sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas, building, or structure.

(2) The use of water to wash automobiles, trucks, trailers, or any other types of mobile equipment, except in facilities operating with a water recycling system. Any facility operating with an approved recycling system must prominently display in public view a sign stating that such recycling system is in operation.

(3) The watering of shrubbery, trees, lawns, grass, plants or other vegetation, except when using recycled water, or except from a watering container not exceeding three gallons in capacity.

(4) The use of water in the operation of any ornamental fountain, or for scenic and recreational ponds and lakes, except for the minimum amount required to support fish life.

(5) The use of water to fill or refill swimming pools.

(6) The serving of drinking water in restaurants unless requested by customers.

B. Any or all of the above restrictions shall become effective upon their being printed in any newspaper of general circulation in the Town and/or broadcast over any radio or television station serving the Town, and being placed on the Town's website or any other available location. These restrictions shall be terminated upon finding that the water shortage is over and the emergency situation no longer exists.

C. Should the implementation of all of the above measures fail to conserve a sufficient amount of water supply for the citizens of the Town, then specific allotments of water supply, by volume, to each water customer shall be imposed. If the allotted amount of water is exceeded within any billing period, each customer so exceeding its allotment shall pay a surcharge. The allotment for each customer and the surcharge rate shall be determined by the Town Council.

#### **§ 145-20. Violations and penalties.**

Any person convicted of violating any of the provisions of this article shall be guilty of a misdemeanor punishable by a fine of not more than \$500. Each day such violation continues shall constitute a separate offense.

## **Chapter 148. WEEDS AND REFUSE**

### **§ 148-1. Accumulation of garbage, refuse, litter and other substances.**

It shall be unlawful for any property owner to allow trash, garbage, refuse, litter, and other substances which might endanger the health or safety of other residents of the Town to accumulate on his property. When any such property owner shall allow such accumulation on his property and after 10 day's written notice by the Town to remove the trash, garbage, refuse, litter, and other substances which might endanger the health of other residents of the Town, he shall be guilty of a violation of this Code section. The Town, after having given the notice aforesaid, may, in its discretion, remove such garbage, refuse, litter, and other substances which might endanger the health or safety of other residents of the Town, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of the property; if the same is not paid by the owner, such costs and expenses shall be assessed against and become a lien upon the property and may be collected as real estate taxes and levies are collected.

### **§ 148-2. Depositing rubbish and junk at unauthorized places prohibited.**

No person shall remove from private property any trash, garbage, refuse, litter, paper, offal, vegetables, broken glass, tin cans, old machinery, old tools, old automobiles, junk or any obnoxious or offensive matter or thing whatsoever and deposit or place the same within the Town, except at such place or places as may be provided by the Town Council.

### **§ 148-3. Growth of weeds and grass; removal by Town.**

No owner of property shall allow grass, weeds and other foreign growth on his property, or any part thereof, to exceed 12 inches in height; provided, however, that this prohibition shall not apply to trees, bushes and other common shrubbery. When any such property owner shall allow grass, weeds and other foreign growth to exceed 12 inches in height and, after 10 days' written notice by the Town, shall fail to cut such grass, weeds and other foreign growth, he shall be guilty of a violation of this Code section. The Town, after having given the notice aforesaid, may, in its discretion, cut such grass, weeds and other foreign growth, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of the property; if the same is not paid by the owner, such costs and expenses shall be assessed against and become a lien upon the property and may be collected as real estate taxes and levies are collected.

### **§ 148-4. Transporting garbage and other materials over streets.**

No person shall haul, carry, transport or move any dirt, sand, coal, wood, litter, rubbish, debris, trash, paper, offal, vegetables, garbage, ashes or any offensive matter of any kind or description along or over any of the streets of the Town without having and keeping the same in such secure condition as to prevent the same from scattering or falling on any of the streets.

### **§ 148-5. Burning leaves.**

A. It shall be unlawful for any person to burn leaves in the open at any time within the Town, except on the property where the person resides between the hours of 9:00 a.m. and 7:00 p.m., provided that:

- (1) All embers of any such fire or burning shall be totally extinguished by 7:00 p.m.;
- (2) The location of the fire or burning shall not be less than 50 feet from any occupied building or structure;
- (3) At no time shall the fire or burning be unattended;
- (4) Any person doing such burning shall take reasonable care to prevent the spread of any such fire or burning to the buildings, structures or lands other than those owned or occupied by the person burning such leaves; and
- (5) The burning is not otherwise prohibited by applicable state or county fire laws.

B. Nothing in this section shall be construed to prevent, prohibit, limit or restrict the power and authority of the Town to institute and maintain equity proceedings in the Circuit Court of Isle of Wight County, Virginia, to prevent, abate, remove, restrain and enjoin any violation or threatened violation of this section.

#### **§ 148-6. Violations and penalties.**

A. Violations of this chapter shall be subject to a civil penalty, not to exceed \$50, for the violation or violations from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.

B. In the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a twenty-four-month period, then such violations shall be a Class 3 misdemeanor.

# **Chapter 152. YARD AND OTHER SALES**

## **§ 152-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

### **RUMMAGE SALE**

A sale conducted by a civic, church, or charity organization on premises belonging to, or under the control of, such civic, church, or charity organization, of tangible personal property donated for the purpose of raising funds for such civic, church, or charity organization.

### **YARD SALE**

An outdoor sale conducted by a resident on premises belonging to, or under the control of, the resident, of tangible personal property owned by the resident.

## **§ 152-2. Permit required; display of permit.**

No yard sale or rummage sale shall be conducted within the Town of Windsor, Virginia unless and until the person or organization conducting such yard sale or rummage sale shall have obtained a permit from the Town of Windsor, to be issued by the Zoning Administrator. The permit shall be conspicuously displayed on the premises where the sale is conducted during the entire time period of the sale.

## **§ 152-3. Signs.**

Only signs provided by the Zoning Administrator shall be displayed for purposes of advertising any yard sale or rummage sale; provided, however, that the person or organization may display other signs on the premises where the yard sale or the rummage sale is being conducted; and, further, provided that all such signs comply with all other ordinances of the Town of Windsor. All other signs are prohibited.

## **§ 152-4. Permit and deposit fees; maximum number of signs.**

Each permit obtained pursuant to this chapter for a yard sale or a rummage sale shall be issued upon the payment of a permit fee of \$1 and a refundable deposit fee of \$1 for each yard sale or rummage sale sign requested from, and provided by, the Zoning Administrator. A maximum of five signs may be issued with each yard sale permit or rummage sale permit.

## **§ 152-5. Removal of signs; return of deposit.**

All signs permitted to be displayed under this chapter shall be removed within 24 hours of the conclusion of the yard sale or the rummage sale. All signs obtained from the Town of Windsor shall be returned to the Town of Windsor within seven days of the conclusion of the yard sale or the rummage sale, and upon such return of such signs in a condition similar to their condition upon delivery to the person or organization, normal wear and tear excepted, the refundable deposit for each sign shall be paid over to the person or organization who placed such deposit. Failure to return all such signs to the Town of Windsor within the time period specified herein shall result in a forfeiture of the refundable deposit.



**§ 152-6. Number of sales per year; term of sale.**

No more than two yard sales shall be permitted during a calendar year at any one location within the Town of Windsor. If, however, the identities of all the residents at such location change during the calendar year, the new residents at such location may have up to two yard sales during the remainder of such calendar year. No more than two rummage sales shall be permitted during the calendar year by any one organization. Each yard sale or rummage sale may be conducted for up to three consecutive calendar days.