# CODE OF VIRGINIA

## Title 15.2

Counties, Cities and Towns

# Title 15.2 - COUNTIES, CITIES AND TOWNS

# Subtitle I - GENERAL PROVISIONS; CHARTERS; OTHER FORMS AND ORGANIZATION OF COUNTIES

## Chapter 1 - GENERAL PROVISIONS

### § 15.2-100. Charter powers not affected by title.

Except when otherwise expressly provided by the words, "Notwithstanding any contrary provision of law, general or special," or words of similar import, the provisions of this title shall not repeal, amend, impair or affect any power, right or privilege conferred on counties, cities and towns by charter.

Code 1950, § 15-2; 1962, c. 623, § 15.1-1; 1997, c. 587.

### § 15.2-101. Certain laws and ordinances not affected by repeal of Title 15.1; validation of laws and ordinances adopted under § 15.1-522.

A. The repeal of Title 15.1 effective as of December 1, 1997, shall not affect the powers of any locality with respect to any ordinance, resolution or by-law adopted and not repealed or rescinded prior to such date.

B. The repeal of § 15.1-522 by this title shall not affect the exercise, by ordinance or otherwise, of any power conferred by this section upon any county which on November 30, 1997, was vested with such power and on or before such date exercised the power; and every power so conferred, vested and exercised is hereby continued in such cases.

C. For the purposes of this section, all laws and ordinances heretofore adopted by any county authorized to adopt such law or ordinance under former § 15.1-522 are hereby ratified, validated and confirmed, notwithstanding noncompliance with any technical requirement of such section.

1997, c. 587.

### § 15.2-102. Definitions.

As used in this title unless such construction would be inconsistent with the context or manifest intent of the statute:

"Board of supervisors" means the governing body of a county.

"City" means any independent incorporated community which became a city as provided by law before noon on the first day of July, nineteen hundred seventy-one, or which has within defined boundaries a population of 5,000 or more and which has become a city as provided by law.

"Constitutional officer" means an officer provided for pursuant to Article VII, § 4 of the Constitution.

"Council" means the governing body of a city or town.

"Councilman" or "member of the council" means a member of the governing body of a city or town.

"County" means any existing county or such unit hereafter created.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as the context may require.

"Locality" or "local government" shall be construed to mean a county, city, or town as the context may require.

"Municipality," "incorporated communities," "municipal corporation," and words or terms of similar import shall be construed to relate only to cities and towns.

"Supervisor" means a member of the board of supervisors of a county.

"Town" means any existing town or an incorporated community within one or more counties which became a town before noon, July one, nineteen hundred seventy-one, as provided by law or which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law.

"Voter" means a qualified voter as defined in § 24.2-101.

Code 1950, § 15-1; 1962, c. 623, § 15.1-6; 1997, c. 587.

### § 15.2-103. Name "Mount Vernon" reserved.

The name "Mount Vernon" is reserved for the home and tomb of the late General George Washington in Fairfax County. The General Assembly shall not grant to any locality the right to use the name "Mount Vernon."

Code 1950, § 15-24.4; 1956, c. 42; 1962, c. 623, § 15.1-34; 1997, c. 587.

### § 15.2-104. Liens against real estate.

Notwithstanding any provision contained in this title to the contrary, wherever this title provides for or authorizes a lien upon real estate for a local assessment, fee, rent or charge, other than real estate taxes, not paid when due, such lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien unless, at the time of the transfer of record of the real estate to the purchaser, a statement containing the name of the record owner of the real estate and the amount of such unpaid assessments, fees, rents or charges is entered in the judgment lien book in the clerk's office where deeds are recorded or is contained in records maintained by the local treasurer for real estate tax liens pursuant to § 58.1-3930 with respect to the real estate against which the lien is asserted. Any such lien binding on the owner of the real estate at the time of sale or other disposition shall be paid from the sale or other proceeds as real estate taxes assessed thereon are required to be paid. The clerk shall cause such statement to be entered and properly indexed against the record owner of the real estate, for which the clerk shall be entitled to a fee of two dollars per entry, or such other fee as may be specifically provided for such purpose in this title, to be paid by the locality or other political subdivision asserting the lien and to be added to the amount of the lien. If the amount of such lien and all accrued interest due thereon are paid in full, the locality or other political subdivision asserting the lien shall deliver a certificate evidencing such

payment to the person paying the same, and, upon presentation of such certificate, the clerk having record of the lien shall mark the entry of such lien satisfied, for which he shall be entitled to a fee of one dollar, or such other fee as may be specifically provided for such purpose in this title.

1994, c. 525, § 15.1-37.3:13; 1996, c. 612; 1997, c. 587.

**§ 15.2-105. Penalty and interest for failure to pay accounts when due.**

Any person failing to pay, pursuant to an ordinance, any account due a locality on or before its due date, other than taxes which are provided for in Title 58.1, may, at the option of the locality, incur a penalty thereon of ten dollars or an amount not exceeding ten percent. The penalty shall be added to the amount of the account due from such person. No penalty shall be imposed for failure to pay any account if such failure was not in any way the fault of the debtor.

Interest at the rate of ten percent annually from the first day following the day such account is due may be collected upon the principal and penalty of all such accounts.

1984, c. 520, § 15.1-37.3:6; 1985, c. 342; 1989, c. 366; 1992, c. 229; 1997, cc. 587, 700.

**§ 15.2-106. Ordinances providing fee for passing bad checks to localities.**

Any locality may by ordinance provide for a fee, not exceeding $50, for the uttering, publishing or passing of any check, draft, or order for payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, or because such check, draft, or order was returned because of a stop-payment order placed in bad faith on the check, draft, or order by the drawer.

1973, c. 103, § 15.1-29.4; 1982, c. 20; 1997, c. 587; 1998, c. 502; 2004, c. 565; 2010, c. 708; 2011, c. 255.

**§ 15.2-107. Advertisement and enactment of certain fees and levies.**

All levies and fees imposed or increased by a locality pursuant to the provisions of Chapters 21 (§ 15.2-2100 et seq.) or 22 (§ 15.2-2200 et seq.) shall be adopted by ordinance. The advertising requirements of subsection F of § 15.2-1427, or § 15.2-2204, as appropriate, shall apply, except as modified in this section.

The advertisement shall include the following:

1. The time, date, and place of the public hearing.

2. The actual dollar amount or percentage change, if any, of the proposed levy, fee or increase.

3. A specific reference to the Code of Virginia section or other legal authority granting the legal authority for enactment of such proposed levy, fee, or increase.

4. A designation of the place or places where the complete ordinance, and information concerning the documentation for the proposed fee, levy or increase are available for examination by the public no later than the time of the first publication.

1987, c. 389, § 15.1-29.14; 1997, c. 587; 2005, c. 72.

**§ 15.2-107.1. Advertisement of legal notices on web sites.**
In addition to any requirements that a locality advertise legal notices in a newspaper having a general circulation in the locality, such notices may also be published on the locality's World Wide Web site.

2000, c. 434.

**§ 15.2-107.2. Alternative method for local government to give notice by mail.**
Notwithstanding any other provision of law, general or special, a locality may give notice by regular mail in any instance in which two or more notices are required for the same action, the first notice is required to be sent by certified or registered mail, and at least one notice has previously been sent by certified or registered mail. Such notice shall be sent to the last address available through government records.

2011, c. 127.

**§ 15.2-108. Repealed.**
Repealed by Acts 2007, c. 250, cl. 2.

**§ 15.2-108.1. Local fees charged to places of worship.**
Localities shall not charge any fee to any church, synagogue, or other place of worship unless authorized by general law or special act of the General Assembly. Nothing in this section shall apply to any fire prevention inspection fees.

2012, c. 804.

**§ 15.2-109. Regulations on political campaign signs.**
No locality shall have the authority to prohibit the display of political campaign signs on private property if the signs are in compliance with zoning and right-of-way restrictions applicable to temporary nonpolitical signs, if the signs have been posted with the permission of the owner. The provisions of this section shall supersede the provisions of any local ordinance or regulation in conflict with this section. This section shall have no effect upon the regulations of the Virginia Department of Transportation.

2004, c. 388.

**§ 15.2-110. Authority to require approval by common interest community association.**
No locality shall require, prior to the issuance of any permit, certificate, or license, including a building permit or a license for a business, profession, or child care facility, that the governing board of an association subject to the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) consent to the activity for which the permit, certificate, or license is sought. The provisions of this section shall not be applied to limit or otherwise impinge upon the provisions of a condominium instrument as defined in § 55.1-1900, the declaration of a common interest community as defined in § 54.1-2345, or the declaration of a cooperative as defined in § 55.1-2100.

2016, cc. 254, 458.

### § 15.2-111. Rescheduling or continuing meetings for weather.

By resolution adopted at a regular meeting, any political subdivision, board of zoning appeals, or other local government board, commission, or authority may fix the day or days to which a regular meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting, and no further advertising is required.

2020, c. 1143.

## Chapter 2 - LOCAL GOVERNMENT CHARTERS

### § 15.2-200. Required procedure for obtaining new charter or amendment.

No charter shall be granted to a locality by the General Assembly and no charter of a locality shall be amended by the General Assembly except as provided in this chapter or in Chapter 34 (§ 15.2-3400 et seq.) of this title.

Code 1950, § 15-65.1; 1958, c. 329; 1962, c. 623, § 15.1-833; 1979, c. 297; 1985, c. 387; 1986, c. 312; 1997, c. 587.

### § 15.2-201. Charter elections; subsequent procedure; procedure when bill not introduced or fails to pass in General Assembly.

A locality may provide for holding an election to be conducted as provided in § 24.2-681 et seq. of Title 24.2 to determine if the voters of the locality desire that it request the General Assembly to grant to the locality a new charter or to amend its existing charter. At least ten days prior to the holding of such election, the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality.

If a majority of the voters voting in such election vote in favor of such request, the locality shall transmit two certified copies of the results of such election together with the publisher's affidavit and the new charter or the amendments to the existing charter, to one or more members of the General Assembly representing such locality for introduction as a bill in the succeeding session of the General Assembly.

If a bill incorporating such charter or amendments is not introduced at the succeeding session of the General Assembly, the approval of the voters for such charter or amendments shall be void. If, at such session, members of the General Assembly fail to enact or pass by indefinitely and do not carry over such a bill incorporating such charter or amendments, the charter or amendments shall again be presented to the voters for their approval or submitted to a public hearing pursuant to § 15.2-202 before reintroduction in the General Assembly.

Code 1950, § 15-65.2; 1958, c. 329; 1962, cc. 1, 623, § 15.1-834; 1979, c. 297; 1985, c. 387; 1997, c. 587.

**§ 15.2-202. Public hearing in lieu of election; procedure when bill not introduced or fails to pass in General Assembly.**

In lieu of the election provided for in § 15.2-201, a locality requesting the General Assembly to grant to it a new charter or to amend its existing charter may hold a public hearing with respect thereto, at which citizens shall have an opportunity to be heard to determine if the citizens of the locality desire that the locality request the General Assembly to grant to it a new charter, or to amend its existing charter. At least ten days' notice of the time and place of such hearing and the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality. Such public hearing may be adjourned from time to time, and upon the completion thereof, the locality may request, in the manner provided in § 15.2-201, the General Assembly to grant the new charter or amend the existing charter and the provisions of § 15.2-201 shall be applicable thereto.

If a bill incorporating such charter or amendments is not introduced at the succeeding session of the General Assembly, the authority of the locality to request such charter or amendments by reason of such public hearing shall thereafter be void. If at such session members of the General Assembly fail to enact and do not carry over or pass by indefinitely a bill incorporating such charter or amendments, the charter or amendments may again be submitted to a public hearing in lieu of an election as provided hereinabove before reintroduction in the General Assembly.

The locality requesting a new or amended charter shall provide with such request a publisher's affidavit showing that the public hearing was advertised and a certified copy of the governing body's minutes showing the action taken at the advertised public hearing.

Code 1950, § 15-65.3; 1958, c. 329; 1962, c. 623, § 15.1-835; 1979, c. 297; 1985, c. 387; 1997, c. 587.

**§ 15.2-203. Legislation granting or amending charter evidence of compliance with requirements.**

The passage of any legislation granting or amending any charter of a locality shall be conclusive evidence of compliance with the requirements of this chapter.

Code 1950, § 15-65.4; 1960, c. 497; 1962, c. 623, § 15.1-836; 1985, c. 387; 1997, c. 587.

**§ 15.2-204. Uniform charter powers.**

Cities and towns shall have all powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11, known as the uniform charter powers. Such powers do not need to be set out or incorporated by reference in a city or town charter.

Counties shall have all powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 only when such powers are specifically conferred upon the county.

1997, c. 587.

**§ 15.2-205. Use of provisions of chapter not authorized for certain purposes.**

Notwithstanding any provision of law to the contrary, the statutes within this chapter shall not be used as authorization for ordering or holding any election or referendum the results of which would cause or

result in the abolition of any office set forth in Article VII, Section 4 of the Constitution of Virginia until the abolition of any such office has first been provided for by a general law or special act on such question alone and approved in a referendum.

1977, c. 684, § 15.1-836.1; 1979, c. 297; 1997, c. 587.

**§ 15.2-206. Special elections; request for abolition of certain local constitutional offices.**

No bill to enact or amend a charter which has the effect of abolishing any office set forth in Article VII, Section 4 of the Constitution of Virginia shall be considered unless a referendum, elsewhere authorized by law, has been conducted in accordance with the provisions of § 24.2-685, and a majority of the qualified voters voting thereon have approved the request for the enactment or amendment of the charter.

1985, c. 586, § 15.1-836.1:1; 1986, c. 355; 1997, c. 587.

**§ 15.2-207. Boundaries of municipal corporations continued; charters not to contain metes and bounds; incorporated by reference.**

The boundaries of municipal corporations remain as now established unless changed as provided in this title. No charter of any municipal corporation shall contain the metes and bounds of such municipal corporation, but the boundaries shall be incorporated therein by reference to the recordation in the clerk's office of the court where deeds are admitted to record of the final decree or order of the court establishing such boundaries or the act of the General Assembly by which they are defined. The part of the charter of a municipal corporation defining its boundaries hereafter amended shall not contain the metes and bounds of the municipal corporation, but the boundaries shall be incorporated therein by reference to the recordation of a final decree or order of court or to a General Assembly act.

Code 1950, § 15.1-908; 1958, c. 328; 1962, c. 623, § 15.1-836.2; 1979, c. 297; 1997, c. 587.

**§ 15.2-208. Boundaries of counties.**

No county charter shall contain the description of the county's boundaries.

1985, c. 387, § 15.1-836.3; 1997, c. 587.

**§ 15.2-209. Notice to be given to counties, cities, and towns of tort claims for damages.**

A. Every claim cognizable against any county, city, or town for negligence shall be forever barred unless the claimant or his agent, attorney, or representative has filed a written statement of the nature of the claim, which includes the time and place at which the injury is alleged to have occurred, within six months after such cause of action accrued. Failure to provide such statement shall not bar a claim against any county, city, or town, provided that the attorney, chief executive, or mayor of such locality, or any insurer or entity providing coverage or indemnification of the claim, had actual knowledge of the claim, which includes the nature of the claim and the time and place at which the injury is alleged to have occurred, within six months after such cause of action accrued. However, if the claimant was under a disability at the time the cause of action accrued, the tolling provisions of § 8.01-229 shall apply.

B. The statement shall be filed with the county, city, or town attorney or with the chief executive or mayor of the county, city, or town.

C. The notice is deemed filed when it is received in the office of the official to whom the notice is directed. The notice may be delivered by hand, by any form of United States mail service (including regular, certified, registered or overnight mail), or by commercial delivery service.

