

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, September 14, 2010, at 6:45 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

Dulcie M. Mumpower, Chair
Odell Owens, Vice Chair
Phillip B. McCall
Nicole M. Price
Kenneth O. Reynolds (arrived at 7:03 p.m.)
Joseph C. Straten
Thomas G. Taylor

Mark K. Reeter, County Administrator
Lucy E. Phillips, County Attorney
Mark W. Seamon, Accounting Manager
Naoma A. Norris, Recording Clerk

1. Call to Order

The meeting was called to order by Ms. Dulcie M. Mumpower, Chair of the Board, who welcomed everyone in attendance.

Ms. Mumpower apologized for the meeting starting late and explained there was another meeting prior to the Board of Supervisors meeting that involved County and Town of Abingdon officials.

Ms. Mumpower noted that Supervisor Kenneth Reynolds may not be able to attend the meeting due to schedule conflict.

2. Invocation and Pledge of Allegiance

Supervisor Nicole Price gave the Invocation and led the Pledge of Allegiance.

3. Approval of Agenda

On motion of Mr. Owens, second by Ms. Price, it was resolved to approve the agenda as presented.

The vote on this motion was as follows: (6-0)

Mr. McCall Aye
Ms. Mumpower Aye
Mr. Owens Aye
Ms. Price Aye

Mr. Straten Aye
Mr. Taylor Aye

4. Consent Agenda:

On motion of Mr. McCall, second by Mr. Straten, the Board acted to approve items a and d of the Consent Agenda as set forth below.

a. Approval of Minutes:

1. August 24, 2010 Regular Meeting

b. Approval of Routine Financial Matters:

No financial matters were presented to the Board.

c. Award of Bids and Approval of Contracts:

No bids or contracts were presented to the Board.

d. Authorization of Routine Business Matters:

1. Adoption of Resolution Recognizing William ‘Bear’ Lloyd as Washington County’s Farm Bureau Association Ambassador - Approved as Follows:

*RESOLUTION 2010-31
RECOGNIZING AND COMMENDING
WILLIAM ‘BEAR’ LLOYD*

WHEREAS, the Virginia Farm Bureau Ambassador Program seeks to advocate for agriculture and to promote the agricultural industry through education, legislative development and awareness, and many other venues, and

WHEREAS, William ‘Bear’ Lloyd as the 2010 Virginia Farm Bureau Ambassador for Washington County, has displayed tremendous dedication to the agricultural industry not only in Washington County but all across the state of Virginia, and

WHEREAS, as the first male in the Program’s history, William has traveled the state meeting with many producers in various industries and talking to them about the struggles facing their own farms, and

WHEREAS, William resides on his family’s burley tobacco and beef cattle operation outside of Abingdon, is currently studying business management and finance through Liberty University, is active in his local church and also serves on the Washington County Chamber of Commerce’s Agriculture Committee; and

WHEREAS, William has been in the forefront in taking agricultural education to Abingdon Elementary School and E. B. Stanley Middle Schools and has actively fought against legislation that threatens agriculture in Virginia and America. His hope is that the “next generation of farmers will not have to face such disastrous problems as the ones we face today and are more respected.”

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia that the Board hereby recognizes and commends William ‘Bear’ Lloyd as Washington County’s 2010 Virginia Farm Bureau Ambassador.

2. **Approval of Records Destruction, County Department of Community & Economic Development**
3. **Adoption of Resolution Proclaiming September 17-23 as Constitution Week 2010 - Approved as Follows:**

**RESOLUTION 2010-32
PROCLAIMING CONSTITUTION WEEK 2010**

WHEREAS, September 17, 2010 marks the two hundred and twenty-third anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia that the Board hereby proclaims September 17 through 23, 2010 to be CONSTITUTION WEEK 2010 in Washington County, and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

At this time, Ms. Mumpower presented the Resolution proclaiming September 17-23 as Constitution Week 2010 in Washington County to Ms. Suzanne Patrick and Ms. Jo Ella Barber with the Daughters of the American Revolution (DAR).

Ms. Patrick provided remarks about Constitution Week and history of the DAR.

4. Adoption of Resolution Proclaiming September 2010 as National Preparedness Month - Approved as Presented:

**RESOLUTION 2010-33
NATIONAL PREPAREDNESS MONTH**

WHEREAS, September is National Preparedness Month, a time set aside to encourage Americans to take simple steps to prepare for emergencies in their homes, businesses, and communities; and

WHEREAS, the Commonwealth of Virginia has suffered both natural disasters and human-caused emergencies that have resulted in tragic loss of life and property, including the terrorist attack on the Pentagon September 11, 2001; and

WHEREAS, nearly three out of four Virginia residents do not have four essential supplies on hand to help during emergencies, with those supplies consisting of a family emergency plan, three days' food that won't spoil such as canned and packaged foods, three days' water amounting to one gallon per person per day, and a hand-crank or battery powered radio and extra batteries to hear emergency information; and

WHEREAS, those who are at least minimally prepared for emergencies recover faster and can help others who also may be affected, demonstrating community spirit in the face of adversity; and

WHEREAS, emergency preparedness is a shared responsibility, and every family that is able should prepare to be self-sufficient for the first 72 hours after disaster strikes; and

WHEREAS, the shores of the Chesapeake Bay and the Atlantic Ocean and rolling and mountainous terrain put our Commonwealth at risk each year for the damaging effects of both offshore and inland hurricanes and tropical systems; and

WHEREAS, historically September begins the prime season for the threat of tropical systems and flooding throughout Virginia;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia that the Board does hereby proclaim the month of September 2010 as **NATIONAL PREPAREDNESS MONTH** in the County of Washington and encourage all citizens to be ready by taking steps to prepare for emergencies at home, at work and in our communities.

The vote on this motion was as follows: (6-0)

| | |
|---------------------|------------|
| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |
| <i>Mr. Taylor</i> | <i>Aye</i> |

5. Public Hearings:

a. Public Hearing and Consideration of Adoption of an Ordinance to Amend Chapter 66, subsections 546-559 of the 2002 code of the County of Washington, Virginia, to Update Provisions For Regulation Of Land Use In Flood Hazard Zones For Consistency With State And Federal Law

County Attorney Lucy Phillips addressed the Board and explained the proposed ordinance comes to the Board as a result of the U. S. Department of Homeland Security's Federal Emergency Management Agency (FEMA), who oversees the National Flood Insurance Program in which the County participates, has updated its Flood Insurance Rate Maps (FIRM) to a digital format and established an effective date of September 29, 2010 for the new maps. FEMA required local jurisdictions to update their flood hazard district mapping. The revised ordinance must be adopted or submitted to the FEMA Regional Office by September 29, 2010. Even though there were no changes to the County's FIRM boundary lines for flood hazard zones, a revision of the County's Flood Hazard District zoning regulations was necessitated by FEMA requirements.

Discussions ensued among the Board.

Mr. Taylor explained the floodplains designated on the maps are new ones, but have the same boundaries as the ones on the old maps. He asserted that there is no relationship to the actual floodplain. He further explained if a person owns property that never floods but that is located in a designated floodplain area; the property owner must hire an engineer, and is required to get a permit in order for a bank to approve a loan. This can be a very expensive process. Mr. Taylor stated the County needs to request FEMA engineers to determine the actual floodplain areas in the County. Then the County could deal with what is determined by FEMA engineers to be the actual floodplain. He further stated that the National Flood Insurance Program is being subsidized by the Federal Government, and with inaccurate floodplain maps taxpayer dollars are being wasted.

Mr. Straten added that the floodplain maps need to be verified as reasonably accurate; otherwise, FEMA should do a study to determine the exact floodplain areas. He stated that he can attest from personal experience to what was explained by Mr. Taylor about trying to build in an area designated as a floodplain, but that never floods.

Mr. Reeter explained that FEMA will accept from a locality an extensive engineering study of the designated flood hazard areas of the County. Several years ago through a regional grant for Southwest Virginia, a study was conducted to determine the heaviest flood risk areas. The Federal Government recognizes that municipalities and cities do not have the money to conduct studies. Counties, in particular the rural ones, rarely receives funds to pay for engineering studies. It would take about a ten year program to complete a hydro study on each riverine area of the County and submit the data to FEMA for accurate mapping. Mr. Reeter explained this could be done, but the County would be required to fund the study.

Mr. Taylor explained that he would like the Boards' concerns to be communicated to FEMA. FEMA needs to be made aware of the County's concerns that we are perpetuating inaccurate maps on the public and the federal government is paying to subsidize insurance companies on properties that are said to be in a floodplain.

Ms. Mumpower opened the public hearing to receive comments on the proposed ordinance.

There being no comments, Ms. Mumpower declared the public hearing closed.

Ms. Phillips explained because these regulations are set out in the County Zoning Ordinance, a public hearing on the proposed ordinance was also advertised and conducted before the County Planning Commission at its August 30 regular meeting. The Planning Commission voted to recommend adoption of the proposed ordinance. She further explained that two minor changes are recommended to be made to the proposed ordinance. In Section 66-548-2 the word “whatever” should be corrected to read “what so ever.” In Section 66-549 the definition for “Administrator” should be referred to as “Floodplain Administrator.”