D. In any action contesting the filing of the notice of claim, the burden of proof shall be on the claimant to establish receipt of the notice in conformity with this section. A signed United States mail return receipt indicating the date of delivery, or any other form of signed and dated acknowledgment of delivery, given by authorized personnel in the office of the official with whom the statement is filed, shall be prima facie evidence of filing of the notice under this section.

E. This section does not, and shall not be construed to, abrogate, limit, expand or modify the sovereign immunity of any county, city, town, or any officer, agent or employee of the foregoing.

F. This section, on and after June 30, 1954, shall take precedence over the provisions of all charters and amendments thereto of municipal corporations in conflict herewith granted prior to such date. It is further declared that as to any such charter or amendment thereto, granted on and after such date, that any provision therein in conflict with this section shall be deemed to be invalid as being in conflict with Article IV, Section 12 of the Constitution of Virginia unless such conflict be stated in the title to such proposed charter or amendment thereto by the words "conflicting with § 15.2-209 of the Code" or substantially similar language.

G. The provisions of this section are mandatory and shall be strictly construed. This section is procedural and compliance with its provisions is not jurisdictional.

2007, c. 368; 2016, c. 772.

## Chapter 3 - OPTIONAL FORMS OF COUNTY GOVERNMENT; GENERAL PROVISIONS

### § 15.2-300. Adoption of optional forms of county government; inconsistent provisions of law.

A. Any county may adopt an optional form of county government in accordance with the referendum provisions of § 15.2-301, subject to the limitations specified in Chapters 3 through 8 of this title.

B. Other provisions of law in conflict with Chapters 3 through 8 of this title shall not apply to a county which has adopted an applicable form of county government pursuant to this chapter, unless such provision expressly provides otherwise.

1997, c. 587.

### § 15.2-301. Petition or resolution asking for referendum; notice; conduct of election.

A. A county may adopt one of the optional forms of government provided for in Chapters 4 through 8 of this title only after approval by voter referendum. The referendum shall be initiated by (i) a petition filed with the circuit court for the county signed by at least ten percent of the voters of the county, asking that

a referendum be held on the question of adopting one of the forms of government or (ii) a resolution passed by the board of supervisors and filed with the circuit court asking for a referendum. The petition or resolution shall specify which of the forms of government provided for in Chapters 4 through 8 is to be placed on the ballot for consideration. Only one form may be placed on the ballot for consideration.

B. Notice of the election shall be published in a newspaper having a general circulation in the county once a week for three consecutive weeks and shall be posted at the door of the county courthouse.

C. The election shall be conducted in accordance with the provisions of § 24.2-684. In addition to the certifications required by such section, the secretary of the appropriate electoral board shall certify the results to the Commission on Local Government.

D. Prior to adopting an optional form of government provided for in Chapter 5 or Chapter 6, a county shall also comply with the referendum requirements of § 24.2-686.

1997, c. 587; 2000, c. 741.

**§ 15.2-302. When form of government to become effective.**

A form of government approved by the voters in accordance with § 15.2-301 shall become effective on January 1 following the election of members of the governing body under the provisions of § 15.2-303.

1997, c. 587.

**§ 15.2-303. When new supervisors elected.**

If voters approve the adoption of an optional form of government in accordance with § 15.2-301, the members of the governing body shall be elected at the next succeeding November general election. The members' terms shall commence on January 1 following the election.

1997, c. 587.

**§ 15.2-304. Effect of change on other county officers.**

All other officers of such county shall continue to hold office until their successors are appointed and have qualified. The term of office of any person who holds an office abolished by the form of government adopted shall terminate as soon as his powers and duties have been transferred to some other officer or employee, or are abolished.

1997, c. 587.

**§ 15.2-305. Changing from one form to another.**

A county may change from one optional form to another optional form, or to any other form of county government prescribed by Article VII of the Constitution, only by following the procedures set out in § 15.2-301, subject to any limitations specified in Chapters 3 through 8 of this title.

1997, c. 587.

**§ 15.2-306. Limitation as to frequency of elections.**

If any election has been held in a county to determine whether such county shall adopt a form of county government provided for in Chapters 4 through 8 of this title, or if any election has been held in

a county which has adopted such form of county government to determine whether such county shall change to another form of county government or to determine whether such county shall change to some other form of county government provided for by Article VII of the Constitution of Virginia and the other provisions of general law of the Commonwealth, no further election of the nature referred to in this section shall be held in the county within three years thereafter.

1997, c. 587.

**§ 15.2-307. County forms of government adopted under prior acts.**
Any county which has adopted an optional form of government under the authority of prior acts shall continue to operate as though created under the terms of this chapter.

1997, c. 587.

## Chapter 4 - COUNTY BOARD FORM OF GOVERNMENT

**§ 15.2-400. Form of government to be known as county board form; applicability of chapter.**
The form of county organization and government provided for in this chapter shall be known as the county board form. The provisions of this chapter shall apply only to counties which have adopted the county board form.

Code 1950, § 15-364; 1962, c. 623, § 15.1-699; 1997, c. 587.

**§ 15.2-401. Adoption of county board form.**
Any county may adopt the county board form of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.) of this title.

Code 1950, § 15-362; 1950, pp. 123, 694; 1962, c. 623, § 15.1-697; 1997, c. 587.

**§ 15.2-402. Board of county supervisors; election; terms; chairman; vacancies.**
A. The powers and duties of the county as a body politic and corporate shall be vested in a board of county supervisors ("the board").

B. The board shall consist of one member elected from the county at large by the qualified voters of the county and one member from each magisterial or election district in the county elected by the qualified voters of such magisterial or election district. The board members shall be elected at the same time and for the same term as provided by general law for the election of boards of supervisors of counties. The board shall elect its chairman from its membership.

C. Members of the board in office immediately prior to the day upon which the county board form becomes effective in the county shall be and, unless sooner removed, continue as members until the expiration of their respective terms and until their successors have qualified.

D. If the change in the form of county organization and government becomes effective on January 1 next succeeding the regular election of board members in the county, such members-elect shall qualify and, as soon as possible after the county board form becomes effective in the county, succeed the

then incumbents as board members and as such continue until the expiration of their respective terms and until their successors have qualified.

E. At the regular November election next succeeding the approval of the county board form, one board member shall be elected from the county at large by the qualified voters of the county; his term of office shall begin on January 1 next succeeding such election and shall run for a term coincident with that of the other board members. Pending his election and taking office, the office of member from the county at large shall remain vacant.

F. Except as otherwise provided in subsection E of this section, any vacancy in the membership of the board shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2.

Code 1950, § 15-365; 1962, c. 623, § 15.1-700; 1971, Ex. Sess., c. 158; 1993, c. 731; 1997, c. 587.

**§ 15.2-403. Same; powers and duties.**

A. The board shall be the policy-determining body of the county and shall be vested with all the rights and powers conferred on boards of supervisors by general law, not inconsistent with the form of county organization and government herein provided.

B. The board may require of all departments, divisions, agencies and officers of the county and of the several districts of the county such annual reports and other reports as in its opinion the business of the county requires.

C. The board may inquire into the official conduct of any office or officer, whether elective or appointive, of the county or of any district thereof, and to investigate the accounts, receipts, disbursements and expenses of any county or district officer. For these purposes it may subpoena witnesses, administer oaths, and require the production of books, papers and other evidence. If any witness fails or refuses to obey any such lawful order of the board he shall be deemed guilty of a misdemeanor.

D. The board shall, as soon as the county board form of county organization and government takes effect in the county, provide for the performance of all the governmental functions of the county in a manner consistent with this chapter.

E. Whenever it is not designated herein what officer or employee of the county shall exercise any power or perform any duty conferred upon or required of the county, or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer or employee of the county so designated by ordinance or resolution of the board.

Code 1950, § 15-366; 1962, c. 623, § 15.1-701; 1997, c. 587.

**§ 15.2-404. Appointment and compensation of officers and employees of county.**

A. The board shall, except as otherwise provided in § 15.2-408 and except as the board may authorize any officer or the head of any office to appoint employees under such officer or in such office, appoint all officers and employees, including deputies and assistants, in the administrative service of the county. Any officer or employee of the county appointed pursuant to this section may be sus-

pended or removed from office or employment either by the board or the officer or head of the office by whom he was appointed or employed.

B. In the event of the absence or disability of any officer except those named in § 15.2-408, the board or other appointing power may designate some responsible person to perform the duties of the office.

C. The board shall, subject to such limitations as may hereafter be prescribed by general law and except as herein otherwise provided, fix the compensation of all officers and employees of the county except as it may authorize any officer or the head of any office to fix the compensation of employees under such officer or in such office. The compensation of the attorney for the Commonwealth, the commissioner of the revenue, the county clerk, the sheriff, and the treasurer of the county, and the deputies, assistants and employees of such officers, shall be determined and paid in the manner which is or may hereafter be provided for the determination and payment of the salary of each such officer, respectively, by other provisions of general law.

D. The chairman of the board shall receive compensation not in excess of $3,000 per annum, and each of the other board members shall receive not in excess of $2,700 per annum. Alternatively, the chairman and other board members may be compensated in accordance with the provisions of general law as specified in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of this title. However, in Carroll County and Grayson County, the chairman and other board members shall be compensated as provided for in § 15.2-1414.2.

Code 1950, § 15-367; 1962, c. 623, § 15.1-702; 1972, cc. 809, 815; 1973, c. 271; 1976, c. 92; 1981, c. 92; 1997, c. 587; 2000, cc. 613, 953.

### § 15.2-405. Assignment of activities.

Any activity which is not assigned by this form of county organization and government shall be assigned by the board to the appropriate officer or employee of the county, and the board may reassign, transfer or combine any such activities.

Code 1950, § 15-368; 1962, c. 623, § 15.1-703; 1997, c. 587.

### § 15.2-406. Appointment, compensation and removal of county administrator.

A. The board shall appoint a county administrator and fix his compensation. He shall be appointed with due regard to merit only, and need not be a resident of the county at the time of his appointment. No board member shall, during the time for which he is elected, be chosen county administrator.

B. The county administrator may be removed at the pleasure of the board.

C. In case of the absence or disability of the county administrator, the board may designate some responsible person to perform the duties of the office.

Code 1950, § 15-369; 1962, c. 623, § 15.1-704; 1973, c. 163; 1997, c. 587.

### § 15.2-407. Powers and duties of county administrator.

A. The board may by resolution designate the county administrator as clerk of the board. In such case and upon the qualification of the county administrator authorized by this article the county clerk of such

county shall be relieved of his duties in connection with the board and all of his duties shall be imposed upon and performed by the county administrator. If the board does not designate the county administrator as clerk, the county clerk or one of his deputies shall attend the meetings of the board and record in a book provided for the purpose all of the proceedings of the board, but he shall not be authorized and required to sign any warrants of the board, such authority being hereby vested in the county administrator. However, the board may by resolution of record require the county clerk to sign all warrants of the board.

B. The county administrator shall, insofar as the board requires, be responsible to the board for the proper administration of all affairs of the county which the board has authority to control. He shall keep the board advised as to the financial condition of the county and shall submit to the board monthly, and at such other times as may be required, reports concerning the administrative affairs of the county.

C. The county administrator shall, if the board requires, examine regularly the books and papers of each department, officer and agency of the county and report to the board the condition in which he finds them and such other information as the board may direct.

D. The county administrator shall from time to time submit to the board recommendations concerning the affairs of the county and its departments, officers and agencies as he deems proper.

E. Under the direction of the board, the county administrator, for informative and fiscal planning purposes only, shall prepare and submit to the board a proposed annual budget for the county. The board may, however, direct that the county budget be prepared by the county clerk.

F. The county administrator shall audit all claims against the county for services, materials and equipment for such county agencies and departments as the board may direct, except those required to be received and audited by the county school board, and shall present the audits to the board of county supervisors together with his recommendation and such information as necessary to enable the board to act on such claims.

G. If the board, by resolution, designates the county administrator as clerk of the board, the county administrator shall: (i) have all the powers, authority and duties vested in the county clerk as clerk of the board, under general law; (ii) pay, with his warrant, all claims against the county chargeable against any fund under the control of the board, other than the general county fund, when such expenditure is authorized and approved by the officer and/or employee authorized to procure the services, supplies, materials or equipment accountable for such claims and after auditing the claims as to their authority and correctness; (iii) pay with his warrant all claims against the county chargeable against the general county fund where the claim arose out of purchase made by the county administrator or for contractual services by him authorized and contracted within the power and authority given him by board resolution; and (iv) pay with his warrant all claims against the county authorized to be paid by the board.

Code 1950, § 15-370; 1950, pp. 123, 694; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-705; 1997, c. 587.

### § 15.2-408. Attorney for the Commonwealth, county clerk, sheriff, commissioner of the revenue and treasurer of the county.

A. The attorney for the Commonwealth, the county clerk, the sheriff, the commissioner of the revenue and the treasurer of the county in office immediately prior to the day upon which the county board form becomes effective in the county shall continue, unless sooner removed, as attorney for the Commonwealth, county clerk, sheriff, commissioner of the revenue and treasurer, respectively, of the county until the expiration of their respective terms of office and until their successors have qualified. Thereafter, such officers shall be elected in such manner and for such terms as provided by general law.

B. When any vacancy occurs in any office named in subsection A, the vacancy shall be filled as provided by general law.

C. Each officer named in subsection A of this section may appoint such deputies, assistants and employees as he may require in the exercise of the powers conferred and in the performance of the duties imposed upon him by law.

D. Each officer, except the attorney for the Commonwealth, named in subsection A shall, except as otherwise provided in this chapter, exercise all the powers conferred and perform all the duties imposed upon such officer by general law. He shall be accountable to the board in all matters affecting the county and shall perform such duties, not inconsistent with his office, as the board directs.

Code 1950, § 15-371; 1962, c. 623, § 15.1-706; 1971, Ex. Sess., c. 158; 1977, c. 584; 1997, c. 587; 2003, c. 1015.

### § 15.2-409. Authority of boards of supervisors to require commissioners of revenue to prepare tax bills.

The board may by resolution require the commissioner of revenue of such county to prepare and make all tax bills, in accord with all items shown on the land books, personal property books and income assessment books for the current year, and deliver the bills to the treasurer of the county at the time the land books, personal property books and income assessment books are delivered to such treasurer under general law. Such requirement shall not be effective, however, until the board has first installed in the office of the commissioner of revenue a suitable machine by which the tax bills may be prepared and made out simultaneously with the preparation and making out of the books. The board may prescribe the form of the tax bills and require the commissioner of revenue to destroy all unused tax bill forms in the presence of the board or a committee of its members appointed by its chairman. When the board has adopted such resolution and certified it to the county treasurer, he shall be relieved of all duties and responsibility in reference to the preparation of the bills.

Code 1950, § 15-371.1; 1952, c. 243; 1962, c. 623, § 15.1-707; 1997, c. 587.

### § 15.2-410. County school board and division superintendent of schools.

A. The county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law.

B. The county school board shall be composed of not less than three nor more than six members chosen by the board of county supervisors to serve staggered four-year terms. Initial terms may be less than four years to establish the staggered membership. The terms of no more than three members shall expire in any one year. The board of county supervisors shall establish by resolution the number of school board members and the staggered membership. The school board membership may be increased from time to time up to six members. Three-member boards need not be staggered. All appointments to fill vacancies shall be made by the board of county supervisors and shall be for the unexpired terms.

C. Each member shall receive as compensation for his services such annual salary as may be prescribed pursuant to § 22.1-32.

D. The board of county supervisors may also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker, if any, shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of a term or otherwise.

E. Notwithstanding the above provisions, the Board of Supervisors of Scott County may establish a staggered membership for its school board with the school board members serving three-year terms and the Board of Supervisors of Carroll County may continue to appoint five members to its school board to serve staggered five-year terms.