Further discussions ensued among the Board with the following action being taken:

On motion of Mr. Owens, second by Mr. McCall, the Board acted to follow the recommendation of the Washington County Planning Commission and adopt the following ordinance with the revisions as proposed by the County Attorney; and to send correspondence to FEMA requesting that they strive to make the Flood Insurance Rate Maps more accurate:

AN ORDINANCE TO AMEND CHAPTER 66, SUBSECTIONS 546 – 561, OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA, TO UPDATE PROVISIONS FOR REGULATION OF LAND USE IN FLOOD HAZARD ZONES FOR CONSISTENCY WITH STATE AND FEDERAL LAW

WHEREAS, Virginia Code section 15.2-2223 established that each local governing body may by ordinance adopt a plan for the physical territory within its jurisdiction for management of flood plain and drainage; and

WHEREAS, the County Code of Ordinances includes such measures that govern the management of flood plains as authorized by National Flood Insurance Program; and

WHEREAS, such ordinances must be updated for continued compliance with the National Flood Insurance Program; and

WHEREAS, upon due consideration, the Board of Supervisors of the County of Washington, Virginia, has found it in the best interest of the public health, safety, and welfare to amend County Code Chapter 66, Zoning, to update its provisions and conform them to the requirements of federal regulation;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of the County of Washington, Virginia, after notice and public hearing, as required by law:

- 1. That this ordinance shall become effective immediately.***
- 2. That the Editor is directed to revise the formatting and section designations of the ordinance for consistency with the Code of the County of Washington, Virginia (2002, as amended).***
- 3. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity***

or constitutionality of any other section or provision of this ordinance or the Washington County Code.

- 4. *That Chapter 66, Subsections 546 – 561 are amended, as set forth below:***

Chapter 66.

ZONING

Article V. Districts

Division 15. Flood Hazard District FH*

Sec. 66-546. - Purpose.

The purpose of the FH flood hazard district is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base, and the loss of recognizable ecological values, by:

- (1) Regulating uses, activities and developments that, acting along or in combination with other existing or future uses, activities and developments, will cause unacceptable increases in flood heights, velocities, and frequencies.*
- (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.*
- (3) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.*
- (4) Protecting individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.*

(Code 1997, § 66-631)

State Law Reference – Authority to regulate flood plains, Code of Virginia § 15.2-2280.

Sec. 66-547. - Applicability.

The provisions of this division shall apply to all lands within the jurisdiction of the county and identified as being floodprone as stipulated in this division.

(Code 1997, § 66-632)

* Cross reference—Flood control and drainage in subdivisions, § 54-56 et seq.

Sec. 66-548. - Compliance.

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

(Code 1997, § 66-633)

Sec. 66-548.1 – Abrogation and Greater Restrictions.

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

Sec. 66-548.2 - Severability.

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

Sec. 66-549. - Definitions.

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

Administrator means the Floodplain Administrator and the Zoning Administrator of the county.

Base flood means the flood elevation that has been selected to serve as the basis upon which the floodplain management provisions of this article and other ordinances have been prepared; for purposes of this division, the 100-year flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency (FEMA) designated one hundred (100)-year water surface elevation or 1% annual chance flood. The water surface elevation of the base flood in relation to the datum specified on the Flood Insurance Rate Map, which is incorporated into the Geographic Information System (GIS) by the County.

Basement means any area of the building having its floor sub-grade (below ground-level) on all sides. In the event the Virginia Uniform Statewide Building Code provides a more stringent definition of "basement" the Virginia Uniform Statewide Building Code definition shall control.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, mining, dredging, filling, grading, paving, excavating, ~~or~~ drilling operations, or storage of equipment or materials.

Digital Flood Insurance Rate Map or DFIRM means Flood Insurance Rate Map or FIRM as herein defined.

~~Encroachment means actions within the floodplain which alter the capacity of the channel in time of flood~~ the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of the floodplain.

Federal Emergency Management Agency or FEMA means the agency of the federal government by that name.

Fill means the placing, storing or dumping of any material, such as (by way of illustration but not of limitation) earth, clay, sand, concrete, rubble or waste of any kind, upon the surface of the ground that results in increasing the natural ground surface elevation.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1. The overflow of inland or tidal waters.*
- 2. The unusual and rapid accumulation or runoff of surface waters from any source.*
- 3. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.*

Normally, a "flood" is considered as any temporary rise in stream flow or stage that results in significant adverse effects in the vicinity. Adverse effects may include damages from overflow of land areas, temporary backwater effects in sewer and local drainage channels, creation of unsanitary conditions or other unfavorable situations by deposition of materials in stream channels during flood recessions, rise of groundwater coincident with increased stream flow, and other problems.

Flood hazard district means the land located within the 100-year floodplain that includes the floodway, floodway fringe, and approximate floodplain.

Flood Insurance Rate Map or FIRM means the digital flood insurance map found in the GIS. In the event the GIS conflicts with the FIRM panel maintained by FEMA, the FEMA FIRM panel shall control.

Flood Insurance Study or FIS means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain means a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation and to the unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain management is a term applied to the full range of public policy and action for ensuring wise use of the floodplains. It includes everything from collection and dissemination of flood control information to actual acquisition of floodplain lands, including the enactment and administration of floodplain regulations, including building codes and the building of flood-modifying structures.

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

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to properties and structures that reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings. In the event the Virginia Uniform Statewide Building Code provides for a more stringent definition of "floodproofing" the Virginia Uniform Statewide Building Code definition shall control.

Floodway means the designated area of the 100-year floodplain required to carry and discharge floodwaters of a given magnitude.

Floodway fringe means the remaining portions of the 100-year floodplain adjacent to the floodway.

Freeboard means one (1) foot above base flood elevation.

Historic structure means any structure that is:

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

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

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

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

New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after March 16, 1988, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after March 8, 1988, and includes any subsequent improvements to such structures.

One-hundred year flood or 100-year flood means the flood level that is estimated to have a one percent chance of occurring each year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

Recreational vehicle means a vehicle that is:

- (1) built on a single chassis;
- (2) four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

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

Special flood hazard area means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 66-549 of this ordinance.

Start of construction, for other than new construction and substantial improvement, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date.

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

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

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

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

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

(Code 1997, § 66-634)

Cross reference—Definitions generally, § 1-2.

Sec. 66-550. - Establishment of flood hazard districts.

(a) *Basis of districts. The various flood hazard districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the digital flood insurance rate map (DFIRM) and the flood insurance study (FIS) for the Washington County prepared by the Federal Emergency Management Agency, effective ~~March 16, 1988~~ September 29, 2010.*

(1) *The floodway district is delineated for purposes of this article using the criteria that a certain area within the floodplain must be capable of carrying the water of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this district are specifically defined in the above-referenced flood insurance study and shown on the accompanying flood insurance rate map. "Floodway" shall be that area identified as "Floodway" in Table 2 in the FIS (flood insurance study) prepared by the Federal Emergency Management Agency (FEMA). The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS prepared by the Federal Emergency Management Agency.*

(2) *The flood fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the flood insurance study referenced in subsection (1) of this section and as shown on the accompanying flood insurance rate map.*

(3) *The "approximated floodplain area" shall be that floodplain area for which no detailed flood elevations or floodway information is provided. Such areas are shown as zone A on the maps accompanying the flood insurance study prepared by the Federal Emergency Management Agency. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available.*

(b) Overlay concept.

(1) *The flood hazard districts described above shall be overlays to the existing underlying zoning districts as shown on the official zoning ordinance map; and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.*

(2) *Where there happens to be any conflict between the provisions or requirements of any of the flood hazard districts and those of any underlying district, the more restrictive provisions of either shall apply.*

(3) *If any provision concerning a flood hazard district is declared inapplicable as a result of any legislative or administrative action or judicial discretion, the underlying district provisions shall remain applicable.*

(c) Official zoning map. *The boundaries of the flood hazard districts are established as shown on the flood insurance rate map which is declared to be a part of this article and which shall be kept on file by the county.*

(d) District boundary changes. *The delineation of any of the flood hazard districts may be revised by the board of supervisors where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, the Tennessee Valley Authority, or other qualified agency or where an individual documents the need or possibility for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.*

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

(Code 1997, § 66-635)

Sec. 66-550.1 – Submitting Technical Data.

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

Sec. 66-551. - Zoning permit required for utilization of the flood hazard district.

(a) Generally. All uses, activities and development occurring within any flood hazard district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code referenced in section 14-1 and the county subdivision regulations of chapter 52. Prior to the issuance of any such permit, the administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channel or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and the Federal Insurance Administrator. — No alteration or relocation of any channels or floodways of any watercourse shall be permitted unless a situation of undue hardship is determined by the board of zoning appeals. In the instance that the board of zoning appeals determines that hardship exists, approval shall be obtained by the applicant from the state water control board. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notification shall be forwarded to both the state water control board, the state department of intergovernmental affairs, and the Federal Emergency Management Agency. In all cases, the applicant must evaluate the effects of proposed development on the floodplain by submitting adequate data.

(b) Application. All applications for development in the floodplain district and all building permits issued for the floodplain 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 100-year flood.*
- (4) *Topographic information showing existing and proposed ground elevations at two-foot contour intervals or less, using best available data.*

(Code 1997, § 66-636(a), (b))

Sec. 66-552. - Permitted uses.

The following uses shall be permitted in the floodway district, provided that they are in compliance with the provisions of the underlying district:

- (1) *Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, and farming, and wild-crop harvesting.*
- (2) *Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and fishing areas.*
- (3) *Open accessory residential uses, such as yard areas, gardens, play areas and previous loading areas, but not storage or other structures.*
- (4) *No development shall be permitted which increases flood heights and produces hazardous velocities. The effect of such development on flood heights must be offset by accompanying improvements which have been approved by all federal, state and local authorities. This section is not intended to prevent property owners from installing fencing that has an insignificant effect on flood heights.*

(Code 1997, § 66-636(c))

Sec. 66-553. - Special exception uses.

The following uses may be permitted in the floodway district as a special exception as provided in this chapter, provided that they are in compliance with the provisions of the underlying district:

- (1) *Structures, except for manufactured homes, accessory to the uses and activities in section 66-551(a).*
- (2) *Utilities and public services.*
- (3) *Temporary uses, such as circuses, carnivals and similar activities.*
- (4) *Other similar uses and activities, provided that they cause no increase in flood heights and/or velocities. All uses, activities and developments shall be undertaken in strict compliance with the floodproofing provisions contained in this division and all other applicable codes and ordinances.*

(Code 1997, § 66-636(d))

Sec. 66-554. - Prohibited uses.

No use, structure, fill, deposit, obstruction and/or storage of materials or equipment will be permitted in the flood hazard district that, acting along or in combination with existing or future uses, will result in affecting the capacity of the floodway or unduly increasing flood limits. Such limits will be those established by the Federal Emergency Management Agency and the Virginia Uniform Statewide Building Code.

(Code 1997, § 66-636(e))

Sec. 66-555. - Manufactured homes prohibited.

The placement of any manufactured home within the ~~FH~~ Flood Hazard district is specifically prohibited.

(Code 1997, § 66-636(f))

Sec. 66-556. - Floodway fringe and approximated floodplain districts.

In floodway fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of underlying district provided that all such uses, activities and/or development shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code, Supplement section 1313.0, and all other applicable portions of the county Code and ordinances.

(Code 1997, § 66-636(g))

Sec. 66-557. - Records.

The administrator shall obtain and maintain records of actions associated with administering this ordinance including but not limited to the lowest floor elevations and floodproofing levels for all new or substantially improved structures within the designated floodplain.

(Code 1997, § 66-636(h); Ord. No. 2000-01, § 1(66-636), 4-11-2000)

Sec. 66-558. - Procedures for considering special exceptions, rezoning, variances and zoning amendments in the flood hazard districts.

(a) Variances shall be issued only upon:

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

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

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

(d.) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors. All actions by any agent, commission or board of the county, including rezoning, special exceptions, and amendments to this chapter, shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and the following additional factors.

~~(a) Factors to consider. All actions by any agent, commission or board of the county, including rezoning, special exceptions, variances and amendments to this chapter, shall consider all pertinent facts found in other sections of this chapter and especially:~~

- (1) *The danger to life and property due to increased flood heights or velocities which may be caused by encroachments.*
- (2) *The danger that materials may be swept onto 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 or use and its contents to flood damage, and the effect of such damage on the individual owner.*
- (5) *The importance of the services provided by the proposed facility or use to the community.*
- (6) *The requirements of the facility or use 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 or structure with existing and anticipated development.*
- (9) *The relationship of the proposed use to the comprehensive plan and the floodplain management program to the a town and surrounding area.*
- (10) *The safety of access to the property in terms of flood for ordinary and emergency vehicles.*
- (11) *The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected on the site.*
- (12) *Such other factors which are relevant to the purpose of this article.*

(b) Compliance with state building code. When considering special exceptions and/or variances, the board of supervisors, the planning commission, and the board of zoning appeals will ensure that the granting of the special exception and/or variance will comply with the requirements of the Virginia Uniform Statewide Building Code. In addition, no special use and/or variance within the floodway will be granted if it will cause an increase in the 100-year flood elevation.

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

(d) Issuance of special exceptions and variances. Special exceptions and/or variances shall only be issued after the board of supervisors and board of zoning appeals have determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud or victimization of the public; or conflict with local laws or ordinances.

(e) *Minimum relief. Special exceptions and/or variances shall only be issued after the board of zoning appeals has determined that the special exception and/or variance will be the minimum relief to any hardship.*

(f) *Notification of increased insurance rates. The board of zoning appeals and board of supervisors, or their designated representatives, shall notify the applicant for a special exception and/or variance, in writing, that the issuance of a special exception and/or variance to construct a structure below the 100-year flood elevation increases risks to life and property and will result in increased premium rates for flood insurance.*

(g) *Record of notification. A record of the notification referred to in subsection (f) of this section, as well as all variance actions, including justification for issuance, shall be maintained; and any variance which is issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency.*

(Code 1997, § 66-637)

Sec. 66-559. - Existing structures in floodplain districts.

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 this division, may be continued subject to the following conditions:

- (a.) ~~(1)~~ *Existing structures and/or uses located in the floodway district shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements to the stream. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the existing and proposed expansion would not result in any increase in the base flood elevation.*
- ~~(2) Substantial improvement to a structure and/or use, regardless of its location in a flood hazard district, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code, Supplement section 1313.0.~~
- (b.) *Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty percent of its market value shall conform to the Virginia Uniform Statewide Building Code.*
- (c.) *The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia Uniform Statewide Building Code.*

(Code 1997, § 66-638)

Sec. 66-560. - Site design regulations.

(a) Consistency with state building code. All subdivision proposals and other new developments in the flood hazard district, including utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage as stated in the Virginia Uniform Statewide Building Code referenced in section 14-1.

(b) Site plan criteria. The owner or developer of any proposed subdivision and/or other new development in the flood hazard district shall submit a site plan to the administrator that includes the following information:

(1) All requirements stated heretofore in this article.

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

(3) A map showing the location of the proposed subdivision and other new development with respect to the county and adjacent town floodprone areas, proposed lots and sites, fills, flood or erosion protection facilities, and areas subject to special deed restriction. In addition, it is required that all subdivision proposals greater than 25 lots or five acres, whichever is the lesser, shall include base flood elevation data.

(4) Where the subdivision and other new development lies partially or completely in the floodprone 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 less feet, depending upon the slope of the land, and shall identify accurately the boundaries of the floodprone areas. Property with slopes less than 20 percent shall show contours at intervals of two feet.

(c) Design criteria. For additional information required for purposes of flood hazard mitigation in proposed subdivisions or other developments which are within the floodplain districts as delineated, the following additional provisions shall be met:

(1) 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.

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

(3) All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall ensure drainage away from buildings and on-site waste disposal sites. Drainage plans shall be consistent with facilities' discharge of excess runoff into adjacent properties.

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

(5) *All electric water heaters, electric furnaces and other critical electrical installations shall be permitted only at elevations at or above the level of the 100-year flood.*

(6) *Water supply systems, sanitary sewage systems, and gas and oil supply systems shall be designed to preclude infiltration of floodwaters into the systems and discharges from the systems into floodwaters.*

(7) *Adequate drainage shall be provided to minimize exposure to flood heights.*

(8) *The preliminary plat requirements shall include a map showing the location of the proposed subdivision and/or land development with respect to any designated flood district, including information on but not limited to, the 100-year flood elevations, boundaries of the floodplain district, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.*

(Code 1997, § 66-639)

Sec. 66-561. - Regulation of real estate sales in flood hazard areas.

(a) *Any owner or partial owner of real estate or his agent and any real estate broker or his agent who contracts to sell or sells real estate in the flood hazard district without first notifying in writing the buyer or his agent that such real estate is subject to floodplain regulations shall be subject to the penalties set forth in subsection (c) of this section.*

(b) *Floodplain regulations referred to in subsection (a) of this section include the requirements of this chapter, subdivision regulations set forth in chapter 54 52, and building codes set forth in chapter 14 that impose restrictions specifically relating to flooding on the whole or a portion of the lands.*

(c) *The penalties for violation of subsection (a) of this section may, at the discretion of the court, include:*

(1) *~~Rescission~~ Rescission of the contract at the option of the buyer.*

(2) *Payment to the buyer of damages he may have suffered whether the buyer rescinds the contract or not.*

(3) *A fine of not more than \$1,000.00.*

(Code 1997, § 66-640)

Sec. 66-562. - Penalties.

In addition to the penalty prescribed in section 1-15, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article; the imposition of a fine or penalty for any violation or noncompliance or permitting 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 article may be declared by the board of supervisors to be a public nuisance and abatable as such.

(Code 1997, § 66-641)

Sec. 66-563. - Liability.

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

(Code 1997, § 66-642)

Secs. 66-564—66-580. - Reserved.

The vote on this motion was as follows: (7-0)

| | |
|---------------------|------------|
| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Reynolds</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |
| <i>Mr. Taylor</i> | <i>Aye</i> |

b. Public Hearing and Consideration of Adoption of an Ordinance to Amend Chapter 10, Subsections 1-181 of the 2002 Code of the County of Washington, Virginia, to Update the County Code of Ordinance Provisions for Care of Animals for Consistency with State Law

Ms. Phillips explained the proposed ordinance includes revisions to the current County Animal Control ordinance that would conform the ordinance to the provisions of state law. The majority of proposed amendments would revise references to state law that have changed as a result of re-codification of the Commonwealth’s Comprehensive Animal Control Law, which occurred in 2008. In addition, minor substantive changes are noted in accordance with corresponding changes to state law. Ms. Phillips provided a review of revisions.

Discussions ensued among the Board and Ms. Phillips.

Ms. Mumpower opened the public hearing to receive comments on the proposed ordinance.

There being no comments, Ms. Mumpower declared the public hearing closed.