F. Notwithstanding any contrary provisions of this section, a county which has an elected school board shall comply with the applicable provisions of Article 7 (§ 22.1-57.1 et seq.) of Title 22.1.

Code 1950, § 15-372; 1950, pp. 124, 695; 1962, c. 623, § 15.1-708; 1972, c. 470; 1976, c. 92; 1980, c. 559; 1981, c. 246; 1986, c. 618; 1997, c. 587.

**§ 15.2-411. County health officer; county board of health.**

The county health officer shall be chosen by the board of county supervisors from a list of eligibles furnished by the State Board of Health. He shall exercise all the powers conferred and shall perform all the duties imposed upon the local health officer and perform such other duties as may be imposed upon him by the board of county supervisors. The board of county supervisors may select two qualified citizens of the county, who shall serve without pay, and who together with the county health officer shall constitute the county board of health. Such board shall advise and cooperate with the county health officer. The board may at any time be abolished by the board of county supervisors. The board of county supervisors may, in lieu of establishing a local board of health as herein provided, operate its health department as a part of a State Board of Health district.

Code 1950, § 15-373; 1950, p. 696; 1962, c. 623, § 15.1-709; 1997, c. 587.

**§ 15.2-412. Local board of social services and local director of social services.**

The board of county supervisors shall select three qualified citizens of the county, one of whom may be a member of the board of county supervisors, who shall constitute the local board of social services; alternatively, the board of county supervisors may choose a board of social services consisting

of five qualified citizens. Such board shall, insofar as not inconsistent with this form of county organization and government, exercise all the powers conferred, and perform all the duties imposed, upon local boards of social services by law. There also shall be a local director of social services who shall be chosen by the board of county supervisors, or by the local board of social services if the board of county supervisors so provides, from a list of eligibles furnished by the Director of the Department of Social Services. He shall, insofar as consistent with this form of county organization and government, exercise the powers conferred and perform the duties imposed upon local directors of social services by general law. The local board of social services and the local director of social services shall also perform such other duties as required by the board of county supervisors.

Code 1950, § 15-374; 1950, p. 696; 1962, c. 623, § 15.1-710; 1968, c. 80; 1974, cc. 44, 45; 1997, c. 587; 2002, c. 747; 2010, cc. 349, 436.

**§ 15.2-413. Department of extension and continuing education.**

The department of extension and continuing education shall be established for the purpose of conducting noncredit educational programs and disseminating useful and practical information pursuant to the provisions of § 23.1-2608 et seq.

1972, c. 653, § 15.1-711.1; 1997, c. 587.

**§ 15.2-414. County purchasing agent.**

A. The county shall have a county purchasing agent. The county administrator shall, unless and until the board selects a county purchasing agent or designates some other officer to act as county purchasing agent, exercise the powers conferred and perform the duties imposed upon the county purchasing agent.

B. The county purchasing agent shall, subject to such exceptions as the board may allow, make all purchases for the county and its departments, officers and agencies.

C. The county purchasing agent may also transfer supplies, materials and equipment between, and sell surplus equipment, materials and supplies not needed by, the departments, officers and agencies of the county.

D. With the approval of the board, the county purchasing agent may establish specifications or standards for equipment, materials and supplies to be purchased and inspect deliveries to determine their compliance with such specifications and standards.

E. All purchases and sales by the county purchasing agent shall be made in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 and under such rules and regulations consistent with Chapter 43 of Title 2.2 as the board provides.

F. The county purchasing agent shall have charge of such storage rooms and warehouses of the county as the board provides.

Code 1950, § 15-376; 1950, p. 125; 1962, c. 623, § 15.1-712; 1972, c. 820; 1982, c. 647; 1997, c. 587.

**§ 15.2-415. Schedule of compensation for officers and employees.**

The board shall, except as otherwise provided in this chapter, establish a schedule of compensation for officers and employees which shall, so far as practical, provide uniform compensation for like service. The compensation prescribed shall be subject to such limitations as may be made by general law.

Code 1950, § 15-378; 1962, c. 623, § 15.1-714; 1997, c. 587.

### § 15.2-416. Official bonds.

The county officers shall give such bonds as required by general law, except that the treasurer's bond shall be in such penalty as the court or judge requires, but not less than fifteen percent of the amount to be received annually by him. In addition thereto, the board may fix and require bonds in excess of the amounts so required, and to require bonds of other county officers and employees in their discretion, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession.

Code 1950, § 15-379; 1962, c. 623, § 15.1-715; 1997, c. 587.

### § 15.2-417. Examination and audit of accounts and books.

The board shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. An audit by the Auditor of Public Accounts, under the provisions of law, may be considered as having satisfied the requirements of this section. The board may at any time order an examination or audit of the accounts of any officer or employee of the county government. Upon the death, resignation, removal or expiration of the term of any county officer, the board shall cause an audit and investigation of the accounts of such officer to be made. If, as a result of any such audit, an officer is found indebted to the county, the board shall proceed forthwith to collect such indebtedness.

Code 1950, § 15-380; 1962, c. 623, § 15.1-716; 1997, c. 587.

### § 15.2-418. Certain officers not affected.

The following officers shall not, except as herein otherwise provided, be affected by the adoption of the county board form:

1. Jury commissioners;

2. County electoral boards;

3. Registrars;

4. Judges and clerks of election;

5. Magistrates; and

6. Commissioners of accounts.

Code 1950, § 15-383; 1950, p. 126; 1962, c. 623, § 15.1-720; 1971, Ex. Sess., c. 158; 1973, c. 545; 1997, c. 587.

## Chapter 5 - COUNTY EXECUTIVE FORM OF GOVERNMENT

## Article 1 - ADOPTION OF COUNTY EXECUTIVE FORM

### § 15.2-500. Title of form; applicability of chapter.

The form of county organization and government provided for in this chapter shall be known and designated as the county executive form. The provisions of this chapter shall apply only to counties which have adopted the county executive form.

Code 1950, § 15-272; 1962, c. 623, § 15.1-588; 1997, c. 587.

### § 15.2-501. Adoption of county executive form.

Any county may adopt the county executive form of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.).

1997, c. 587.

### § 15.2-502. Powers vested in board of county supervisors; election and terms of members; vacancies.

A. The powers of the county as a body politic and corporate shall be vested in a board of county supervisors (the board), to consist of not less than three nor more than nine members to be elected by the voters of the county at large, or solely by the voters of the respective magisterial or election district of which each member is a qualified voter. There shall be on the board for each magisterial or election district one member, and no more, who shall be a qualified voter of the district.

The supervisors first elected shall hold office until January 1 following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

B. When any vacancy occurs in the board, the vacancy shall be filled in accordance with § 24.2-228, except that the board shall have the option in its petition to the court to request that the election to fill the vacancy be held prior to the next or second ensuing general election, as the case may be. In that event, such election shall be held within sixty days of the issuance of the writ, or, if such election would fall within the sixty days prior to a general or primary election, on the general election day or within sixty days following the primary election.

C. Notwithstanding the provisions of subsection B, the provisions of this subsection shall apply to any county with the county executive form of government that is contiguous to a county with the urban county executive form of government. Notwithstanding the provisions of §§ 24.2-226 and 24.2-228, when any vacancy occurs in the membership of the board, the judge of the circuit court of the county shall issue a writ for a special election to fill the vacancy for the remainder of the unexpired term. The judge shall issue the writ within fifteen days of the occurrence of the vacancy. He shall order the election to be held not fewer than forty-five days and not more than sixty days after the issuance of the writ. However, if the election would fall within sixty days before a general election, the judge shall order the election to be held on the general election day; and, if the election would fall within sixty days before a

primary election, the judge shall order the election to be held not fewer than thirty days and not more than sixty days after the primary. If the vacancy occurs prior to a general election and there is insufficient time to order the election to be held at the general election, the judge shall order the election to be held not fewer than 45 days and not more than 60 after the general election. The local electoral board shall determine and announce within three business days after the date of the writ the candidate filing deadline for the special election. The remaining members of the board shall not make a temporary appointment to fill the vacancy. However, if the vacancy occurs within the 180 days before the expiration of the term of office, there shall be no special election, and the remaining members of the board shall fill the vacancy by appointment pursuant to § 24.2-228 within thirty days of the occurrence of the vacancy and after holding a public hearing on the appointment. The appointment shall be for the duration of the unexpired term.

Code 1950, § 15-273; 1952, c. 346; 1962, c. 623, § 15.1-589; 1966, c. 463; 1971, Ex. Sess., c. 65; 1982, c. 139; 1983, c. 350; 1997, c. 587; 1999, c. 718; 2007, c. 268.

**§ 15.2-503. Referendum on election of the county chairman from the county at large; powers and duties of chairman.**

A. The board of any county in which members of the board are elected from districts, may by resolution petition the circuit court for the county for a referendum on the question of whether there should be a chairman of the board elected at large, or the like referendum may be requested by a petition to the circuit court signed by at least ten percent of the voters of the county. Upon the filing of the petition, which shall be filed not less than ninety days before the general election, the circuit court shall order the election officials at the next general election held in the county to open the polls and take the sense of the voters therein on that question. Notice of the referendum shall be published once a week for three consecutive weeks prior to the referendum in a newspaper having general circulation in the county, and shall be posted at the door of the county courthouse. The ballot shall be printed as follows:

"Shall the chairman of the county board of supervisors, to be known as the county chairman, be elected by the voters of the county at large?

[ ] Yes

[ ] No"

The election shall be held and the results certified as provided in § 24.2-684.

B. If a majority of the qualified voters voting in such referendum vote in favor of the election of a county chairman of the board from the county at large, beginning at the next general election for the board, the county chairman shall be elected for a term of the same length and commencing at the same time as that of other members of the board. No person may be a candidate for county chairman at the same time he is a candidate for membership on the board from any district of the county.

C. Notwithstanding the provisions of § 15.2-502, the board thereafter shall consist of one member elected from each district of the county and a county chairman elected by the voters of the county at large. The county chairman shall be the chairman of the board and preside at its meetings. The chairman shall represent the county at official functions and ceremonial events. The chairman shall have all voting and other rights, privileges, and duties of other board members and such other, not in conflict with this article, as the board may prescribe. At the first meeting at the beginning of its term and any time thereafter when necessary, the board shall elect a vice-chairman from its membership, who shall perform the duties of the chairman in his absence.

1986, c. 203, § 15.1-589.3; 1997, c. 587.

## Article 2 - GENERAL POWERS; COUNTY EXECUTIVE FORM

### § 15.2-504. General powers of board.

The board shall be the policy-determining body of the county and shall be vested with all rights and powers conferred on boards of supervisors by general law, consistent with the form of county organization and government provided in this chapter.

Code 1950, § 15-274; 1962, c. 623, § 15.1-590; 1997, c. 587.

### § 15.2-504.1. Lighting level regulation.

The board of any county with a population of less than 100,000 operating under a county executive form of government may provide by ordinance for the regulation of exterior illumination levels of buildings and property.

1996, c. 567, § 15.1-687.23; 1997, cc. 194, 587.

### § 15.2-505. Appointment by certain localities of members of certain boards, authorities and commissions.

The governing body of a county having the county executive form of government that is adjacent to a county having the urban county executive form of government may establish different terms of office for initial and subsequent appointments for those boards, authorities and commissions for which it is given the authority to appoint members, excluding authorities empowered to issue certificates of indebtedness.

The different terms of office for such boards, authorities and commissions shall be for fixed terms, and such different terms of office may include, but are not limited to, terms of either two or four years and terms that extend until July 1 of the year following the year in which there is a regular election provided by general law for the election of supervisors. If the board establishes different terms of office pursuant to this section, the new terms shall affect future appointments to such offices and shall not affect the existing terms of any commissioner or member then serving in office. This section shall not affect the removal of any member of a board, authority or commission for incompetency, neglect of duty or misuse of office pursuant to provisions of general law.

1989, c. 180, § 15.1-590.1; 1997, c. 587.

### § 15.2-506. Investigation of county officers.

The board may inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any county or district officer. For these purposes it may subpoena witnesses, administer oaths and require the production of books, papers and other evidence. Any witness who fails or refuses to obey an order of the board, shall be guilty of a misdemeanor.

Code 1950, § 15-275; 1962, c. 623, § 15.1-592; 1997, c. 587.

### § 15.2-507. Organization of departments.

The board shall, as soon as its members are elected and take office, provide for the performance of all the governmental functions of the county and to that end shall provide for and set up all necessary departments of government, consistent with this chapter and general law.

Code 1950, § 15-276; 1962, c. 623, § 15.1-593; 1997, c. 587.

### § 15.2-508. Designation of officers to perform certain duties.

Whenever it is not designated herein what officer or employee of the county shall exercise any power or perform any duty conferred upon or required of the county, or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer or employee of the county so designated by ordinance or resolution of the board.

Code 1950, § 15-277; 1962, c. 623, § 15.1-594; 1997, c. 587.

### § 15.2-509. County executive appointed by board.

The board shall appoint a county executive and fix his compensation. He shall devote his full time to the work of the county. He shall be appointed with regard to merit only, and need not be a resident of the county at the time of his appointment. No board member shall, during the time for which he has been elected, be chosen county executive, nor shall such powers be given to a person who at the same time is filling an elective office. The head of one of the departments of county government may, however, also be appointed county executive.

Code 1950, § 15-278; 1962, c. 623, § 15.1-595; 1997, c. 587.

### § 15.2-510. Tenure of office; removal.

The county executive shall not be appointed for a definite tenure, but may be removed at the pleasure of the board. If the board determines to remove the county executive, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the board prior to the date on which his final removal takes effect. Pending and during such hearing, the board may suspend him from office, provided that the period of suspension be limited to thirty days. The action of the board in suspending or removing the county executive is not subject to review.

Code 1950, § 15-279; 1962, c. 623, § 15.1-596; 1997, c. 587.

### § 15.2-511. Disability of executive.

In case of the absence or disability of the county executive, the board may designate some responsible person to perform the duties of the office who meets the criteria of § 15.2-509.

Code 1950, § 15-280; 1962, c. 623, § 15.1-597; 1997, c. 587.

**§ 15.2-512. Appointment of officers and employees; recommendations by county executive; discussions with board.**

The board shall appoint, upon the recommendation of the county executive, all officers and employees in the administrative service of the county except as otherwise provided in § 15.2-535 and except as the board may authorize the head of a department or office to appoint subordinates in such department or office. However, in appointing the county school board no recommendation by the county executive shall be required. All appointments shall be based on the ability, training and experience of the appointees which are relevant to the work which they are to perform.

The county executive shall have the right to take part in all discussions and to present his views on all matters coming before the board. The attorney for the Commonwealth, the sheriff and the directors or heads of the departments shall be entitled to present their views on matters relating to their respective departments.

Code 1950, § 15-281; 1962, c. 623, § 15.1-598; 1997, c. 587.

**§ 15.2-513. Term, removal and disability of officers and employees.**

All appointments of officers and employees shall be without definite term, unless for temporary service not to exceed sixty days.

Any officer or employee of the county appointed pursuant to § 15.2-512 may be suspended or removed from office or employment either by the board of county supervisors or the officer by whom he was appointed or employed. In case of the absence or disability of any officer, except the county clerk, the attorney for the Commonwealth, and the sheriff, which offices shall be filled as provided by general law, the board of county supervisors or other appointing power may designate some responsible person to perform the duties of the office.

Code 1950, § 15-282; 1962, c. 623, § 15.1-599; 1997, c. 587.

**§ 15.2-514. Compensation of officers and employees.**

The board shall, subject to the limitations of general law, establish a schedule of compensation for officers and employees which provides uniform compensation for like service and shall fix the compensation of all officers and employees of the county, except as it may authorize the head of a department or office to fix the compensation of subordinates and employees in such department or office. The board may authorize the county executive to establish terms and conditions of employment for department heads and other specified employees who report directly to the county executive.