On motion of Mr. Straten, second by Mr. Owens, the Board acted to adopt the following Ordinance:

AN ORDINANCE TO AMEND CHAPTER 10 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA, FOR CONSISTENCY WITH STATE LAW PROVISIONS FOR CARE OF ANIMALS

WHEREAS, Virginia Code section 15.2-1200 established that the governing body of any county may by ordinance establish measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants; and

WHEREAS, the County Code of Ordinances includes such measures that govern the care and management of animals as authorized by Virginia Code Sections 3.2-6537, et seq.; and

WHEREAS, such sections of Virginia law have been amended from time to time; and

WHEREAS, upon due consideration, the Board of Supervisors of the County of Washington, Virginia, has found it in the best interest of the public health, safety, and welfare to amend County Code Chapter 10, Animals, to update its provisions and conform them to the corresponding provisions of state law;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of the County of Washington, Virginia, after notice and public hearing, as required by law:

- 5. That this ordinance shall become effective immediately.*
- 6. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code.*
- 7. That Chapter 10, Subsections 1-181 are amended as set forth below:*

Chapter 10
ANIMALS*

Article I. In General

*State law reference—Authority to adopt animal care and control ordinances, Code of Virginia, § ~~3.1-796.94~~ 3.2-6543; authority to adopt animal regulations, Code of Virginia, §§ ~~3.1-796.94:1~~, 15.2-1200.

Sec. 10-1. - Definitions.

The words and phrases used in this chapter shall have the meanings respectively ascribed to them in Code of Virginia, title ~~3.1~~ 3.2, unless otherwise defined in this chapter.

(Code 1997, § 10-1)

Cross reference—Definitions generally, § 1-2.

State law reference—Definitions, Code of Virginia, §§ ~~3.1-796.66~~ 3.2-5900, 3.2-6500, ~~3.1-796.93:1~~ 3.2-6540, ~~3.1-796.126:8~~ 3.2-6581.

Sec. 10-3. Care of companion animals by owner.

- (a) Each owner shall provide for each of his or her companion animals
 - 1. adequate feed;
 - 2. adequate water;
 - 3. adequate shelter that is properly cleaned;
 - 4. adequate space in the primary enclosure for the particular type of animal depending upon its age, size , species, and weight;
 - 5. adequate exercise;
 - 6. adequate care, treatment, and transportation; and
 - 7. veterinary care when needed to prevent suffering or disease transmission.
- (b) This section shall not require that animals used as food for other animals be euthanized.
- (c) Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision (a) 1, 2, 3, or 7 is a Class 2 misdemeanor and a second or subsequent violation of subdivision (a) 4, 5, or 6 is a Class 3 misdemeanor.

State law reference—Code of Virginia §3.2-6503.

Sec. 10-4. - Cruelty to animals.

(a) Any person who is found to have done any of the following activities shall, upon conviction, be guilty of a class 1 misdemeanor and shall be punished as provided in section 1-15. Prosecutions for violation of this section shall commence as provided in Code of Virginia, § 19.2-8. In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

- (1) *Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another;*
- (2) *Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;*
- (3) *Sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes;*
- ~~(3)~~ (4) *Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal;*
- (4) (5) *Carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or*
- ~~(5)~~ (6) *Causes any of the things set forth in subsections (a)(1) through ~~(4)~~ (5) of this section, or being the owner of such animal permits such acts to be done by another;*

(b) Any person who is found to have done any of the following activities and has been within the prior five years convicted of a violation of this subsection (b) or of subsection (a) of this section shall be guilty of a class 6 felony if the current violation or any previous violation of this subsection or subsection (a) of this section resulted in the death of an animal or euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection (a) of this section:

- (1) *Tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or*
- (2) *Instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in subsection (b)(1) of this section; or*
- (3) *Causes any of the actions described in subsections (b)(1) and (b)(2) of this section or, being the owner of such animal, permits such acts to be done by another;*

~~*and has been within five years convicted of a violation of this subsection (b) or of subsection (a) of this section shall be guilty of a class 6 felony if the current violation or any previous violation of this subsection or subsection (a) of this section resulted in the death of an animal or euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection (a) of this section.*~~

(c) *Any person who abandons 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, upon conviction, be guilty of a class 3 misdemeanor and shall be punished as provided in section 1-15.*

(d) *It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a class 6 felony.*

(e) *Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule the Code of Washington County, Virginia, §§ 10-76, 10-77, or 10-96, or the Code of Virginia § 3.2-6540 or 3.2-6552.*

(f) *Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.*

(g) *This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under the Code of Virginia, including, but not limited to, Code of Virginia, title 29.1, or to farming activities as provided under Code of Virginia, title 3.1 3.2 or regulations promulgated thereto.*

(h) *For the purposes of this section the term "animal" shall be construed to include birds and fowl.*

(i) *Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.*

(Code 1997, § 10-5)

State law reference—Authority to adopt ordinance prohibiting cruelty to animals, Code of Virginia, § 3.1-796.94 3.2-6543; cruelty to animals, Code of Virginia, § 3.1-796.122 3.2-6570; statute of limitations, Code of Virginia, § 19.2-8.

Sec. 10-5. - Burial or cremation of animals or fowls that have died.

(a) *When the owner of any animal or grown fowl, other than a companion animal, that has died knows of such death, such owner shall forthwith have its body cremated or buried, and, if he fails to do so, any judge of the general district court of the county, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to*

exceed the amount as provided in the fee schedule in Appendix A to this Code, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed the amount provided in the fee schedule in Appendix A, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall, upon conviction, be guilty of a class 4 misdemeanor and shall be punished as provided in section 1-15. Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

(b) The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury, or sanitarily dispose of the animal. If, after notice, any owner fails to do so, the animal control officer or other officer shall bury or cremate the companion animal, and he may recover on behalf of the county from the owner his cost for this service.

(Code 1997, § 10-6)

State law reference—Disposal of dead companion animals, Code of Virginia, § ~~3.1-796.121~~ 3.2-6554; requirements for burial of animals and authority of county to adopt requirements, Code of Virginia, § 18.2-510.

Sec. 10-6. - Unlawful acts; penalties.

(a) The following shall be unlawful acts and constitute class 4 misdemeanors punishable as provided in section 1-15:

- (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 any license tax required by this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.*
- (3) Dog running at large. For any dog owner to allow his dog to run at large in violation of section 10-32.*
- (4) Rabies regulations. For any person to fail to have his dog or cat vaccinated in accordance with section 10-31.*
- (5) Dead companion animals. For any owner to fail to dispose of the body of his companion animal in accordance with section 10-5(b).*
- (6) Diseased dogs and cats. For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his premises if such disease is known to the owner.*
- (7) Concealing a dog. For any person to conceal or harbor any dog on which any required license tax has not been paid.*
- (8) Removing collar and tag. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian.*
- (9) Other violations. Any other violation of this chapter for which a specific penalty is not provided.*

(b) Any person who presents a false claim or receives any money on a false claim under the provisions of section 10-97 or who impersonates a humane investigator shall be guilty, upon conviction, of a class 1 misdemeanor and shall be punished as provided in section 1-15.

(Code 1997, § 10-7)

State law reference—Unlawful acts, penalties, Code of Virginia, § ~~3.1-796.128~~ 3.2-6587.

Sec. 10-7. - Intentional interference with a guide or leader dog; penalty.

(a) For purposes of this section the term "guide or leader dog" means a dog that:

- (1) Serves as a dog guide for a blind person as defined in Code of Virginia, § ~~63.1-142~~ 3.2-6588 or for a person with a visual disability;*
- (2) Serves as a listener for a deaf or hard-of-hearing person as defined in Code of Virginia, § ~~63.1-85.3-1~~ 3.2-6588; or*
- (3) Provides support or assistance for a physically disabled or handicapped person.*

(b) It is unlawful for a person to, without just cause, willfully impede or interfere with the duties performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. Any person who violates this subsection shall, upon conviction, be guilty of a class 3 misdemeanor and shall be punished as provided in section 1-15.

(c) It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has reason to believe the dog is a guide or leader dog. Any person who violates this subsection shall, upon conviction, be guilty of a class 1 misdemeanor and shall be punished as provided in section 1-15.

(Code 1997, § 10-8)

State law reference—Intentional interference with a guide or leader dog, penalty, Code of Virginia, § ~~3.1-796.128-1~~ 3.2-6588.

Sec. 10-8. - Disposition of funds and fines.

(a) Except as otherwise provided in this chapter, the treasurer of the county shall keep all money collected by him for dog license taxes, all fines collected for violations of the provisions of this chapter and all other funds collected pursuant to the provisions of this chapter in a separate account from all other funds collected by him. The funds shall be used for the following purposes:

- (1) The salary and expenses of the animal control officer and necessary staff;*
- (2) The care and maintenance of ~~a dog pound~~ an animal shelter;*
- (3) The maintenance of a rabies control program;*
- (4) Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of the license tax referenced in section 10-53;*
- (5) Payments for compensation as provided in section 10-97; and*
- (6) Efforts to promote sterilization of dogs and cats.*

(b) Any part or all of any surplus remaining in such account on December 31 of any year may be transferred by the board of supervisors into the general fund of the county.

(Code 1997, § 10-9)

State law reference—Disposition of funds, Code of Virginia, § ~~3.1-796.101~~ 3.2-6534.

Secs. 10-9—10-30. - Reserved.

ARTICLE II. - DOGS AND CATS

DIVISION 1. - GENERALLY

Sec. 10-31. - Rabies inoculation of dogs and domesticated cats; availability of certificate.

(a) The owner or custodian of all dogs and ~~domesticated~~ cats four months of age and older shall have ~~them~~ such animal currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises unless otherwise provided by regulations. The supervising veterinarian on the premises shall provide the owner or custodian of the dog or the ~~eustodian of the domesticated~~ cat with a rabies vaccination certificate of or herd rabies vaccination certificate and shall keep a copy in his own files. The owner or custodian of the dog or the ~~eustodian of the domesticated~~ cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law enforcement officer or official of the department of health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. At the discretion of the local health director, a medical record from a licensed veterinary establishment reflecting a currently vaccinated status may serve as proof of vaccination.

(b) Vaccination subsequent to a summons to appear before a court for failure to do so shall not operate to relieve such owner from the penalties or court costs provided in the fee schedule in Appendix A to this Code.

(Code 1997, § 10-41)

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.97:1~~ 3.2-6521.

Sec. 10-32. - Dogs running at large prohibited.

The running at large of dogs in the county is prohibited. For the purposes of this section, 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. The owner and/or custodian of any dog found running at large shall be deemed to have violated the provisions of this section.

(Code 1997, § 10-42; Ord. No. 2007-04, § 1, 3-13-2007)

State law reference—Authority of county to adopt prohibition on dogs running at large, Code of Virginia, § ~~3.1-796.93~~ 3.2-6538.

Secs. 10-33—10-50. - Reserved.

DIVISION 2. - DOG LICENSES

Sec. 10-51. - Unlicensed dogs prohibited.

It shall be unlawful for any person to own a dog four months old or older in the county unless such dog is licensed, as required by the provisions of this division.

(Code 1997, § 10-71)

State law reference—Unlicensed dogs prohibited, Code of Virginia, § ~~3-1-796.85~~ 3.2-6524.

Sec. 10-52. - When license tax payable.

(a) On January 1 and not later than January 31 of each year, the owner of any dog four months old or older shall pay a license tax as prescribed in section 10-54. The license tax may be paid for a one-year or three-year period but the period of the license tax may not exceed the period of years that the rabies inoculation is effective as shown on a rabies certificate of vaccination issued by a state licensed veterinarian for the particular canine vaccinated and licensed.

(b) The license tax prescribed in section 10-54 must be purchased not later than 30 days after a dog has reached the age of four months or not later than 30 days after an owner acquires a dog four months of age or older and each year thereafter.

(c) If a dog becomes four months of age or is at least four months of age and comes into the possession of any person between January 1 and October 31 of any year, the license tax for the current calendar year shall be paid by the owner.

(d) If a dog becomes four months of age or is at least four months of age and comes into the possession of any person between November 1 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner, and this license shall be valid from the date the license is purchased.

(e) Any kennel license tax prescribed pursuant to § 10-54 shall be due on January 1 and not later than January 31 of each year.

(Code 1997, § 10-72; Ord. No. 2007-09, § 1, 7-10-2007)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.88~~ 3.2-6530.

Sec. 10-53. - How to obtain license; duty and authority of treasurer.

(a) Any person may obtain a dog license by making oral or written application to the treasurer of the county accompanied by the amount of license tax and current certificate of vaccination as required by this article. The treasurer shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of the county and may require information to this effect from any applicant. Upon receipt of proper application and current certificate of vaccination as required by this article, the treasurer shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed female, female or kennel, and deliver the metal license tags

or plates provided for in this division. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid.

(b) No license tag shall be issued for any dog unless there is presented, to the treasurer at the time application for license is made, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian or currently licensed veterinary technician who was under the immediate and direct supervision of a licensed veterinarian on the premises.

(c) The treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of such licenses.

(Code 1997, § 10-73)

State law reference—License, Code of Virginia, § ~~3.1-796.86~~ 3.2-6527; rabies inoculation prerequisite to obtaining license, Code of Virginia, §§ ~~3.1-796.97~~ 3.2-6521, 3.2-6526.

Sec. 10-54. - Amount of license tax.

(a) The license taxes imposed by this division per year for each dog are as provided in the fee schedule in Appendix A to this Code.

(b) A kennel license may be obtained by the owner and operator of a dog kennel for the amount provided in the fee schedule in Appendix A.

(c) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person or that is trained and serves as a service dog for a mobility-impaired person. As used in this section, the term "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond, and the term "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

(Code 1997, § 10-74)

Cross reference—Taxation, ch. 58.

State law reference—Maximum amount of license tax, Code of Virginia, § ~~3.1-796.87~~ 3.2-6528.

Sec. 10-55. - License tags and receipts.

(a) A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show issuance in the county, the sex of the dog or cat, and the calendar year for which issued and shall bear a serial number.

(b) The license tag for a kennel shall show the number of dogs authorized to be kept under such license and shall have attached thereto a metal identification plate for each of such dogs numbered to correspond with the serial number of the license tag.

(c) *Such tags and receipts for each calendar year shall be in serial or numerical order. The tag for each calendar year shall be of a noticeably different design from that for the previous year.*

(Code 1997, § 10-75)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.90~~ 3.2-6526.

Sec. 10-56. - Duplicate license tags.

If a dog license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall be as provided in the fee schedule in Appendix A to this Code.

(Code 1997, § 10-76)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.91~~ 3.2-6532.

Sec. 10-57. - Displaying receipts; dogs to wear tags.

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. The owner of the dog may remove the collar and license tag required by this section when:

- (1) The dog is engaged in lawful hunting;*
- (2) The dog is competing in a dog show;*
- (3) The dog has a skin condition which would be exacerbated by the wearing of a collar;*
- (4) The dog is confined; or*
- (5) The dog is under the immediate control of its owner.*

(Code 1997, § 10-77)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.92~~ 3.2-6531.

Sec. 10-58. - Effect of dog not wearing collar as evidence.

Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceedings under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

(Code 1997, § 10-78)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.89~~ 3.2-6533.

Sec. 10-59. - Payment of license tax subsequent to summons.

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

(Code 1997, § 10-79)

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.103~~ 3.2-6536.

Sec. 10-60. - Kennel dogs.

The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to the animal control officer or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the kennel enclosure; but this restriction shall not operate to prohibit dogs being temporarily removed from the kennel while under the control of the owner or custodian to exercise, hunt, breed, show or engage in field trials. A kennel shall not be operated in any manner to defraud the county of the license tax payable on dogs which cannot be legally considered as kennel dogs or in any manner to violate other provisions of this division. If a kennel dog is found to be running at large in violation of section 10-32, in addition to other penalties provided by this chapter, the kennel license of the owner of such dog may be revoked if it appears to the court that the provisions of this section have been violated by reason of carelessness or negligence on the part of such owner, and such owner thereupon shall be required to pay an individual license tax on each dog.

(Code 1997, § 10-80)

State law reference—Authority to regulate kennel licenses, Code of Virginia, § ~~3-1-796.87~~ 3.2-6528.

Secs. 10-61—10-75. - Reserved.

DIVISION 3. - DANGEROUS OR VICIOUS DOGS*

**Cross reference—Environment, ch. 30.*

State law reference—Authority to control dangerous or vicious dogs, etc., definitions, Code of Virginia, § ~~3-1-796.93:1~~ 3.2-6540; hybrid canines, Code of Virginia, § ~~3-1-796.126:9~~ 3.2-6582.

Sec. 10-76. - Definitions.

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

Dangerous dog means a canine, hybrid canine, or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal ~~other than a dog~~ that is a dog or cat, or has killed a companion animal that is a dog or cat.

Vicious dog means a canine, hybrid canine, or canine crossbreed which has:

- (1) Killed a person;*
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or*
- (3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.*

(Code 1997, § 10-101)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § ~~3-1-796.93:1B~~ 3.2-6540.

Sec. 10-77. - Summons and proceedings; exemptions.

(a) Any animal control officer who has reason to believe that a canine or canine crossbreed within the county is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court of the county at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue.

(b) The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine such animal until such time. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal.

(c) If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this division. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § ~~3-1-796.119~~ 3.2-6562.

(d) No canine, hybrid canine, or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

- (1) *Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;*
- (2) *Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or*
- (3) *Provoking, tormenting or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.*

(e) *No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring or its owner or owner's property shall be found to be a dangerous dog or a vicious dog.*

(Code 1997, § 10-102)

State law reference—Authority to regulate dangerous animals, Code of Virginia, § ~~3.1-796.93:1C:1~~ 3.2-6540.

Sec. 10-78. - Dangerous dogs to be registered.

(a) *The owner of any animal found by a court to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee as provided in the fee schedule in Appendix A to this Code in addition to other fees that may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this section shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.*

(b) *The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Va. Code § 3.2-6542, within 45 days of such a finding by any appropriate court.*

The owner shall also cause the local animal control officer to be promptly notified of: (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(c) *All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination, if applicable, and that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.*

~~(e)~~ (d) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least ~~\$50,000.00~~ \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

~~(d)~~ (e) While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

~~(e)~~ (f) If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

~~(f)~~ (g) After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of such finding, notify the animal control officer if the animal:

- (1) Is loose or unconfined;
- (2) Bites a person or attacks another animal; or
- (3) Is sold, given away or dies; ~~or.~~
- ~~(4) Has been moved to a different address.~~

(h) Any owner of a dangerous dog who relocates the animal to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

~~(g)~~ (i) The owner of any animal which has been found by a court to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a class 1 misdemeanor, punishable as provided in section 1-15.

~~(h)~~ (j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

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

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

(3) Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

~~(j)~~ (k) All fees collected pursuant to this section, less the costs incurred by the animal control officer in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required under Code of Virginia, § ~~3.1-796.104~~ 3.2-6556.

(l) Notwithstanding the provisions of subsections (a), (b) and (d) of this section, an animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

(Code 1997, § 10-103)

State law reference—Regulation of dangerous dogs, Code of Virginia, § ~~3.1-796.93~~ 3.2-6540; hybrid canines, Code of Virginia, § ~~3.1-796.126~~ 3.2-6582.

Secs. 10-79—10-95. - Reserved.