Code 1950, §§ 15-283, 15-299; 1962, c. 623, §§ 15.1-600, 15.1-616; 1995, c. 174; 1997, c. 587.

**§ 15.2-515. Restrictions on activities of former officers and employees.**

In any county with a population of at least 100,000, the board, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment ceased, from providing personal and substantial assistance for remuneration of any kind to any party, in connection with any proceeding, application, case, contract, or other particular matter involving the county or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as a county officer or employee through decision, approval, or recommendation.

The term "officer or employee," as used in this section, includes members of the board of county supervisors, county officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the board of county supervisors.

1990, cc. 38, 254, § 15.1-600.1; 1997, c. 587.

### § 15.2-516. Duties of county executive.

The county executive shall be the administrative head of the county. He shall attend all meetings of the board and recommend such action as he deems expedient. He shall be responsible to the board for the proper administration of the affairs of the county which the board has authority to control.

He shall also:

1. Make monthly reports to the board on matters of administration, and keep the board fully advised as to the county's financial condition.

2. Submit to the board a proposed annual budget, with his recommendations, and execute the budget as finally adopted.

3. Execute and enforce all board resolutions and orders and see that all laws of the Commonwealth required to be enforced through the board or some other county officer subject to the control of the board are faithfully executed.

4. Examine regularly the books and papers of every officer and department of the county and report to the board on their condition.

5. Perform such other duties as may be required of him by the board, and as may be otherwise required of him by law.

Code 1950, § 15-285; 1960, c. 513; 1962, c. 623, § 15.1-602; 1997, c. 587.

### § 15.2-517. Executive may also be department head.

The county executive may, if the board requires, act as the director or head of any department or departments, the directors or heads of which are appointed by the board, providing he is otherwise eligible to head such department or departments.

Code 1950, § 15-286; 1962, c. 623, § 15.1-603; 1997, c. 587.

## Article 3 - DEPARTMENTS; COUNTY EXECUTIVE FORM

### § 15.2-518. Departments of the county.

The activities or functions of the county shall, with the exceptions herein provided, be distributed among the following general divisions or departments:

1. Department of finance.

2. Department of social services.

3. Department of law enforcement.

4. Department of education.

5. Department of records.

6. Department of health.

The board may establish any of the following additional departments, and such other departments as it deems necessary to the proper conduct of the business of the county:

1. Department of assessments.

2. Department of public works.

Any activity which is unassigned by this form of county organization and government shall, upon recommendation of the county executive, be assigned by the board to the appropriate department. The board may further, upon recommendation of the county executive, reassign, transfer, rename or combine any county functions, activities or departments.

Code 1950, § 15-287; 1952, c. 168; 1962, c. 623, § 15.1-604; 1972, c. 653; 1976, c. 194; 1997, c. 587; 2002, c. 747.

### § 15.2-519. Department of finance; director; general duties.

The director of finance shall be the head of the department of finance and, as such, have charge of: (i) the administration of the financial affairs of the county, including the budget; (ii) the assessment of property for taxation; (iii) the collection of taxes, license fees and other revenues; (iv) the custody of all public funds belonging to or handled by the county; (v) the supervision of the expenditures of the county and its subdivisions; (vi) the disbursement of county funds; (vii) the purchase, storage and distribution of all supplies, materials, equipment and contractual services needed by any department, office or other using agency of the county unless some other officer or employee is designated for this purpose; (viii) the keeping and supervision of all accounts; and (ix) such other duties as the board requires.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

### § 15.2-520. Same; expenditures and accounts.

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation resolutions. Funds appropriated for outstanding grants, however, may be carried over for one year without being reappropriated. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligation charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-521. Same; powers of commissioners of revenue; real estate reassessments.**

A. The director of finance shall exercise all the powers conferred and perform all the duties imposed by general law upon commissioners of the revenue, not inconsistent herewith, and shall be subject to the obligations and penalties imposed by general law.

B. The director of finance shall make every general reassessment of real estate in the county, unless some other person is designated for this purpose by the board in accordance with § 15.2-512 or unless the board creates a separate department of assessments in accordance with § 15.2-518. The assessing officer shall collect and maintain data and devise methods and procedures to be followed in each general reassessment that will make for uniformity in assessments throughout the county.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-522. Same; powers of county treasurer; deposit of moneys.**

The director of finance shall also exercise the powers conferred and perform the duties imposed by general law upon county treasurers, and shall be subject to the obligations and penalties imposed by general law. All moneys received by any county officer or employee for or in connection with county business shall be paid promptly into the hands of the director of finance. All such money shall be promptly deposited by the director of finance to the credit of the county in such banks or trust companies as the board selects. No money shall be disbursed or paid out by the county except upon checks signed by the chairman of the board, or such other person the board designates, and countersigned by the director of the department of finance.

The board may designate one or more banks or trust companies as a receiving or collecting agency under the direction of the department of finance. All funds so collected or received shall be deposited to the credit of the county in such banks or trust companies as the board selects.

Every bank or trust company serving as a depository or as a receiving or collecting agency for county funds shall be required by the board to give adequate security therefor and to meet such interest requirements as the board may by ordinance or resolution establish. All interest on money so deposited shall accrue to the county's benefit.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-523. Same; claims against counties; accounts.**

The director of finance shall (i) audit all claims against the county for goods or services; (ii) ascertain that such claims are in accordance with the purchase orders or contracts of employment from which the claims arise; (iii) draw all checks in settlement of such claims; (iv) keep a record of the revenues and expenditures of the county; (v) keep such accounts and records of the affairs of the county as prescribed by the Auditor of Public Accounts; and (vi) prepare and submit to the board statements showing the progress and status of the county's affairs in such form and at such time as agreed upon by the Auditor of Public Accounts and the board.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-524. Same; director as purchasing agent.**

The director of finance shall act as purchasing agent for the county, unless the board designates another officer or employee for such purpose. The director of finance or the person designated as purchasing agent shall make all purchases, subject to such exceptions as the board allows. He may transfer supplies, materials and equipment between departments and offices; sell any surplus supplies, materials or equipment; and make such other sales as the board authorizes. He may, with the board's approval, establish specifications or standards for all supplies, materials and equipment to be purchased for the county and to inspect all deliveries to determine their compliance with such specifications and standards.

All purchases shall be made in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 and under such rules and regulations consistent with Chapter 43 of Title 2.2 as the board may by ordinance or resolution establish. He shall not furnish any supplies, materials, equipment or contractual services to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for the supplies, materials, equipment or contractual services.

Except as provided by the board, before making any sale he shall invite competitive bids under such rules and regulations as the board may by ordinance or resolution establish.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-525. Same; obligations of chief assessing officer.**

The chief assessing officer shall be subject to the obligations and penalties imposed by general law upon commissioners of the revenue.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

**§ 15.2-526. Department of public works.**

If the department of public works is established, the director of the department shall be a person who has training and experience in the management of the construction and maintenance of public projects. He shall exercise the powers conferred and perform the duties imposed by general law upon the county road engineer and in addition shall perform such other duties as may be imposed upon him by the board. He shall also have charge of the maintenance, construction and reconstruction of county roads and bridges, unless the maintenance, construction and reconstruction of such county roads and bridges have been assumed by the Commonwealth.

Code 1950, § 15-289; 1952, c. 168; 1962, c. 623, § 15.1-606; 1997, c. 587.

**§ 15.2-527. Department of social services.**

The local director of social services shall be head of the department of social services, and shall be chosen from a list of eligibles furnished by the Commissioner of Social Services. He shall have charge of poor relief and charitable institutions; may, at the discretion of the board, have charge of parks and playgrounds; shall exercise the powers conferred and perform the duties imposed by general law upon the local board of social services, not inconsistent herewith; and shall perform such other duties the board imposes upon him.

A local board of social services shall be appointed pursuant to the provisions of § 63.2-303.

Code 1950, § 15-290; 1952, c. 436; 1960, c. 513; 1962, c. 623, § 15.1-607; 1964, c. 497; 1997, c. 587; 2002, c. 747.

**§ 15.2-528. Department of law enforcement.**

The department of law enforcement shall consist of such police as may be appointed pursuant to § 15.2-512, and police officers appointed by the board, pursuant to such section, including the chief of the department. All so appointed shall be conservators of the peace in the county. The county executive shall have supervision and control of the county police force.

The department of law enforcement, attorney for the Commonwealth, and sheriff shall be charged with the enforcement of all criminal laws throughout the county. The authority of the county police, upon the consent of the governing body of the incorporated town, shall be concurrent with that of any law-enforcement officers appointed by the governing body of any incorporated town located within the county for purposes of enforcing the laws of the Commonwealth.

Code 1950, § 15-291; 1952, c. 413; 1958, c. 112; 1962, c. 623, § 15.1-608; 1972, c. 360; 1977, c. 584; 1984, c. 722; 1997, c. 587.

**§ 15.2-529. Appointment of county attorney.**

The board may appoint a county attorney pursuant to § 15.2-1542, who shall serve at a salary as fixed by the board and who shall be accountable to the board.

Code 1950, § 15-291; 1952, c. 413; 1958, c. 112; 1962, c. 623, § 15.1-608; 1972, c. 360; 1977, c. 584; 1984, c. 722; 1997, c. 587.

**§ 15.2-530. Powers and duties of sheriff.**

The sheriff shall exercise the powers conferred and perform the duties imposed upon sheriffs by general law. He shall have the custody of, and be charged with the duty of feeding and caring for, all prisoners confined in the county jail. He shall perform such other duties the board imposes upon him.

Code 1950, § 15-291; 1952, c. 413; 1958, c. 112; 1962, c. 623, § 15.1-608; 1972, c. 360; 1977, c. 584; 1984, c. 722; 1997, c. 587.

### § 15.2-531. Department of education.

The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise the powers conferred and perform the duties imposed upon them by general law. The county school board shall be composed of not less than three nor more than seven members, who shall be chosen by the board of county supervisors. The exact number of members shall be determined by the board.

Notwithstanding the foregoing provisions of this section, the county school board in a county which is contiguous to a county having the urban county executive form of government shall consist of the same number of members as there are supervisors' election districts for the county, one member to be appointed from each of the districts by the board of county supervisors.

The board may also appoint a county resident to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. Any tie breaker shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of a term or otherwise.

The chairman of the county school board, for the purpose of appearing before the board of county supervisors, shall be considered head of this department, unless the school board designates some other person in the department for such purpose.

Code 1950, § 15-292; 1962, c. 623, § 15.1-609; 1980, c. 559; 1981, c. 246; 1988, cc. 102, 449; 1997, c. 587.

### § 15.2-532. Terms of school boards.

The members of the county school board shall be appointed or reappointed, as the case may be, for terms of four years each, except that initial appointments hereunder may be for terms of one to four years, respectively, so as to provide staggered terms for such members.

Notwithstanding the foregoing provisions of this section, the terms of office of the school board members in a county which is contiguous to a county having the urban county executive form of government shall begin on July 1 of the year in which the board of supervisors takes office following the next general election for supervisors. However, all other applicable provisions of Titles 22.1 and 15.2 pertaining to the powers and duties of school boards and their appointments shall continue to apply to the members of such school board.

1966, c. 624, § 15.1-609.1; 1980, c. 559; 1986, c. 626; 1997, c. 587.

### § 15.2-533. Elected school boards.

Notwithstanding any contrary provisions of §§ 15.2-531 and 15.2-532, a county which has an elected school board shall comply with the applicable provisions of Article 7 (§ 22.1-57.1 et seq.) of Title 22.1.

1997, c. 587.

**§ 15.2-534. Department of health.**

The department of health shall consist of the health director, who shall be appointed as provided in the applicable provisions of Article 5 (§ 32.1-30 et seq.) of Chapter 1 of Title 32.1 and who shall be head thereof, and the other officers and employees of such department. The head of the department shall exercise the powers conferred and shall perform the duties imposed upon the local health director by general law, not inconsistent herewith. He shall also perform such other duties as may be imposed upon him by the board or, if the health department is operated under contract with the State Board of Health, as specified in such contract.

If the board of county supervisors appoints a local board of health as provided in § 32.1-32, it shall consist of two qualified citizens of the county, who shall serve without pay, and the county health director. Such board may adopt necessary rules and regulations, not in conflict with law, concerning the department. The board of health may at any time be abolished by the board of county supervisors.

Code 1950, § 15-294; 1962, c. 623, § 15.1-611; 1979, c. 719; 1997, c. 587.

**§ 15.2-535. Department of assessments.**

The department of assessments, if and when established, shall be headed by a commissioner of the revenue or a supervisor of assessments, who shall exercise the powers conferred and perform the duties imposed by § 15.2-521 upon the director of finance.

In addition to the powers and duties hereinabove conferred, the governing body of any county which has provided for a department of assessments headed by a supervisor of assessments may, in lieu of the method now prescribed by law, provide for the annual assessment and equalization of assessments of real estate by such department. All real estate shall thereafter be assessed as of January 1 of each year. The provisions of this section shall not, however, apply to any real estate assessable under the law by the State Corporation Commission.

Code 1950, § 15-295; 1952, c. 500; 1962, c. 623, § 15.1-612; 1997, c. 587.

**§ 15.2-536. Selection of clerk, attorney and sheriff.**

The county clerk, the attorney for the Commonwealth and the sheriff shall be selected in the manner and for the terms, and vacancies in such offices shall be filled, as provided by general law.

Code 1950, § 15-297; 1962, c. 623, § 15.1-614; 1997, c. 587.

**§ 15.2-537. Officers not affected by adoption of plan.**

The following officers shall not, except as herein otherwise provided, be affected by the adoption of the county executive form:

1. Jury commissioners;

2. County electoral boards;

3. Registrars;

4. Judges and clerks of elections; and

5. Magistrates.

Code 1950, § 15-338; 1950, p. 974; 1952, c. 37; 1962, cc. 596, 623, § 15.1-662; 1973, c. 545; 1997, c. 587.

**§ 15.2-538. Examination and audit of accounts and books.**

The board shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. An audit made by the Auditor of Public Accounts, under the provisions of law, may be considered as having satisfied the requirements of this paragraph.

The board may at any time order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal or expiration of the terms of any county officer, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the county executive and to the board. In case of the death, resignation or removal of the director of finance, the board shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer is found indebted to the county, the board shall proceed forthwith to collect such indebtedness.

Code 1950, § 15-298; 1962, c. 623, § 15.1-615; 1997, c. 587.

**§ 15.2-539. Submission of budget by executive; hearings; notice; adoption.**

Each year at least two weeks before the board must prepare its proposed annual budget, the county executive shall prepare and submit to the board a budget presenting a financial plan for conducting the county's affairs for the ensuing year. The budget shall be set up in the manner prescribed by general law. Hearings thereon shall be held and notice thereof given and the budget adopted in accordance with general law.

Code 1950, § 15-300; 1962, c. 623, § 15.1-617; 1997, c. 587.

**§ 15.2-540. Officers and employees to receive regular compensation; fee system abolished; collection and disposition of fees.**

All county officers and employees shall be paid regular compensation and the fee system as a method of compensation in the county shall be abolished, except for those officers not affected by the adoption of this form of county organization and government. All such officers and employees shall, however, continue to collect all fees and charges provided for by general law, shall keep a record thereof, and shall promptly transmit all such fees and charges collected to the director of finance, who shall promptly provide receipt therefor. Such officers shall also keep such other records as are required by § 17.1-283. All fees and commissions, which, but for this section, would be paid to such officers by the Commonwealth for services rendered shall be paid into the county treasury.

Any excess of the fees collected by each of the officers mentioned in § 17.1-283 or collected by anyone exercising the powers of and performing the duties of any such officer, over (i) the allowance to which such officer would be entitled by general law but for the provisions of this section and (ii) expenses in such amount as allowed by the Compensation Board, shall be paid one third into the state treasury and two thirds to the county.

Any county officer or employee who fails or refuses to collect any fee which is collectible and should be collected under the provisions of this section, or who fails or refuses to pay any fee so collected to the county as herein provided, shall upon conviction be deemed guilty of a misdemeanor.

Code 1950, § 15-302; 1962, c. 623, § 15.1-619; 1997, c. 587.

### § 15.2-541. Bonds of officers.

The county executive shall give bond in the amount of not less than $5,000. The director of finance shall give bond in the amount of not less than fifteen percent of the amount of money to be received by him annually. If the county executive serves also as director of finance, he shall give bond in the full amounts indicated above. The board may fix bonds in excess of these amounts and require bonds of other county officers in their discretion, conditioned on the faithful discharge of their duties and the proper account for all funds coming into their possession.

Code 1950, § 15-304; 1952, c. 242; 1962, c. 623, § 15.1-621; 1997, c. 587.

### § 15.2-542. Employee benefits; residence in county.

Notwithstanding any other provision of law, the county board, in order to ensure its competitiveness as an employer, may by ordinance provide for the use of funds, other than state funds, to provide grants, loans, and other assistance for county and school board employees, as well as employees of local constitutional officers, to purchase or rent residences, for use as the employee's principal residence, within the county.

2007, cc. 288, 582.

## Chapter 6 - COUNTY MANAGER FORM OF GOVERNMENT

## Article 1 - ADOPTION OF COUNTY MANAGER FORM

### § 15.2-600. Designation of form; applicability of chapter.

The form of county organization and government provided for in this chapter shall be known and designated as the county manager form. The provisions of this chapter shall apply only to counties which have adopted the county manager form.

Code 1950, § 15-305; 1962, c. 623, § 15.1-622; 1997, c. 587.

### § 15.2-601. Adoption of county manager form.

Any county may adopt the county manager form of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.) of this title.

1997, c. 587.

**§ 15.2-602. Powers vested in board of supervisors; election and terms of members; vacancies.**
The powers of the county as a body politic and corporate shall be vested in a board of supervisors ("the board"), to consist of not fewer than three nor more than nine members to be elected by the qualified voters of the county at large, or solely by the qualified voters of the respective magisterial or election district of which the member is a qualified voter, plus one additional member elected at large, depending upon the result of the election held upon the questions submitted to the voters pursuant to § 15.2-603. There shall be on the board for each magisterial or election district at least one member, and he shall be a qualified voter of such district, except as hereinabove provided.

The supervisors first elected shall hold office until January 1 following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

Any vacancy on the board shall be filled as provided in § 24.2-228.

Code 1950, § 15-306; 1962, c. 623, § 15.1-623; 1966, cc. 255, 531; 1971, Ex. Sess., c. 65; 1981, c. 91; 1982, c. 32; 1997, c. 587.

**§ 15.2-603. Referendum on election of supervisors by districts or at large.**
The governing body of any county which has adopted the county manager form of government, as provided in Chapter 368 of the Acts of 1932, at an election held for that purpose pursuant to the provisions of said chapter, may by resolution petition the circuit court of the county requesting that a referendum be held on the following questions: (i) Shall the board of supervisors be elected solely by the qualified voters of each magisterial or election district, or by the qualified voters of the county at large? (ii) Shall the board have in addition to the members from each magisterial or election district, one member from any district elected from and representing the county at large? The court, by order entered of record in accordance with § 24.2-684, shall require the regular election officials on a day fixed in such order to open the polls and take the sense of the qualified voters of the county on the questions submitted as herein provided. The clerk of the circuit court of the county shall cause a notice of such referendum election to be published once a week for three consecutive weeks in a newspaper published or having a general circulation in the county and shall post a copy of such notice at the door of the courthouse of the county. The ballot used shall be printed to read as follows:

Shall the board of supervisors be elected by the qualified voters of each magisterial or election district, or by the qualified voters of the county at large?

[ ] By the qualified voters of each magisterial or election district.

[ ] By the qualified voters of the county at large.

Shall the board have in addition to the members for each magisterial or election district, one member from any district elected from and representing the county at large?

[ ] Yes

[ ] No

The ballots shall be marked in accordance with the provisions of § 24.2-684.

The ballots shall be counted, returns made and canvassed as in other elections, and the result certified by the electoral board to the circuit court of the county. The circuit court shall enter of record the fact of which method of election of supervisors has been chosen by a majority of the qualified voters participating in such referendum election, and an election for members of the board by such method in that county shall be held at the next regular November election of such officers, and every four years thereafter.

In any election pursuant to Chapter 3 (§ 15.2-300 et seq.), the questions provided for in this section shall be submitted to the voters, in addition to the question or questions required by § 15.2-301.

1966, c. 531, § 15.1-623.1; 1975, c. 517; 1982, c. 32; 1997, c. 587.

## Article 2 - GENERAL POWERS; COUNTY MANAGER FORM

### § 15.2-604. General powers of board.

The board of supervisors shall be the policy-determining body of the county and shall be vested with all rights and powers conferred on boards of supervisors by general law, consistent with the form of county organization and government herein provided.

Code 1950, § 15-307; 1962, c. 623, § 15.1-625; 1997, c. 587.

### § 15.2-605. Prohibiting misdemeanors and providing penalties.

The board may prohibit any act defined as a misdemeanor and prohibited by the laws of this Commonwealth and provide a penalty for violations, to the end that the board may parallel by ordinance the criminal laws of this Commonwealth.

Code 1950, § 15-307.1; 1962, c. 623, § 15.1-626; 1997, c. 587.

### § 15.2-606. Investigation of county officers.

The board may inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any county or district officer. For these purposes it may subpoena witnesses, administer oaths and require the production of books, papers and other evidence. Any witness who fails or refuses to obey any such lawful order of the board shall be deemed guilty of a misdemeanor.

Code 1950, § 15-308; 1962, c. 623, § 15.1-627; 1997, c. 587.

### § 15.2-607. Organization of departments.

The board shall, as soon as its members are elected and take office, provide for the performance of all the governmental functions of the county and to that end shall provide for and set up all necessary departments of government, consistent with the provisions of the form of county organization and government herein provided.

Code 1950, § 15-309; 1962, c. 623, § 15.1-628; 1997, c. 587.

### § 15.2-608. Designation of officers to perform certain duties.

Whenever it is not designated herein what officer or employee of the county shall exercise any power or perform any duty conferred upon or required of the county, or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer or employee of the county so designated by the board.

Code 1950, § 15-310; 1962, c. 623, § 15.1-629; 1997, c. 587.

### § 15.2-609. Appointment of county manager.

The board shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government and shall devote his full time to the work of the county. He shall be appointed with regard to merit only, and need not be a resident of the county at the time of his appointment. No member of the board shall, during the time for which he has been elected, be appointed county manager, nor shall the managerial powers be given to a person who at the same time is filling an elective office.

Code 1950, § 15-311; 1962, c. 623, § 15.1-631; 1997, c. 587.

### § 15.2-610. Tenure of office; removal.

The county manager shall not be appointed for a definite tenure, but may be removed at the pleasure of the board. If the board determines to remove the county manager, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the board prior to the date on which his final removal takes effect. Pending and during such hearing, the board may suspend him from the office, provided that the period of suspension is limited to thirty days. The board's action in suspending or removing the county manager shall not be subject to review.

Code 1950, § 15-312; 1962, c. 623, § 15.1-632; 1997, c. 587.

### § 15.2-611. Disability of county manager.

In case of the absence or disability of the manager, the board may designate some responsible person to perform the duties of the office.

Code 1950, § 15-313; 1962, c. 623, § 15.1-633; 1997, c. 587.

### § 15.2-612. Manager responsible for administration of affairs of county; appointment of officers and employees.

The county manager shall be responsible to the board for the proper administration of all the affairs of the county which the board has authority to control. To that end he shall appoint all officers and employees in the county's administrative service, except as otherwise provided in this form of county organization and government, and except as he authorizes the head of a department or office responsible to him to appoint subordinates in such department or office. All appointments shall be based on the ability, training and experience of the appointees which are relevant to the work which they are to perform.

Code 1950, § 15-314; 1962, c. 623, § 15.1-634; 1997, c. 587.

### § 15.2-613. Term of office and removal of such appointees.

All appointments made pursuant to § 15.2-612 shall be without definite term, unless for temporary service not to exceed twelve months. Any officer or employee of the county appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or the officer who appointed him.

Code 1950, § 15-315; 1962, c. 623, § 15.1-635; 1997, c. 587.

### § 15.2-614. Powers and duties of manager.

As the administrative head of the county government for the board, the manager shall supervise the collection of all revenues, guard adequately all expenditures, secure proper accounting for all funds, safeguard the property of the county, exercise general supervision over all county institutions and agencies, and, with the board's approval, coordinate the various activities of the county and unify the management of its affairs.

He shall also:

1. Execute and enforce all board resolutions and orders and see that all laws of the Commonwealth required to be enforced through the board or other county officers subject to the board's control are faithfully executed.

2. Attend all meetings of the board and recommend such action as he deems expedient.

3. Subject to such limitations as made by general law, fix, with the board's approval, the compensation of all officers and employees whom he or a subordinate appoints or employs.

4. Submit to the board each year a proposed annual budget, with his recommendations, and execute the budget as finally adopted.

5. Make regular monthly reports to the board on administrative matters and keep the board fully advised as to the county's financial condition.

6. Examine regularly the books and papers of every officer and department of the county and report to the board the condition in which he finds them. He may order an audit of any office at any time.

7. Perform such other duties as the board imposes upon him.

Code 1950, § 15-317; 1962, c. 623, § 15.1-637; 1997, c. 587.

### § 15.2-615. Activities for which manager is responsible.

The county manager shall be responsible to the board for the administration of the following activities:

1. The assessment of property for taxation and the preparation of the tax books;

2. The collection of taxes, fees and other revenues of the county;

3. The custody of and accounting for all public funds belonging to the county;

4. The procurement of goods, services, insurance and construction for the county;

5. The care of all county buildings;

6. The care and custody of all personal property of the county;

7. The construction and maintenance of county roads and bridges;

8. The administration of social service activities;

9. Public health work;

10. Such other activities of the county not specifically assigned to another officer or agency by this form of county organization and government or by other law.

Code 1950, § 15-318; 1962, c. 623, § 15.1-638; 1997, c. 587.

## Article 3 - DEPARTMENTS; COUNTY MANAGER FORM

### § 15.2-616. Departments of the county.

The activities or functions of the county shall, with the exceptions herein provided, be distributed among the following departments:

1. Department of finance.

2. Department of public works.

3. Department of social services.

4. Department of education.

5. Department of public health.

The board may establish any additional departments it deems necessary and appropriate.

In addition, any activity which is unassigned by this form of county organization and government shall, upon recommendation of the county manager, be assigned by the board to the appropriate department. The board may further, upon recommendations of the county manager, reassign, transfer or combine any county functions, activities or departments.

Code 1950, § 15-319; 1956, c. 200; 1962, c. 623, § 15.1-639; 1997, c. 587.

### § 15.2-617. Department of finance; director; general duties.

The director of finance shall be the head of the department of finance and as such have charge of (i) the administration of the county's financial affairs, including the budget; (ii) the assessment of property for taxation; (iii) the collection of taxes, license fees and other revenues; (iv) the custody of all public funds belonging to or handled by the county; (v) the supervision of the expenditures of the county and its subdivisions; (vi) the disbursement of county funds; (vii) the purchase, lease, storage and distribution of all goods, and the purchase of all services, insurance or construction needed by any department, office or other using agency of the county unless some other officer or employee is designated for this purpose; (viii) the keeping and supervision of all accounts; and (ix) such other duties as the board may require.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-618. Same; expenditures and accounts.**

No money shall be drawn from the county treasury, nor shall any obligation for the expenditure of money be incurred except in pursuance of appropriation resolutions. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-619. Same; powers of commissioners of revenue; real estate reassessments.**

The director of finance shall exercise all the powers conferred and perform all the duties imposed by general law upon commissioners of the revenue, not inconsistent herewith, and shall be subject to the obligations and penalties imposed by general law.

Every general reassessment of real estate in the county, unless some other person is designated for this purpose by the county manager in accordance with § 15.2-612 or unless the board creates a separate department of assessments in accordance with § 15.2-616, shall be made by the director of finance; he shall collect and keep in his office data and devise methods and procedures to be followed in each such general reassessment that will make for uniformity in assessments throughout the county.

In addition to any other method provided by general law or by this article or to certain classified counties, the director of finance may provide for the annual assessment and equalization of real estate and any general reassessment order by the board. The director of finance or his designated agent shall collect data, provide maps and charts, and devise methods and procedures to be followed for such assessment that will make for uniformity in assessments throughout the county.

There shall be a reassessment of all real estate at periods not to exceed six years between such reassessments.

All real estate shall be assessed as of January 1 of each year by the director of finance or such other person designated to make assessment. Such assessment shall provide for the equalization of assessments of real estate, correction of errors in tax assessment records, addition of erroneously omitted properties to the tax rolls, and removal of properties acquired by owners not subject to taxation.

The taxes for each year on the real estate assessed shall be extended on the basis of the last assessment made prior to such year.

This section shall not apply to real estate assessable under the law by the Commonwealth, and the director of finance or his designated agent shall not make any real estate assessments during the life of any general reassessment board.

Any reassessments which change the assessment of real estate shall not be extended for taxation until forty-five days after a written notice is mailed to the person in whose name such property is to be assessed at his last known address, setting forth the amount of the prior assessment and the new assessment.

The board shall establish a continuing board of real estate review and equalization to review all assessments made under authority of this section and to which all appeals by any person aggrieved by any real estate assessment shall first apply for relief. The board of real estate review and equalization shall consist of not fewer than three nor more than five members who shall be freeholders in the county. The appointment, terms of office and compensation of the members of such board shall be prescribed by the board of supervisors. The board of real estate review and equalization shall have all the powers conferred upon boards of equalization by general law. All applications for review to such board shall be made not later than April 1 of the year for which extension of taxes on the assessment is to be made. Such board shall grant a hearing to any person making application at a regular advertised meeting of the board, shall rule on all applications within sixty days after the date of the hearing, and shall thereafter promptly certify its action thereon to the director of finance. The equalization board shall conduct hearings at such times as are convenient, after publishing a notice in a newspaper having a general circulation in the county, ten days prior to any such hearing at which any person applying for review will be heard.

Any person aggrieved by any reassessment or action of the board of real estate review and equalization may apply for relief to the circuit court of the county in the manner provided by general law.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-620. Same; powers of county treasurer; deposit of moneys.**

The director of finance shall exercise the powers conferred and perform the duties imposed by general law upon county treasurers, and shall be subject to the obligations and penalties imposed by general law. All moneys received by any county officer or employee for or in connection with county business shall be paid promptly into the hands of the director of finance. All such money shall be promptly deposited by the director of finance to the credit of the county in such banks or trust companies the board selects. No money shall be disbursed or paid out by the county except upon check signed by the chairman of the board, or such other person the board designates, and countersigned by the director of finance.

The director of finance or his authorized deputies may transfer public funds from one depository to another by wire. Such officers may also draw any of the county's money by check or by an electronic fund wire, or by any means deemed appropriate and sound by the director of finance and approved by

the board, drawn upon a warrant issued by the board. If any money is knowingly paid otherwise than upon the director of finance's check or electronic fund wire or by alternative means specifically approved by the director of finance and the board, drawn upon such warrant, the payment shall be invalid against the county.

The board may designate one or more banks or trust companies as a receiving or collecting agency under the direction of the department of finance. All funds so collected or received shall be deposited to the credit of the county in such banks or trust companies as the board selects.