DIVISION 4. - DOGS KILLING, INJURING OR CHASING LIVESTOCK OR POULTRY

Sec. 10-96. - Disposition of dogs killing, injuring or chasing livestock or poultry.

(a) 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 dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock.

(b) Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian or harbinger of the dog to produce the dog.

(c) Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section.

(d) Any 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, who shall issue a warrant required the owner or custodian, if known, to appear before the general district court of the county at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be killed immediately by the animal control officer or other officer designated by the court or removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

(e) All provisions of this section shall apply equally to hybrid canines.

(Code 1997, § 10-121)

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.116~~ 3.2-6552; hybrid canines, Code of Virginia, § ~~3.1-796.126:10~~ 3.2-6583.

Sec. 10-97. - Compensation for livestock or poultry killed or injured by dogs.

(a) Any person who has any livestock or poultry killed or injured by any dog or hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400.00 per animal or \$10.00 per fowl, provided that:

(1) The claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog or hybrid canine;

(2) The animal control officer shall have been notified of the incident within 72 hours of its discovery; and

(3) The claimant first has exhausted his legal remedies against the owner, if known, of the dog or hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog or hybrid canine upon which an execution has been returned unsatisfied.

(b) The claimant shall submit his claim on a form prescribed by the board of supervisors.

(c) The animal control officer shall conduct an investigation to determine whether the evidence is sufficient to support the claim. The animal control officer shall submit a report of his investigation to the county administrator that includes the approximate weight, type, breed, sex and approximate age of the livestock or poultry killed or injured, and the fair market value of such livestock or poultry.

(d) Upon payment under this section the board of supervisors shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the action in an appropriate action at law.

(Code 1997, § 10-122)

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.118~~ 3.2-6553; hybrid canines, Code of Virginia, § ~~3.1-796.126:1~~ 3.2-6584.

Secs. 10-98—10-109. - Reserved.

DIVISION 5. - HYBRID CANINES.

Sec. 10-110. - Definitions.

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

Adequate confinement shall mean a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to this Article, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

Direct supervision and control, for purposes of management of a hybrid canine, shall mean on a leash, lead, rope, or chain and under the immediate control of a competent adult handler.

Hybrid canine shall mean any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf, coyote, or percentage wolf or coyote by its owner to a licensed veterinarian, law enforcement officer, animal control officer, humane investigator, official of the department of health, or state veterinarian's representative. Hybrid canine shall include, but not be limited to, the offspring resulting from the mating of a domesticated dog and a wolf, coyote or other similar wild animal as well as their subsequent offspring.

Responsible ownership shall mean the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and to prevent endangerment by the animal to public health and safety.

(Ord. No. 2003-01, 1-28-2003)

State law reference—Similar provisions, Code of Virginia, § 3.2-6581.

Sec. 10-111. - Hybrid canine permit.

(a) It shall be unlawful for any person to own or to have in a person's custody a hybrid canine, four months or older, in the county, unless such person holds a valid permit for the ownership of such

hybrid canine in accordance with the provisions of this article. A separate permit shall be obtained for each hybrid canine, four months or older.

(b) Any hybrid canine permit issued in accordance with this article shall be valid for a period of no more than one year from the date of issuance. The permittee shall have sole responsibility for ensuring that all permit renewals are timely initiated to ensure that a valid permit is continuously in effect throughout the period of the permittee's ownership of a hybrid canine within the county.

(c) No permittee shall own more than two hybrid canines, four months or older, at any time.

(d) All permits issued in accordance with this article shall be subject to the following:

(1) Each hybrid canine shall wear a collar bearing identification, including the name, address and telephone number of the owner of the hybrid canine.

(2) Whenever it is on the property of its owner or custodian, each hybrid canine shall be maintained in an adequate confinement while not under the direct supervision and control of its owner or custodian. Direct supervision and control of the hybrid canine, as defined in this article, is required at all times that such animal is not maintained in an adequate confinement.

(3) Each hybrid canine shall be muzzled and kept under the control of a competent adult handler, on a leash, lead, rope, chain, or in a crate whenever it is not on the property of its owner or custodian.

(e) A hybrid canine permit shall be issued or renewed upon review and approval by the chief animal control officer or his designee. The chief animal control officer or his designee shall determine whether to approve an application for issuance or renewal of a hybrid canine permit based upon the following criteria:

(1) The type, quality and extent of the confinement of the hybrid canine while on the property of its owner or custodian. The chief animal control officer or his designee shall inspect the facility proposed to house the hybrid canine(s) to confirm that such facility meets the requirements of adequate confinement, as defined in this article; and

(2) Ability to handle safely the hybrid canine while not on the property of the owner; and

(3) The knowledge and demonstrated experience of the owner to adequately care for, keep, and handle hybrid canines while on or off the property of the owner.

(Ord. No. 2003-01, 1-28-2003)

State law reference – Authority to adopt regulations regarding hybrid canine permits, Code of Virginia, § 3.2-6582.

Sec. 10-112. - Hybrid canine permit application.

(a) Any person seeking a hybrid canine permit shall complete and submit to the department of animal control an application provided by the department of animal control that requires the following information:

- (1) *Name, address, phone number and date of birth of the applicant.*
- (2) *Species, color, date of birth, sex, vaccination history, and origin of the hybrid canine.*
- (3) *Height at the withers and length of the hybrid canine.*
- (4) *Photographs of the hybrid canine, current at the time of application or renewal, which show the size, color and any identifying marks or characteristics of the hybrid canine.*
- (5) *Information as to identification tags, tattooing or other identifying marks of the hybrid canine.*
- (6) *An executed consent form authorizing the chief animal control officer or his designee to inspect the premises where the hybrid canine is confined for the purpose to confirm compliance with the permit and this article.*
- (7) *An executed consent form that if an animal control officer determines the Permittee to be in violation of any condition of the permit or of this Article, the animal control officer may take the hybrid canine(s) into custody of the department of animal control pending correction of the insufficiency within a reasonable time period or for euthanization in accordance with Code of Virginia § ~~3-1-796.119~~ 3.2-6562.*

(b) The chief animal control officer or his designee shall review the application and inspect the proposed hybrid canine proposed adequate confinement and determine whether approval is appropriate based on the criteria set forth in this section. The reviewing officer shall indicate approval by certification of the application form.

(c) Upon submittal of a hybrid canine permit application certified as approved by the department of animal control and the application fee as set forth in Appendix A - Fee Schedule, the office of the county treasurer shall issue to the applicant a hybrid canine permit.

(Ord. No. 2003-01, 1-28-2003)

State law reference – Authority to adopt regulations regarding hybrid canine permits, Code of Virginia, § 3.2-6582.

Sec. 10-113. - Penalty, violations.

(a) Any person, whether an owner, temporary custodian, agent, or employee, violating, causing, or permitting the violation of this article regarding regulation of hybrid canines or the conditions of a hybrid canine permit shall be guilty of a class 3 misdemeanor for the first violation and a class 1 misdemeanor for a second or a subsequent violation.

(b) If the owner or custodian of a hybrid canine fails or refuses to obtain or renew any required permit or violates a provision of this Article or any other law pertaining to the responsible ownership of the hybrid canine, then the department may require the owner to dispose of the hybrid canine or the department may take such hybrid canine into its custody for euthanasia in accordance with Virginia Code § ~~3-1-796.119~~ 3.2-6562.

(c) In the event that any hybrid canine is found in any condition inconsistent with the requirements set forth in this article, any permit issued for such hybrid canine shall immediately be deemed null and void.

(d) The department may revoke a permit or deny renewal of the permit if the owner has violated a provision of the permit or this article or any other law pertaining to the responsible ownership of the hybrid canine, including, but not limited to the escape of the animal from the confinement or any death, damage, or injury caused by the hybrid canine, or if the owner has failed to renew any required permit in a timely manner.

(Ord. No. 2003-01, 1-28-2003)

State law reference – Authority to adopt regulations regarding hybrid canine permits, Code of Virginia, § 3.2-6582.

Secs. 10-114—10-120. - Reserved.

ARTICLE III. – IMPOUNDMENT*

** State law reference—Confinement and disposition of stray animals, Code of Virginia, § ~~3-1-796.96~~ 3.2-6546.*

Sec. 10-121. - 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:

Animal shall not include agricultural animals.

Humane society, means, when referring to an organization without the Commonwealth, any nonprofit organization organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.

Rightful owner means a person with a right of property in the animal.

(Code 1997, § 10-141)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, §§ ~~3-1-796.96~~ 3.2-6546, 3.2-6500.

Sec. 10-122. - Operation of animal shelter.

There shall be maintained or caused to be maintained within the county an animal shelter in accordance with guidelines issued by the state department of agriculture and consumer services. The animal shelter shall be accessible to the public at reasonable hours during the week as determined by the county administrator or his designee.

(Code 1997, § 10-142)

State law reference—County or City pounds, Code of Virginia, § ~~3-1-796.96~~ 3.2-6546.

Sec. 10-123. - Impoundment generally; holding period.

(a) The animal control officer or other officer who finds a dog without the tags required by this chapter, or a dog running at large in violation of section 10-32, or any other animal in violation of the provisions of this chapter shall impound such animal in the animal shelter.

(b) An animal confined pursuant to subsection (a) of this section that does not bear a collar, tag, license, or tattooed identification shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof. Such holding period may be waived if the animal's rightful owner has surrendered all property rights in such animal and has read and signed a statement as required by section 10-127. After such holding period or surrender of property rights, such animals shall be disposed of as provided in subsection 10-126(a)(2), (3), (4), (5) or (6).