Every bank or trust company serving as a depository or as a receiving or collecting agency for county funds shall be required by the board to give adequate security therefor, and to meet such requirements as to interest thereon as the board may establish. All interest on money so deposited shall accrue to the benefit of the county.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-621. Same; claims against counties; accounts.**

The director of finance shall audit all claims against the county for goods or services. It shall be his duty (i) to ascertain that such claims are in accordance with the purchase orders or contracts from which the claims arise; (ii) to draw all checks in settlement of such claims; (iii) to keep a record of the revenues and expenditures of the county; (iv) to keep such accounts and records of the affairs of the county as shall be prescribed by the Auditor of Public Accounts; and (v) at the end of each month, to prepare and submit to the board statements showing the progress and status of the county's affairs in such form as agreed upon by the Auditor of Public Accounts and the board.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-622. Same; director as purchasing agent.**

The director of finance shall act as purchasing agent for the county, unless the board designates another officer or employee for such purpose. The director of finance or the person designated as purchasing agent shall make all purchases, subject to such exceptions as the board allows. He may transfer supplies, materials and equipment between departments and offices; sell, exchange or otherwise dispose of any surplus supplies, materials or equipment; and make such other sales, exchanges and dispositions as the board authorizes. He may, with the approval of the board, establish suitable specifications or standards for all goods, services, insurance and construction to be procured for the county; inspect all deliveries to determine their compliance with such specifications and standards; and sell supplies, materials and equipment to volunteer emergency medical services agencies at the same cost as the cost of such supplies, materials and equipment to the county. He shall have charge of such storerooms and warehouses of the county as the board provides.

All purchases shall be made in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 and under such rules and regulations consistent with Chapter 43 of Title 2.2 as the board establishes. He shall

not furnish any goods, services, insurance or construction to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for them.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587; 2015, cc. 502, 503.

**§ 15.2-623. Same; assistants.**

The director may have such deputies or assistants in the performance of his duties as the board allows.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-624. Same; obligations of chief assessing officer.**

The chief assessing officer shall be subject to the obligations and penalties imposed by general law upon commissioners of the revenue.

Code 1950, § 15-320; 1954, c. 46; 1956, c. 349; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-640; 1982, c. 647; 1991, c. 16; 1997, c. 587.

**§ 15.2-625. Department of public works.**

The county engineer, who shall be head of the department of public works, shall be responsible for the construction and maintenance of county roads and bridges, county stormwater systems within public rights-of-way and public easements and all other public works. He shall exercise the powers conferred and perform the duties imposed by general law upon the county engineer and in addition shall perform such other duties as the board imposes upon him.

Code 1950, § 15-321; 1962, c. 623, § 15.1-641; 1997, c. 587.

**§ 15.2-626. Department and board of social services.**

The director of social services, who shall be head of the department of social services, shall exercise the powers conferred and perform the duties imposed by general law upon the county board of social services, not inconsistent herewith. He shall also perform such other duties as the board of supervisors imposes upon him.

The county board of social services shall consist of six members; shall have all the powers, duties, and authority set out in Chapter 3 (§ 63.2-300 et seq.) of Title 63.2 of the Code of Virginia; and shall be appointed by the board of supervisors, which may fix, within the limits set forth in § 63.2-310, the compensation of the members of such board. At all times one member of the county board of social services shall also be a member of the board of supervisors. The board of social services may at any time be abolished by the board of supervisors.

Code 1950, § 15-322; 1962, c. 623, § 15.1-642; 1997, c. 587.

**§ 15.2-627. Department of education.**

The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law. Except for the initial elected board which shall consist of five members, the county school board shall be composed of not less than three nor more than nine members; however, there shall be at least one school board member elected from each of the county's magisterial or election districts. The members shall be elected by popular vote from election districts coterminous with the election districts for the board of county supervisors. The exact number of members shall be determined by the board of county supervisors. Elections of school board members shall be held to coincide with the elections of members of the board of county supervisors at the regular general election in November. The terms of office for the county school board members shall be the same as the terms of the members of the board of county supervisors and shall commence on January 1 following their election.

A vacancy in the office of school board member shall be filled pursuant to §§ 24.2-226 and 24.2-228.

In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506.

The county school board may also have a position of tie breaker for the purpose of casting the deciding vote in cases of tie votes of the school board as provided in § 22.1-75. The position of tie breaker, if any, shall be held by a qualified voter who is a resident of the county and who shall be elected in the same manner and for the same length of term as the members of the school board and at a general election at which members of the school board are elected. A vacancy in the position of tie breaker shall be filled pursuant to §§ 24.2-226 and 24.2-228.

The chairman of the county school board, for the purpose of appearing before the board of county supervisors, shall be considered head of this department, unless some other person in the department shall be designated by the school board for such purpose.

Code 1950, § 15-324; 1956, c. 153; 1962, c. 623, § 15.1-644; 1980, c. 559; 1981, c. 246; 1982, cc. 32, 75; 1995, c. 8; 1996, c. 873; 1997, c. 587; 2014, c. 772.

### § 15.2-628. Terms of school boards.

Notwithstanding the provisions of the preceding sections, in any county which hereafter adopts the county manager form of organization and government under this chapter, the members of the county school board then in office shall be appointed or reappointed, as the case may be, for terms of four years each, except that initial appointments hereunder may be for terms of one to four years, respectively, so as to provide staggered terms for such members.

1966, c. 624, § 15.1-644.1; 1980, c. 559; 1997, c. 587.

### § 15.2-629. Department and board of health.

The department of health shall consist of the county health director, who shall be appointed as provided in the applicable provisions of Article 5 (§ 32.1-30 et seq.) of Chapter 1 of Title 32.1 and who

shall be head thereof, and the other officers and employees of such department. The head of the department shall exercise the powers conferred and shall perform the duties imposed upon the local health director by general law, not inconsistent herewith. He shall also perform such other duties as may be imposed upon him by the board or, if the health department is operated under contract with the State Board of Health, as may be specified in such contract.

If the board appoints a local board of health as provided in § 32.1-32, it shall consist of two qualified citizens of the county, who shall serve without pay, and the county health director. Such board shall have power to adopt necessary rules and regulations, not in conflict with law, concerning the department. The board of health may at any time be abolished by the board of supervisors.

Code 1950, § 15-326; 1962, c. 623, § 15.1-646; 1966, c. 304; 1975, c. 575; 1979, c. 719; 1997, c. 587.

**§ 15.2-630. Department of assessments.**

The department of assessments, if and when established, shall be headed by a commissioner of the revenue or supervisor of assessments, who shall exercise the powers conferred and perform the duties imposed by § 15.2-619 upon the director of finance.

Code 1950, § 15-327; 1962, c. 623, § 15.1-647; 1997, c. 587.

**§ 15.2-631. Department of extension and continuing education.**

The department of extension and continuing education, if and when established, shall consist of the county extension agent, who shall be head of the department, a home economics agent, a 4-H youth agent and such other extension agents and employees as may be appointed or employed. The county extension agent and the other extension agents shall be selected from a list of eligibles submitted by the Virginia Polytechnic Institute and State University. They shall perform such duties as the board imposes upon them.

Code 1950, § 15-328; 1962, c. 623, § 15.1-648; 1997, c. 587.

**§ 15.2-632. Department of public safety.**

The department of public safety if and when established shall be under the supervision of a director of public safety appointed by the county manager. Such department shall consist of the following divisions:

1. Division of police, in charge of a chief of police and consisting of such other police officers and personnel as may be appointed, including an animal protection police officer who shall have all of the powers of an animal control officer conferred by general law and one or more deputy animal protection police officers to assist the animal protection police officer in the performance of his duties. In addition, the animal protection police officer and his deputies shall have all of the powers vested in law-enforcement officers as defined in § 9.1-101, provided they have met the minimum qualifications and have been certified under §§ 15.2-1705 and 15.2-1706.

2. Division of fire protection, in charge of a fire chief and consisting of such fire fighters, and other personnel as may be appointed.

Code 1950, § 15-328.1; 1956, c. 277; 1962, c. 623, § 15.1-649; 1977, c. 326; 1997, c. 587; 2010, c. 621.

**§ 15.2-633. Office of the county attorney.**

The board may create the office of county attorney. The county attorney shall be appointed by the county manager, and serve at a salary fixed by the board. He shall be accountable to the county manager.

No person shall be appointed a county attorney under the provisions of this section unless at the time of his appointment he has been admitted to practice before the Supreme Court of Virginia.

1964, c. 312, § 15.1-9.1; 1973, c. 287; 1977, c. 584; 1982, c. 30; 1997, c. 587.

**§ 15.2-634. Department of public utilities.**

The department of public utilities, if and when established, shall be under the supervision of a director of public utilities appointed by the county manager. The department shall be in charge of the construction, operation, maintenance and administration of public utilities, owned, operated and controlled by the county or any sanitary district of the county, including but not limited to water systems, sewer systems, sewage disposal systems, solid waste management, street lights and any other related functions not assigned to or administered by other departments. If the county has a division of fire and a fire chief under the provisions of § 15.2-633, then the division of fire shall not be under the department of public utilities.

Code 1950, § 15-328.2; 1956, c. 200; 1962, c. 623, § 15.1-650; 1997, c. 587.

**§ 15.2-634.1. Background checks required for certain employees.**

As a condition of employment, any county having the county manager form of government shall require any applicant who is offered or accepts employment, whether full-time or part-time, permanent or temporary or contractual, at such county's water treatment facility after September 1, 2001, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicants shall, if required by ordinance, pay the cost of fingerprinting or a criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the county manager or his designee, who must belong to a governmental entity. If an applicant is denied employment because of the information appearing in his criminal history record, the county shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2003, c. 202.

**§ 15.2-635. Selection or appointment of certain officers and heads of departments; filling vacancies.**

The clerk of the circuit court, the attorney for the Commonwealth and the sheriff shall be selected in the manner and for the terms, and vacancies in such office shall be filled, as provided by general law.

The clerk of the circuit court shall be clerk of the board of supervisors unless the board designates some other person for this purpose. The clerk of the board shall exercise the powers conferred and perform the duties imposed upon such officer by general law and shall be subject to the obligations and penalties imposed by general law. He shall also perform such other duties as the board imposes upon him.

The directors or heads of all other departments of the county shall be appointed by the county manager. The county manager may, with the board's consent, act as the director or head of one or more departments of the county, provided he is otherwise eligible to head such department or departments and, in the case of those officers whose appointments must be approved, his appointment is likewise approved.

In case of the absence or disability of any officer, other than the attorney for the Commonwealth, the clerk of the circuit court and the sheriff, which offices shall be filled as prescribed by general law, the county manager or other appointing power may designate some responsible person to perform the duties of the office.

Code 1950, § 15-329; 1962, c. 623, § 15.1-652; 1997, c. 587.

### § 15.2-636. Examination and audit of books and accounts.

The board shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is qualified by training and experience. An audit made by the Auditor of Public Accounts under the provisions of law may be considered as having satisfied the requirements of this paragraph.

Either the board or the manager may at any time order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal or expiration of the term of any county officer, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the manager and the board. In case of the death, resignation or removal of the director of finance, the board shall cause an audit to be made of his accounts. If as a result of any such audit, an officer is found indebted to the county, the board shall proceed forthwith to collect such indebtedness.

Code 1950, § 15-330; 1962, c. 623, § 15.1-653; 1997, c. 587.

### § 15.2-637. Schedule of compensation.

The board shall establish a schedule of compensation for officers and employees which shall provide uniform compensation for like service. The compensation prescribed shall be subject to such limitations as made by general law.

Code 1950, § 15-331; 1962, c. 623, § 15.1-654; 1997, c. 587.

**§ 15.2-638. Submission of annual financial plan by manager; notice and hearings thereon; adoption of budget.**

Each year at least two weeks before the board must prepare its proposed annual budget, the county manager shall prepare and submit to the board a budget presenting a financial plan for conducting the county's affairs for the ensuing year. Such budget shall be set up in the manner prescribed by general law. Hearings shall be held, notice given and the budget adopted in accordance with general law.

Code 1950, § 15-332; 1962, c. 623, § 15.1-655; 1997, c. 587.

**§ 15.2-639. Compensation; fee system abolished.**

All county officers and employees shall be paid regular compensation. The fee system as a method of compensation in the county shall be abolished, except for officers not affected by the adoption of this form of county organization and government. All such officers and employees shall, however, continue to collect all fees and charges provided for by general law, shall keep a record thereof, and shall promptly transmit all such fees and charges collected to the director of finance, who shall promptly receipt therefor. Such officers shall also keep such other records as are required by § 17.1-283. All fees and commissions which, but for the provisions of this section, would be paid to such officers by the Commonwealth for services rendered shall be paid to the county treasury.

The excess, if any, of the fees collected by each of the officers mentioned in § 17.1-283 or collected by anyone exercising the powers of and performing the duties of any such officer, over (i) the allowance to which such officer would be entitled by general law but for the provisions of this section and (ii) expenses in such amount as allowed by the Compensation Board, shall be paid, one third into the state treasury and the other two thirds to the county.

Any county officer or employee who fails or refuses to collect any fee which is collectible and should be collected under the provisions of this section, or who fails or refuses to pay any fee so collected to the county as herein provided, shall upon conviction be deemed guilty of a misdemeanor.

Code 1950, § 15-334; 1962, c. 623, § 15.1-657; 1997, c. 587.

**§ 15.2-640. Establishing times and conditions of employment, personnel management, etc.**

The county may establish and prescribe for all employees of the county the following provisions applicable to such employees:

1. Normal workdays and hours of employment therein;

2. Holidays;

3. Days of vacation allowed;

4. Days of sick leave allowed;

5. Other provisions concerning the hours and conditions of employment;

6. Plans of personnel management and control.

The county may establish, alter, amend or repeal at will any provision adopted under this section.

Code 1950, § 15-334.1; 1952, c. 246; 1962, c. 623, § 15.1-658; 1997, c. 587.

### § 15.2-641. Bonds of officers.

The county manager shall give bond in the amount of not less than $5,000. The director of finance shall give bond in accordance with general law. If the county manager also serves as director of finance, he shall give bond in the full amounts indicated above. The board shall have the power to fix bonds in excess of these amounts and to require bonds of other county officers in their discretion, conditioned on the faithful discharge of their duties and the proper account for all funds coming into their possession.

Code 1950, § 15-336; 1950, p. 107; 1962, c. 623, § 15.1-660; 1997, c. 587.

### § 15.2-642. Officers not affected by adoption of plan.

The following officers shall not, except as herein otherwise provided, be affected by the adoption of the county manager form:

1. Jury commissioners;

2. County electoral boards;

3. Registrars;

4. Judges and clerks of elections; and

5. Magistrates.

Code 1950, § 15-338; 1950, p. 974; 1952, c. 37; 1962, cc. 596, 623, § 15.1-662; 1973, c. 545; 1997, c. 587.

## Chapter 7 - COUNTY MANAGER PLAN OF GOVERNMENT

## Article 1 - ADOPTION OF COUNTY MANAGER PLAN

### § 15.2-700. Title of plan; applicability of chapter.

The form of county organization and government provided for in this chapter shall be known and designated as the county manager plan. The provisions of this chapter shall apply only to counties which have adopted the county manager plan.

1997, c. 587.

### § 15.2-701. Adoption of county manager plan.

Any county with a population density of at least 500 persons per square mile may adopt the county manager plan of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.).

1997, c. 587.

## Article 2 - GENERAL POWERS; COUNTY MANAGER PLAN

### § 15.2-702. County board; membership, terms, chairman, etc.

Under the county manager plan all of the legislative powers of the county, however conferred or possessed by it, shall be vested in a board of five members to be known as the county board ("the board"). The members of the board shall be elected in the manner hereinafter provided for terms of four years. The board shall elect one of its members as chairman, who shall preside over its meetings. The chairman shall be elected by the board annually and any vacancy in the office shall be filled by the board for the unexpired term. The chairman has the same powers and duties as other members of the board with a vote but no veto and is the official head of the county. With the exception of those officers whose election is provided for by popular vote in Article VII, Section 4 of the Constitution of Virginia, board members shall be the only elective county officials. The board shall be a body corporate and as such has the right to sue and be sued in the same manner as is now provided by law for boards of supervisors.

Code 1950, § 15-350; 1962, c. 623, § 15.1-674; 1971, Ex. Sess., c. 1; 1997, c. 587.

**§ 15.2-702.1. Repealed.**

Repealed by Acts 2006, c. 126, cl. 2.

**§ 15.2-703. Interference by members of board in appointments and removals of personnel.**

Neither the board nor any of its members shall in any manner dictate the appointment or removal of any county administrative officers or employees who are appointed by the manager or any of his subordinates. However, the board may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees. Except for the purposes of inquiry and investigation, the board and its members shall deal with county officers and employees who are subject to the direction and supervision of the manager solely through the county manager, and neither the board nor any member thereof shall give orders either publicly or privately to any such county officer or employee.

Code 1950, § 15-350.1; 1952, c. 443; 1962, c. 623, § 15.1-675; 1982, c. 108; 1997, c. 587.

**§ 15.2-704. Appointment of clerk of board; powers and duties; obligations and penalties.**

The clerk of the board shall be such qualified person as the board designates. He shall be compensated in an amount set by the board and may employ such deputies and assistants as the board authorizes. He shall exercise the powers conferred and perform the duties imposed upon such officers by general law and shall be subject to the obligations and penalties imposed by general law. He shall also perform such other duties as the board imposes upon him.

Code 1950, § 15-350.2; 1962, c. 19, § 15.1-675.1; 1982, c. 108; 1997, c. 587.

**§ 15.2-705. Election of members of board; filling vacancies.**

A. In any county operating as of December 1, 1993, under the county manager plan provided for in this chapter, the members of the board shall be elected and vacancies on the board shall be filled as provided in this section. The members of the board shall be elected from the county at large.

B. Two board members shall be elected at the November 1995 election to succeed the members whose terms are expiring, and one member each shall be elected at the 1994, 1996, and 1997

November elections to succeed the members whose terms respectively are expiring. Thereafter at each regular November election one or more board members shall be elected to succeed the members whose terms expire on or before January 1 next succeeding such election. The members so elected shall be elected for terms of four years each, shall take office on January 1 next succeeding their election, and shall hold office until their successors are elected and qualify. The board may provide, by ordinance, for the nomination or election of candidates by instant runoff voting pursuant to § 15.2-705.1.

C. Notwithstanding the provisions of § 24.2-226, when any vacancy occurs in the membership of the board, the judge of the circuit court of the county shall call a special election for the remainder of the unexpired term to be held not less than 60 days and not more than 80 days thereafter, and the local electoral board shall determine and announce within three business days after such call the candidate filing deadline for that special election. However, if any vacancy occurs within 180 days before the expiration of a term of office, the vacancy shall be filled by appointment by a majority vote of the remaining members of the board within 30 days of the occurrence of the vacancy after holding a public hearing on the appointment. The appointment shall be for the duration of the unexpired term.

Code 1950, § 15-351; 1952, c. 591; 1954, c. 151; 1958, c. 207; 1962, c. 623, § 15.1-676; 1975, cc. 517, 636; 1993, c. 731; 1997, c. 587; 1998, cc. 345, 369; 2014, c. 573; 2020, c. 713.

**§ 15.2-705.1. Instant runoff voting.**

A. For purposes of this section:

"Instant runoff voting" means a method of casting and tabulating votes in which (i) voters rank candidates in order of preference, (ii) tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated, (iii) votes for voters' next-ranked candidates are transferred from elected or defeated candidates, and (iv) tabulation ends when the number of candidates elected equals the number of offices to be filled. "Instant runoff voting" is also known as "ranked choice voting."

"Ranking" means the ordinal number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number two is the next-highest ranking, and so on, consecutively, up to the number of candidates indicated on the ballot.

B. Elections to nominate candidates for and to elect members to the board of supervisors in a county operating under the county manager plan may be conducted by instant runoff voting pursuant to this section.

C. The State Board may promulgate regulations for the proper and efficient administration of elections determined by instant runoff voting, including (i) procedures for tabulating votes in rounds, (ii) procedures for determining winners in elections for offices to which only one candidate is being elected and for offices to which more than one candidate is being elected, and (iii) standards for ballots pursuant to § 24.2-613, notwithstanding the provisions of subsection E of that section.

D. The State Board may administer or prescribe standards for a voter outreach and public information program for use by any locality conducting instant runoff voting pursuant to this section.

2020, c. 713.

**§ 15.2-706. Duties of county manager; compensation; appointment of officers and employees.**
The administrative and executive powers of the county, including the power of appointment of all officers and employees whose appointment or election is not otherwise provided by law, are vested in the county manager, who shall be appointed by the board at its first meeting or as soon thereafter as practicable. The county manager need not be a resident of the county or of the Commonwealth. He shall receive such compensation as shall be fixed by the board. The officers whose election by popular vote is provided for in Article VII, Section 4 of the Constitution of Virginia, the school board and the superintendent of schools shall not be subject to appointment but shall be selected in the manner prescribed by law. The heads of all departments other than those hereinbefore referred to and excepted from the provisions of this section shall be selected by the county board. However, if a majority of the qualified voters voting in the election required by § 15.2-716 vote in favor thereof, then the heads of the several county departments, other than those hereinbefore referred to and excepted from the provisions of this section shall be appointed by the county manager.

Code 1950, § 15-352; 1952, c. 198; 1962, c. 623, § 15.1-677; 1971, Ex. Sess., c. 1; 1997, c. 587.

**§ 15.2-707. Bonds of county officers and employees.**
The county officers shall give such bonds as are now required by general law, except that the bond of the treasurer shall be in such penalty as the court or judge requires, but not less than fifteen percent of the amount to be received annually by him. In addition, the board may fix and require bonds in excess of the amounts so required, and may require bonds of other county officers and employees in the board's discretion, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession.

Code 1950, § 15-352.1; 1962, c. 623, § 15.1-678; 1997, c. 587.

**§ 15.2-708. Term of office of county manager; salary and performance of duties; acting manager in case of temporary absence or disability; removal or suspension.**
The term of office of the county manager shall expire on June 30 of each year. Except as hereinafter provided, he shall be notified at least sixty days before the expiration of his term if his services are not desired for the ensuing twelve-month period. He shall receive such annual salary as the board may prescribe payable from county funds. He shall devote his full time to the performance of the duties imposed on him by law, and the performance of such other duties as the board directs.

To perform his duties during his temporary absence or disability the manager may designate by letter filed with the clerk of the board a qualified administrative officer of the county to be acting manager. If the manager fails to make such designation, the board may, by resolution, appoint an officer of the county to perform the duties of the manager until he returns or his disability ceases.

The board may at any time remove the county manager for neglect of duty, malfeasance or misfeasance in office, or incompetency. If a majority of the qualified voters voting in the election required by § 15.2-301 vote in favor thereof, the county manager shall be appointed for an indefinite period and be subject to removal by the county board at any time, any other provision of law to the contrary notwithstanding. If the board determines to remove the county manager, he shall be given, if he so requests, a written statement of the reasons alleged for the proposed removal and the right of a hearing thereon at a public meeting of the board prior to the date on which his final removal takes effect. Pending and during such hearing the board may suspend him from office, provided that the period of suspension be limited to thirty days. The action of the board in suspending or removing the county manager shall not be subject to review.

Code 1950, § 15-352.2; 1952, c. 198; 1962, c. 623, § 15.1-679; 1997, c. 587; 1999, c. 136.

**§ 15.2-709. Investigation of county officers or employees.**

The board may inquire into the official conduct of any office, officer or employee under its control, and investigate the accounts, receipts, disbursements and expenses of any such office, officer or employee. For these purposes it may subpoena county employees as witnesses, administer oaths and require the production of books, papers and other evidence in their control. If any such witness fails or refuses to obey any such lawful board order, he shall be deemed guilty of a misdemeanor.

Code 1950, § 15-352.4; 1952, c. 162; 1962, c. 623, § 15.1-681; 1997, c. 587.

**§ 15.2-709.1. Applicant preemployment information in Arlington County.**

Arlington County, having a local ordinance adopted in accordance with § 19.2-389, shall require applicants for employment with the county to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicants shall, if required by ordinance, pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the county manager or his designee, who must belong to a governmental entity. In determining whether a criminal conviction directly relates to a position, the locality shall consider the following criteria: (i) the nature and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the position applied for; (iii) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved; (iv) the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

If an applicant is denied employment because of information appearing in his criminal history record, the county shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2002, cc. 670, 730; 2003, c. 739.

**§ 15.2-709.2. County auditor.**

The board may appoint a county auditor for the audit and review of county agencies and county-funded functions. The county auditor shall have the power to make performance reviews of operations of county agencies or county-funded programs to ascertain that sums appropriated are expended for the purposes for which such appropriations were made and to evaluate the effectiveness of those agencies and programs. The county auditor shall make such special studies and reports as the board directs.

The board may provide staff assistance to the county auditor that may be independent of the administrative staff of the county. The county auditor and any such staff shall be hired on the basis of merit and shall be paid in conformity with existing pay scales. The county auditor shall serve at the pleasure of the board, and if removed, such removal shall not be subject to review by any other employee, agency, board, or commission of the county or under the grievance procedure adopted pursuant to § 15.2-1506.

2015, c. 282.

**§ 15.2-710. Budget; county manager to be executive and administrative officer; financial condition of county.**

In addition to such other duties as are or may be prescribed by law or directed by the board, the county manager shall each year on or before April 15 prepare and submit to the board a tentative budget for informative and fiscal planning purposes. The budget shall be prepared in accordance with the provisions of law in effect governing the preparation of the county budget and shall show in detail the recommendations of the county manager for expenditures on each road and bridge or for other purposes.

The county manager shall be the executive and administrative officer of the county in all matters relating to the public roads and bridges of the county, and other public work and business in the county, except public schools. He shall have general supervision and charge of construction and maintenance of the public roads, bridges and landings of the county, and of public work and business of the county, except public schools, and of the purchase of supplies, equipment and materials for the roads, bridges and landings and other public work and business of the county, and the employment of all superintendents, foremen and labor therefor. However, the board may, by ordinance, prescribe rules and regulations for the purchase of all supplies, equipment and materials for the roads, bridges and landings and other public work and business of the county.

The county manager shall keep the board advised as to the county's financial condition, and shall periodically, and upon board request, provide a report to the board on the status of expenditures and revenues for the current fiscal year. On or before October 31 of each year, he shall provide a report to the board at a regular board meeting on expenses and revenue for the preceding year, ending June 30.

Code 1950, § 15-353; 1952, c. 198; 1954, c. 102; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-682; 1997, c. 587; 2004, cc. 22, 510.

**§ 15.2-711. Certification and payment of payrolls.**

The board by resolution may require the county manager to certify to the treasurer the payroll of the regular employees of the county for the successive payroll periods, and vouchers for the payment of bills for materials and supplies which have been received and for which discounts are allowed. Upon receipt thereof the treasurer shall pay the same as if they had been approved by the board. No payment shall be made hereunder when at any meeting of the county board a resolution opposing such method of payment has been adopted.

Code 1950, § 15-353.1; 1952, c. 610; 1962, c. 623, § 15.1-683; 1976, c. 175; 1982, c. 108; 1997, c. 587.

**§ 15.2-712. Certification and payment of certain vouchers.**

The board may by resolution authorize the county manager to sign and issue an order or authorization to the treasurer for payment of vouchers for materials, supplies and services which have been received and the treasurer shall pay the same. The provisions of § 15.2-711 shall apply to actions hereunder.

Code 1950, § 15-353.2; 1954, c. 124; 1962, c. 623, § 15.1-684; 1976, c. 175; 1997, c. 587.

**§ 15.2-713. Means of transferring funds.**

The treasurer or his duly authorized deputies may transfer public funds from one depository to another by wire. Such officers may also draw any of the county's money by check, by an electronic fund wire or payment system, or by any means deemed appropriate and sound by the county treasurer and approved by the governing body, drawn upon a warrant issued by the governing body. If any money is knowingly paid otherwise than upon the county treasurer's check, electronic fund wire or payment system or by alternative means specifically approved by the county treasurer and the governing body, drawn upon such warrant, the payment shall be invalid against the county.

1978, c. 460, § 15.1-684.1; 1986, c. 293; 1997, c. 587.

**§ 15.2-714. Depository for county funds.**

The board may designate one or more banks or trust companies as collecting or receiving agencies for county funds, which funds shall be deposited to the county's credit and be subject to the control of the county treasurer.

1978, c. 460, § 15.1-684.2; 1997, c. 587.

**§ 15.2-715. Abolition of offices and distribution of duties.**

The board, by a majority vote of all the members elected, may abolish any board, commission, or office of such county except the school board and school superintendent, and the officers elected by popular vote provided for in Article VII, Section 4 of the Constitution of Virginia, and may delegate and distribute the duties, authority and powers of the boards, commissions, or offices abolished to the county manager or to any other officer of the county it may think proper. If any such board, commission, or office is abolished, those to whom the duties thereof are delegated or distributed shall discharge the duties and exercise the powers and authorities of the abolished entity. Both they and the county for which they were appointed, or by whom they were employed, shall enjoy the immunities and exemptions from liability or otherwise that were enjoyed by the abolished boards, commissions, or offices, prior to the adoption of the county manager plan of government, except insofar as such duties, powers, authority, immunities and exemptions have been or hereafter may be changed according to law.

Code 1950, § 15-354; 1962, c. 623, § 15.1-685; 1971, Ex. Sess., c. 1; 1997, c. 587; 2005, c. 839.

**§ 15.2-716. Referendum for establishment of department of real estate assessments; board of equalization; general reassessments in county where department established.**

A referendum may be initiated by a petition signed by 200 or more qualified voters of the county filed with the circuit court, asking that a referendum be held on the question of whether the county shall have a department of real estate assessments. The court shall on or before August 1 enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such order. If the petition seeks the holding of a special election on the question, then the petition hereinabove referred to shall be signed by 1,000 or more qualified voters of the county and the court shall within fifteen days of the date such petition is filed enter an order, in accordance with § 24.2-684, requiring the election officials to open the polls on a date fixed in the order and take the sense of the qualified voters of the county. The clerk of the county shall cause a notice of such election to be published in a newspaper having general circulation in the county once a week for three successive weeks, and shall post a copy of such notice at the door of the county courthouse.

If a majority of the voters voting in the referendum vote for the establishment of a department of real estate assessments, the board shall by ordinance establish such department, provide for the compensation of the department head and employees therein, and decide such other matters in relation to the powers and duties of the department, the department head and the employees, as the board deems proper. As used in this section the term "department" refers to the department of real estate assessments and where proper the department head thereof.

Upon the establishment of the department, the county manager shall select the head thereof and provide for such employees and assistants as required. Such department shall be vested with the powers and duties conferred or imposed upon commissioners of the revenue by general law to the extent that such duties and powers are consistent with this section, in relation to the assessment of real estate. All real estate shall be assessed at its fair market value as of January 1 of each year by the

department and taxes for each year on such real estate shall be entered on the land book by the department in the name of the owner thereof. Whenever any such assessment is increased over the last assessment made prior to such year, the department shall give written notice to the owner of such real estate or of any interest therein, by mailing such notice to the last known post-office address of such owner. However, the validity of such assessment shall not be affected by any failure to receive such notice.

If a department of real estate assessments is appointed as above provided, a board of equalization of real estate assessments shall be appointed pursuant to § 15.2-716.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided.