(c) Any feral dog or feral cat not bearing a collar, tag, tattoo or other form of identification which, based on the written certification of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, may be euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Code of Virginia, § ~~3.1-796.105~~ 3.2-6557. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal to the facility.

(d) The operator or custodian of the animal shelter shall make a reasonable effort to ascertain if an animal confined pursuant to this article has a collar, tag, license or tattooed identification. If such identification is found on the animal, a reasonable effort shall be made to notify the owner of the animal's confinement within the next 48 hours following its confinement, and the animal shall be held for not less than ten days, unless sooner claimed by its rightful owner, such period to commence on the day immediately following the day of its confinement.

(Code 1997, §§ 10-143, 10-144)

State law reference—Holding periods, Code of Virginia, § ~~3.1-796.96~~ 3.2-6546.

Sec. 10-124. - Reserved.

Sec. 10-125. - Redemption of animal.

If any animal confined pursuant to this article is claimed by its rightful owner, such owner shall only be charged with the actual expenses incurred in keeping the animal impounded, as provided in the fee schedule in Appendix A to this Code, for each day that such animal is in the possession of the animal shelter. Either a custodian of an animal or an individual who has found an animal may claim first right to adopt the animal by expressing this desire in writing to adopt the animal at the expiration of the holding period set out in section 10-123 after payment of the adoption fee, as provided in section 10-126. If the rightful owner claims the animal at any time, the custodian or finder shall relinquish possession of the animal to the rightful owner.

(Code 1997, § 10-145; Ord. No. 2004-02, § 1, 2-24-2004)

State law reference—Redemption of animals, Code of Virginia, § ~~3-1-796.96~~ 3.2-6546.

Sec. 10-126. - Disposition of unclaimed animals; method of destruction; injured, ill or unweaned animals.

(a) If an animal confined pursuant to this article has not been claimed upon expiration of the appropriate holding period, it shall be deemed abandoned and become the property of the pound or shelter. If such abandoned animal did not, when delivered to the pound, bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:

(1) Sale or gift to a federal agency, state-supported institution, agency of the state, agency of another state or a licensed federal dealer having its principal place of business located within the state, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;

(2) Delivery to any humane society or animal shelter within the Commonwealth;

(3) Adoption by any person who is a resident of the county and who will pay the required license fee, if any, on such animal;

(4) Adoption by a resident of an adjacent political subdivision of the state;

(5) Adoption by any other person, provided that no animal may be adopted by any person who is not a resident of the county or of an adjacent political subdivision, unless the animal is first sterilized; or

(6) Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter:

a. Maintains record which would comply with Code of Virginia, § ~~3-1-796.105~~ 3.2-6557;

b. Requires that adopted dogs and cats be sterilized; and

c. Has been approved by the state veterinarian or his designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized and provides adequate care and euthanasia.

(b) If such abandoned animal, when delivered to the pound, bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subsection (a)(2), (3), (4) or (5) of this section.

(c) No pound or shelter shall deliver more than two animals or a family of animals during any 30-day period to any one person under subsection (a)(3), (4) or (5) of this section.

(d) If an animal is required to be sterilized prior to adoption pursuant to subsection (a)(5) of this section the pound or animal shelter may require that the sterilization be done at the expense of the person adopting the animal.

(e) Any animal destroyed pursuant to the provisions of this article shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(f) No provision in this article shall prohibit the immediate destruction for humane purposes of a critically injured animal, critically ill animal or any animal not weaned, whether or not the animal is critically ill or critically injured.

(g) Any adoption of an animal from the animal shelter pursuant to this subsection shall be only after payment of the adoption fee, as provided in the fee schedule in Appendix A to this Code.

(Code 1997, § 10-146; Ord. No. 2004-02, § 1, 2-24-2004)

State law reference—Unclaimed animals, Code of Virginia, § ~~3.1-796.96~~ 3.2-6520.

Sec. 10-127. - Voluntary delivery of animal by owner; surrender of owner's rights in animal.

Nothing in this article shall prohibit the immediate destruction or disposal by the methods listed in subsection 10-126(a)(2), (3), (4), (5), or (6) of an animal that has been delivered voluntarily or released to the animal shelter, animal control officer, or to a humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement certifying that no other person has a right of property in the animal and acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subsection 10-126(a)(2), (3), (4), (5), or (6).

(Code 1997, § 10-147)

State law reference—Owner's surrender of animal, Code of Virginia, § ~~3.1-796.96~~ 3.2-6546.

Sec. 10-128. - Seizure and impoundment of stolen or unlawfully held dogs or cats.

All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners, as defined in the Code of Virginia § 3.2-6500, may maintain any action for the killing of any such animals, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog or cat that 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.

The animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal control officer or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat 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 animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay to the animal shelter a fee in the amount as provided in the fee schedule in Appendix A to this Code for each day that such animal is in the possession of the animal shelter.

(Code 1997, § 10-148)

State law reference—Stolen or unlawfully held dogs and cats, Code of Virginia, § ~~3-1-796.127~~ 3.2-6585.

Secs. 10-129—10-150. - Reserved.

ARTICLE IV. – STERILIZATION*

**State law reference—Mandatory sterilization of certain adopted companion animals, Code of Virginia, § ~~3-1-796.126.1 et seq~~ 3.2-6574.*

Sec. 10-151. - Sterilization of adopted dogs and cats; enforcement; civil penalty.

(a) Every new owner of a dog or cat adopted as provided in this article, shall cause to be sterilized the dog or cat pursuant to the agreement required by subsection (b)(2) of this section.

(b) A dog or cat shall not be released for adoption from the animal shelter unless:

- (1) The animal has already been sterilized; or*
- (2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian within 30 days of the adoption, if the animal is sexually mature, or within 30 days after the animal reaches six months of age, if the animal is not sexually mature at the time of adoption or as otherwise allowed in this section.*

(c) The animal shelter may extend for 30 days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal

may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian may negotiate the terms of an extension of the date by which the animal must be sterilized.

(d) Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement with the veterinarian and the new owner.

(e) Upon the petition of an animal control officer, humane investigator, the state veterinarian or a state veterinarian's representative to the district court, the court may order the new owner to take any steps necessary to comply with the requirements of this section. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed.

(f) Any person who violates subsection (a) or (b) of this section shall be subject to a civil penalty not to exceed \$50.00.

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.126:1~~ 3.2-6574.

Sec. 10-152. - Application of article.

This article shall not apply to:

- (1) An owner reclaiming his dog or cat from a releasing agency; or*
- (2) A local governing body which has disposed of an animal by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the Commonwealth.*

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.126:5(1), (3)~~ 3.2-6578.

Sec. 10-153. - Sterilization confirmation; civil penalty.

Each new owner who signs a sterilization agreement shall, within seven days of the sterilization, cause to be delivered or mailed written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed \$150.00.

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.126:3~~ 3.2-6576.

Sec. 10-154. - Notification concerning lost, stolen or dead dogs or cats; civil penalty.

If an adopted dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death. Any person who violates this section shall be subject to a civil penalty not to exceed \$25.00.

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.126:4~~ 3.2-6577.

Sec. 10-155. - Fee.

The new owner shall deposit a fee as set forth in the fee schedule in Appendix A to this Code before the animal is released, which fee will be refunded when proper documentation of evidence of sterilization of the adopted animal is presented.

State law reference—Authority to require deposit, Code of Virginia, § ~~3.1-796.126:6~~ 3.2-6579.

Sec. 10-156. - Civil penalties.

Any animal control officer, humane investigator, the state veterinarian or state veterinarian's representative shall be entitled to bring a civil action for any violation of this article which is subject to a civil penalty. Any civil penalty assessed pursuant to this article shall be paid into the treasury of the city or county in which such civil action is brought and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of cats and dogs.

State law reference—Similar provisions, Code of Virginia, § ~~3.1-796.126:7~~ 3.2-6580.

Secs. 10-157—10-180. - Reserved.

The vote on this motion was as follows: (7-0)

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|---------------------|------------|
| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Reynolds</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |
| <i>Mr. Taylor</i> | <i>Aye</i> |

6. General Business:

a. Actionable Items:

1. Consideration of Resolution Requesting Amendment of §58.1-3819 A. of the 1950 Code of Virginia Authorizing an Increase in the Transient Occupancy Tax in Washington County

Mr. Reeter explained at the August 10 meeting, the Board requested a Resolution be prepared for consideration of adoption requesting amendment of §58.1-3819 A. of the 1950 Code of Virginia authorizing an increase in the transient occupancy tax in Washington County. The current levy of 2% is capped legislatively; a number of Virginia counties have been authorized to levy an up to 5% rate with any amount in excess of 2% being dedicated for local tourism development. Once legislatively authorized, the Board would then be required to amend County code chapter 58, Article VIII, specifically §58-252 to effect the percentage change.

Mr. Reeter explained if the Resolution is adopted, it will be distributed to the legislators, the Virginia Association of Counties and to the Washington County Chamber of Commerce.

Ms. Mumpower explained this item was placed on the agenda at her request. She believes an increase to the Transient Occupancy Tax is a legitimate source of revenue that would help fund tourism activities in the County.

Discussions ensued among the Board.

On motion of Mr. McCall, second by Mr. Taylor, the Board acted to adopt the following Resolution:

**RESOLUTION 2010-34
REQUESTING AMENDMENT OF §58.1-3819 A. OF THE 1950 CODE OF VIRGINIA
SEEKING AUTHORIZATION TO INCREASE THE TRANSIENT OCCUPANCY TAX IN
WASHINGTON COUNTY**

WHEREAS, in anticipation of the 2011 Session of the Virginia General Assembly, the Board of Supervisors of Washington County (the Board) has identified matters of interest to Washington County (the County) necessitating legislative action, and

WHEREAS, after due consideration of the potential for growth in the tourism and travel industry in the County, the Board has determined that a dedicated source of local revenue would be desirable to assist in the promotion and marketing of the County as a tourism and travel destination, and

WHEREAS , it has been estimated that approximately an additional \$50,000.00 per year in revenue could be immediately realized by increasing the County’s current transient occupancy tax rate from 2% to 5% as allowed pursuant to § 58.1-3819 A. of the 1950 Code of Virginia, and

WHEREAS, upon finding this additional revenue dedicated to the promotion of tourism and travel to be in the best interests of the County, the Board hereby seeks to petition the County’s representatives to the Virginia General Assembly to introduce legislation in the 2011 Session amending the 1950 Code of Virginia;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Washington County, Virginia that legislation be introduced in the 2011 Session of the Virginia General Assembly to amend § 58.1-3819 A. of the 1950 Code of Virginia to add Washington County to those counties which by ordinance may levy a transient occupancy tax not to exceed five (5%) percent on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days, with any excess over two (2%) percent collected to be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the County’s tourism industry organizations, including representatives of lodging properties located in the County, attract travelers to the County, increase occupancy at lodging properties, and generate tourism revenues in the County.

BE IT FURTHER RESOLVED that this Resolution be distributed to Washington County’s representatives to the Virginia General Assembly and to the Virginia Association of Counties.

The vote on this motion was as follows: (7-0)

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| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Reynolds</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |
| <i>Mr. Taylor</i> | <i>Aye</i> |

2. Consideration of Establishing a 2011 Green Government Challenge Committee

Ms. Price explained she recently learned of the Go Green Virginia Organization and the Green Government Challenge to become certified as a Green Government. While it is to late to participate in the 2010 Green Government Challenge, she asks for the Board’s approval to ask Carol Doss, Coordinator of the Upper Tennessee River Roundtable, to take the lead and responsibility to work with County Department Heads and different agencies to identify what the County could be doing that would be cost neutral or have a costs savings; and to participate in the 2011 Green Government Challenge to become certified as a Green Government. She further explained she is not requesting a traditional Board committee be established. Go Green Virginia uses the term “committee” to refer to the local contacts. Ms. Price explained that Ms. Doss has offered to be the County’s liaison for this project.

Discussions ensued among the Board.

Mr. Taylor referred to a committee that was appointed by the Board in the last year or so to study recycling efforts in the County. To-date that committee has not yet been given this task. This group of citizens is already in place and agreed to serve the County for this kind of effort.

Mr. Straten asked if a motion could be introduced in such a way to allow participation of a committee to advise government entities on the Green Government issues, but not to actually establish another committee.

Mr. Owens asked if establishing the committee would authorize Carol Doss to work with County Department Heads.

Discussions ensued among the Board.

Mr. McCall questioned if this initiative would be strictly for County departments and agencies, or would it be taken out to the public. Ms. Price explained it is a Green Government Challenge. The County does not have a staff person that handles these kinds of issues. Approving the Green Government Challenge would allow Carol Doss to work with County Department Heads to determine cost neutral or cost savings energy methods.

Mr. Straten proposed appointing a Green Government Challenge Advisor as opposed to establishing a Green Government Challenge Committee. He explained since the next Green Government Challenge is not until 2011, the Board could consider tabling this matter until an appropriate name could be identified. Ms. Price asked that this issue not be tabled.

Further discussions ensued among the Board with the following action being taken:

On motion of Mr. Taylor, second by Ms. Price, the Board acted to allow the County to participate in the 2011 Green Government Challenge with Ms. Carol Doss being the County’s Coordinator.

The vote on this motion was as follows: (7-0)

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| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Reynolds</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |
| <i>Mr. Taylor</i> | <i>Aye</i> |

3. Consideration of Approval of Travel and Related Expenses for Tennessee Valley Nuclear Energy Coalition Meetings

Ms. Mumpower asked Ms. Phillips to provide the Board with an interpretation of the 2010 Board of Supervisors General Policies, Article 12 - Board of Supervisors Expenses.

Ms. Phillips provided the review of Article 12 of the Board of Supervisors General Policies; particularly Article 12.2.2. that provides guidance for reimbursement of Board expenses relating to attending official meetings and functions of the Board held in and out-of-County; attending meetings and functions related to sanctioned appointments held in and out-of County; and attending conferences, meetings, events and other functions related to their office (other than those involving unsanctioned appointments).

Mr. Reeter explained that sanctioned appointments were defined in Article 10 of the Board of Supervisors By-Laws.

Mr. Taylor explained the Board By-laws state that a member of the Board can attend meetings or functions relating to their office. He further explained that attending the Tennessee Valley Corridor Board of Directors meetings and summits allow him to obtain beneficial information for Board members that relates to his office. Mr. Taylor addressed issues pertaining to the revival of the nuclear industry, and the ways in which his involvement with the Tennessee Valley Corridor have been beneficial to the County.

Discussions ensued among the Board.

Ms. Phillips reviewed Article 10.2 of the Board of Supervisors By-Laws regarding official sanctioned appointments.

Mr. Taylor explained that because his request involved travel expenses for scheduled meetings, he thought it would be proper to bring this request before the Board to get approval.

Further lengthy discussions ensued among the Board. No action was taken on the request.

b. Information Items:

There were no Board Information items presented.

7. Board Member Reports

Mr. Taylor reported that a representative from People Incorporated contacted him regarding an application they are currently working to complete to fund a program dealing with food security and local foods. People Incorporated is asking for a commitment from the Board of Supervisors to appoint a member of the Board to serve on a Food Policy Council that would be required if the program is funded. He suggested to People Incorporated that they get in touch with Phillip McCall, the Board's representative on the People Incorporated Board of Directors. Mr. Taylor explained the deadline to submit the application is in October. People Incorporated may need a letter of support from the Board Chair and County Administrator to submit with the application. He asked for Board consensus to direct staff to do whatever is necessary to assist People Incorporated with their application and if the program is funded, to consider appointing a member of the Board to the Food Policy Council.

Discussions ensued among the Board. A unanimous consensus as required in the Board of Supervisors By-laws was not granted.

Mr. Straten reported on the Damascus Library Project. The issue pertaining to the waterline easement that was holding up construction has been resolved. Therefore, the construction process should be able to move forward with request for bids being issued in the near future. He explained the County Engineer is reviewing the library plans.

Mr. Straten reported that the Beaverdam Creek Park Project is progressing, and it is beginning to look like a ballfield.

Ms. Mumpower reported that the Annual County Employee Picnic was a success. She thanked the committee that worked on this year's picnic and expressed appreciation for their hard work.

Ms. Mumpower reported that a group of County and Town of Abingdon officials met with the Johnston Memorial Hospital (JMH) medical staff prior to the Board of Supervisors meeting. The medical staff seemed receptive and listened to the group's comments and offered good questions. Ms. Mumpower explained the goal is to secure JMH, so the County and Town can move forward with plans for a medical school. She commended Ms. Phillips for her presentation, and thanked JMH Chief Executive Officer Sean McMurray for the opportunity to appear before the medical staff.

8. Board Information and Reminders

Mr. Reeter reviewed the following Board Information:

Joint Meeting of the Board of Supervisors and Abingdon Town Council on Wednesday, September 22, 6:30 p.m., Virginia Small Business Development Incubator;

Board of Supervisors Recessed Worksession Meeting Concerning County Facilities Committee Recommendations Regarding County Public Safety Building & Proposed Amending of FY 2010-11 County Operating Budget on Thursday, September 23, 6:30 p.m., Conference Room 1;

Performance Evaluations of County Administrator and County Attorney on Wednesday, September 29, 6:30 p.m. (Board of Supervisors Recessed Meeting);

Taylor Election District Public Information Meeting on Thursday, September 20, 6:30 p.m., Rhea Valley Elementary School;

Wilson Election District Public Information Meeting on Tuesday, October 5, 6:30 p.m., Wallace Middle School;

Virginia Association of Counties' Annual Conference - November 7-9, The Homestead, Hot Springs, Virginia;

Invitation to the Governor's Conference on Energy, October 12-14, Greater Richmond Convention Center, Richmond, VA.

Mr. Reeter reported that Virginia Highlands Airport recently reached a major milestone by completing their Federal Environmental Assessment on the Airport Expansion Project. There was no environmental impact statements issued.

Mr. Reynolds reported that the 61st Annual Washington County Fair is going on this week and encouraged the Board to attend. He stated that the number of exhibitors has increased over last year.

9. Adjourn or Recess

On motion of Ms. Price, Reynolds, second by Mr. Reynolds, it was resolved to recess to September 22, 2010, 6:30 p.m., for a joint meeting with the Abingdon Town Council to be held at the Virginia Highlands Small Business Incubator.

The vote on this motion was as follows: (7-0)

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| <i>Mr. McCall</i> | <i>Aye</i> |
| <i>Ms. Mumpower</i> | <i>Aye</i> |
| <i>Mr. Owens</i> | <i>Aye</i> |
| <i>Ms. Price</i> | <i>Aye</i> |
| <i>Mr. Reynolds</i> | <i>Aye</i> |
| <i>Mr. Straten</i> | <i>Aye</i> |

Mr. Taylor *Aye*

Prepared by:

Naoma A. Norris, Recording Clerk

**Approved by the Washington County Board of
Supervisors:**

Dulcie M. Mumpower, Chairman