When a department of real estate assessments is appointed, the county shall not be required to undertake general reassessments of real estate every six years, but the governing body of the county may, but shall not be required to, request the circuit court of such county to order a general reassessment at such times as the governing body deems proper. Such court shall then enter an order directing a reassessment of real estate in the manner provided by law.

The department of real estate assessments may require that the owners of income-producing real estate in the county subject to local taxation, except property producing income solely from the rental of no more than four dwelling units, furnish to the department on or before a time specified by the director of the department statements of the income and expenses attributable over a specified period of time to each such parcel of real estate. If there is a willful failure to furnish statements of income and expenses in a timely manner to the director, the owner of such parcel of real estate shall be deemed to have waived his right in any proceeding contesting the assessment to utilize such income and expenses as evidence of fair market value. Each such statement shall be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this section shall be kept confidential as required by § 58.1-3.

Code 1950, § 15-354.1; 1952, c. 611; 1962, c. 623, § 15.1-686; 1973, c. 274; 1975, c. 517; 1978, c. 460; 1979, c. 158; 1983, c. 364; 1997, c. 587; 2010, cc. 154, 199; 2017, c. 435.

**§ 15.2-716.1. Board of Equalization.**

A. The membership of the board of equalization of real estate assessments shall be composed of an odd number of not less than three nor more than 11 members, as determined by the governing body of the county. The circuit court of the county shall appoint a number of members equal to the lowest number that constitutes a majority of members, and the governing body shall appoint the remainder. In making appointments, the circuit court shall consider recommendations from interested entities, including but not limited to the chamber of commerce for the county, and from other representatives of the business community. After the initial appointments, vacancies on the board shall be filled by the appointing authority that appointed the person vacating the position.

The governing body may provide for terms varying in duration not to exceed four years. Such equalization board shall have the powers and duties provided by, and be subject to, the provisions of Article 14 (§ 58.1-3370 et seq.) of Chapter 32 of Title 58.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided. The provisions of this section shall not, however, apply to any real estate assessable under the law by the State Corporation Commission.

B. The board of equalization may sit in panels of at least three members each under the following terms and conditions:

1. The presence of all members of the panel shall be necessary to constitute a quorum.

2. The chairman of the board of equalization shall assign the members to panels and, insofar as practicable, rotate the membership of the panels.

3. The chairman of the board of equalization shall preside over any panel of which he is a member and shall designate the presiding member of the other panels.

4. Each panel shall perform its duties independently of the others.

5. The board of equalization shall sit en banc (i) when there is a dissent in the panel to which the matter was originally assigned and an aggrieved party requests an en banc hearing or (ii) upon its own motion at any time, in any matter in which a majority of the board of equalization determines it is appropriate to do so. The board of equalization sitting en banc shall consider and decide the matter and may affirm, reverse, overrule or modify any previous decision by any panel.

2010, cc. 154, 199; 2017, c. 435.

**§ 15.2-717. Time in which to contest real property assessments.**

Any person aggrieved by an assessment of real estate made by the department of real estate assessments may apply for relief to the circuit court of the county within one year from December 31 of the year in which such assessment is made for assessments made prior to January 1, 2005; within two years from December 31 of the year in which such assessment is made for assessments made on and after January 1, 2005, but prior to January 1, 2007; and within the time frame as provided by general law pursuant to § 58.1-3984 for assessments made on and after January 1, 2007. No person may make such application for a year other than the current year unless such person has provided to the assessor, commissioner of the revenue, or the governing body, written notice of disagreement with the assessment, during the applicable tax year. The application shall be before the court when it is filed in the clerk's office. In such proceeding the burden of proof shall be on the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has taken place. The proceedings shall be conducted as an action at law before the court, sitting without a jury, and the court shall act with the authority granted by §§ 58.1-3987 and 58.1-3988.

1991, c. 143, § 15.1-686.01; 1997, c. 587; 2003, c. 1036.

### § 15.2-718. Postponement of payment of certain assessments.

The board may provide for the postponement of the payment of assessments made pursuant to the provisions of Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of this title by any property owner at the election of the property owner. Full payment of the assessment plus accrued interest shall become due and payable at the time of the death of the owner or the last surviving joint owner who made such an election or at the time the property or any divided part is sold, devised, subdivided, or transferred in any way. The board may impose interest on the unpaid balance of such assessments at a rate not to exceed the judgment rate, but at a rate which may be different from that imposed on property owners making installment payments under § 15.2-2413.

1988, c. 532, § 15.1-686.5; 1997, c. 587.

### § 15.2-719. Immobilization, etc., of certain vehicles.

The board may by ordinance place reasonable limits on the removal or immobilization of trespassing vehicles.

1988, c. 532, § 15.1-686.6; 1997, c. 587.

### § 15.2-720. Employee salary reduction agreements.

In connection with some or all of its employee benefit programs, the board is authorized to enter into voluntary salary reduction agreements with its officers and employees when such agreements are authorized under the laws of the United States relating to federal income taxes. Any such voluntary salary reduction agreements entered into prior to July 1, 1988, are hereby validated.

1988, c. 532, § 15.1-686.7; 1997, c. 587.

### § 15.2-720.1. Employee benefits; residence in county.

Notwithstanding any other provision of law, the county board, in order to ensure its competitiveness as an employer, may by ordinance provide for the use of funds, other than state funds, to provide grants for county and school board employees, as well as employees of local constitutional officers, to purchase or rent residences, for use as the employee's principal residence, within the county.

2002, c. 330; 2004, cc. 22, 510.

### § 15.2-721. Civil service commission.

The board, in addition to any other powers granted by general or special law may appoint a civil service commission ("the commission"), to be composed of five persons who shall receive such compensation as the board prescribes. The initial terms of office of commission members shall be staggered so that the terms of no more than two commissioners expire at one time. At the expiration of the term of each such member, his successor shall be appointed for a term of four years.

The commission, subject to the control of the board, shall establish and operate a classified civil service system for any or all classes of county employees, as designated by the board, which system shall provide for appointment, promotion, demotion, transfer, suspension, reinstatement, retirement and discharge of such employees. To this end it may establish a personnel administration and

promulgate rules and regulations for the furtherance of the matters herein set out. The commission may appoint such employees and staff as it deems necessary subject to prior authorization of the board.

Notwithstanding any other provision of law, the commission may establish its own rules, regulations, or procedures to govern the conduct of hearings before the commission, including whether to permit rehearings.

Code 1950, § 15-355; 1962, c. 623, § 15.1-687; 1964, c. 64; 1978, c. 460; 1980, c. 79; 1989, c. 622; 1997, c. 587.

### § 15.2-722. Personnel studies.

Notwithstanding any other provision of law to the contrary, any questionnaires, audit or interview notes, scoring keys, scoring sheets or similar documents pertaining to a classification and compensation study for county employees shall not be considered to be public or official records, except that any employee may inspect and copy any document which the employee has signed or filled out.

1989, c. 622, § 15.1-687.01; 1997, c. 587.

### § 15.2-723. Grievances by police officers.

In any county for which a trial board for police officers is provided by state statute, police officers may elect the remedy provided by Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 in lieu of appealing to the trial board, but such election shall bar the right of appeal to the trial board or the right to employ any other grievance procedure with regard to the matters for which the provisions of such chapter are involved.

1980, c. 79, § 15.1-687.1; 1997, c. 587.

### § 15.2-724. Choice of powers where sanitary district involved.

Any county which has a sanitary district which includes the entire county, may exercise all of the powers granted to the sanitary district in the name of the county or in the name of the sanitary district, or both. If the board elects to exercise any of the powers of the sanitary district, it may expend funds from unrestricted county revenue sources, or from bonds issued pursuant to the Public Finance Act (Chapter 25 (§ 15.2-2500 et seq.) of this title), or from restricted use funds, as appropriate to exercise the powers granted the sanitary district.

1980, c. 79, § 15.1-687.2; 1997, c. 587.

### § 15.2-725. Commission on human rights; subpoena requests.

A. The board may, by ordinance, establish a local commission on human rights which shall have the following duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;

2. To serve as an agency for receiving, investigating and assisting in the resolution of complaints from citizens of the county regarding discriminatory practices and, with the board's approval, to seek, through appropriate enforcement authorities, prevention of or relief from such practices.

B. The board may by ordinance provide that whenever the commission has reasonable cause to believe that any person has engaged in or is engaging in a violation of an authorized local human rights ordinance, and after making a good faith effort to obtain, voluntarily, the attendance of witnesses necessary to determine whether such violation occurred, the commission is unable to obtain such attendance, it may request the county attorney, with the approval of the board, to apply to the judge of the circuit court for the locality in which the witness resides or is doing business for a subpoena against such person refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. Such ordinance shall provide that any witness subpoena so issued shall include a statement that any statements made will be under oath and the witness is entitled to be represented by an attorney. Such ordinance shall further provide that any person failing to comply with such subpoena so issued shall be subject to punishment for contempt by the court issuing the subpoena, and that any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

C. Notwithstanding the provisions of subsection A, whenever a county has adopted an ordinance prohibiting discrimination as authorized by this section, such county may also in its ordinance prohibit discrimination in commercial real estate transactions.

1982, c. 108, § 15.1-687.3; 1991, c. 143, § 15.1-687.20; 1996, c. 877, § 15.1-687.24; 1997, c. 587.

**§ 15.2-726. Acquisition of easements.**

A. The board is hereby authorized, without limiting its authority to acquire by other means, to acquire by gift or purchase easements in gross or such other interest in real estate as are designed to maintain (i) the character and use of improved real property as rental property and not in a cooperative or condominium form of ownership or (ii) the market rents of a portion of the units in any multi-family residential property at a percentage of the market rent for the remaining units in the multi-family residential property, such percentages to be defined and stated in the easement; however, no property or interest therein shall be acquired by eminent domain by any public body for the purposes of provision (ii). However, this provision shall not limit the power of eminent domain as it was possessed by any public body prior to passage of provision (ii). Any such interest shall be for the minimum period specified by the county board and may be perpetual.

B. The county manager is hereby authorized to acquire, on behalf of the board, temporary construction easements, provided that such easements are (i) required for a construction project authorized by the board; (ii) of a duration that will end before or upon the completion of the project; and (iii) for nominal consideration.

1983, c. 364, § 15.1-687.4; 1991, c. 143; 1997, c. 587; 2004, cc. 22, 510.

**§ 15.2-727. Payment of certain assessments.**

The board may provide that the persons, firms or corporations against whom assessments have finally been made under Article 2 (§ 15.2-2404 et seq.) of Chapter 23 of this title may pay such assessments in equal installments over a period not exceeding ten years together with interest at a rate not to

exceed ten percent per year on the unpaid balance. Such installments may become due at the same time that real estate taxes become due and payable and the amount of each installment, including principal and interest, shall be shown on the tax ticket mailed to each such person, firm or corporation by the treasurer.

1983, c. 364, § 15.1-687.5; 1997, c. 587.

**§ 15.2-728. Title insurance for county real estate.**

Notwithstanding any other provision of law, whenever any county purchases real estate for which the consideration paid exceeds $1,000, the county, in lieu of having the title examined and approved by an attorney-at-law, may purchase an insurance policy which insures the county's interest in the title to the property from a company which is authorized to issue such policies in the Commonwealth. Evidence of such insurance shall be filed with the clerk for the circuit court of the county along with the recorded deed or other papers by which the title is conveyed.

1983, c. 364, § 15.1-687.6; 1997, c. 587.

**§ 15.2-729. Relocation assistance programs.**

The board shall provide by local ordinance for the application of Chapter 4 (§ 25.1-400 et seq.) of Title 25.1 to displaced persons as defined in § 25.1-400, in cases of acquisition of real property for use in projects or programs in which only local funds are used.

1983, c. 364, § 15.1-687.7; 1997, c. 587; 2000, c. 851; 2003, c. 940.

**§ 15.2-730. Civil penalties for violations of zoning ordinance.**

Notwithstanding subdivision A 5 of § 15.2-2286, a county may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinances regulating the storage of junk and the repair of motor vehicles. Such schedule of offenses shall not include any zoning violation resulting in injury to any person, and the existence of a civil penalty shall not preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or action by the governing body under § 15.2-2208.

This schedule of civil penalties may allow for progressively higher penalties for subsequent offenses whether or not the subsequent offenses arise from the same set of operative facts; however, the penalty for any one violation shall be a fine of not more than fifty dollars. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $250. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the treasurer of the county prior to the date fixed for trial in court. Any person so appearing may

enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for in Title 8.01. In any trial for a scheduled violation authorized by this section, it shall be the burden of the county to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties: (i) for enforcement of the Uniform Statewide Building Code; (ii) for activities related to land development or activities related to the construction or repair of buildings and other structures; or (iii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.

1985, c. 415, § 15.1-687.8; 1992, c. 298; 1997, c. 587.

**§ 15.2-731. Retirement benefits for part-time employees.**

The board may by resolution elect to have those of its officers and employees who are regularly employed part-time on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, become eligible to participate in the county retirement systems as provided by local ordinance.

1985, c. 415, § 15.1-687.9; 1997, c. 587.

**§ 15.2-732. Peddlers; itinerant merchants.**

A county may provide by ordinance for the regulation of sales of goods and services by peddlers or itinerant merchants on any public street or sidewalk.

1986, c. 179, § 15.1-687.10; 1997, c. 587.

**§ 15.2-733. Summons for violations of litter control ordinances.**

The board may adopt by ordinance procedures and a schedule of penalties so that the county manager or his designee may issue notices of violation for litter control ordinances. Before any summons is issued for the prosecution of a violation, the violator shall be notified by mail at his last known address that he may pay the fine, established by county ordinance, within five days of receipt of such notice to the county treasurer, and that the officer issuing the summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed on the face thereof in type at least one-half inch in height. The county manager may delegate the notification responsibility and the authority to make and enforce rules and regulations to the appropriate administrative official or employees.

1986, c. 293, § 15.1-687.11; 1997, c. 587.

**§ 15.2-734. Purchase, sale, exchange, or lease of real property.**

The board may (i) sell, at public or private sale, or exchange, lease (as lessor or lessee), mortgage, pledge, subordinate its interest in, or otherwise dispose of the real property, which includes the superjacent airspace, except airspace provided for in § 15.2-2030, which may be subdivided and conveyed separate from the subjacent land surface, of the county; and (ii) purchase any real estate as may be necessary for the erection of all necessary county buildings. However, no such land shall be disposed of unless and until the governing body has held a public hearing concerning such disposal.

The board may acquire by purchase, gift, devise, bequest, grant, lease, or otherwise title to, or any interests or rights of less than fee-simple title in, any real property within its jurisdiction, for any public purposes.

The initial term of any lease shall not exceed seventy-five years, provided such lease term is not prohibited by the Constitution of Virginia. The terms and provisions of any lease shall be prescribed by the county board, provided that any lease shall have a clause to the effect that at the termination of such lease it shall not be renewed if required for any of the purposes mentioned in § 15.2-1639, and that upon termination, all improvements thereon shall revert to the county and the real property including all improvements erected thereon shall revert to the county and shall be free from any encumbrance at the time of such reversion. Such real property including all improvements situated thereon may be mortgaged or pledged by the lessee for the term of its lease. If a lease allows a lessee to mortgage or pledge the property, it may also provide that the board has the right to take all action necessary to cure the default if the lessee defaults.

The board may lease real property to private entities under terms which allow the private entities to build office and commercial buildings on the property and to use the office and commercial space itself or lease it to others. The leases by the board to private entities may provide that the rent to be paid the board is to be based in total or in part on a percentage of the profit the private entity gains from the operation of the development on the leased real property; however, the board may not participate in the management or operation of the private commercial activity on the site except during such reasonable period as it is necessary for the board to operate the property in order to protect its interest in the property if the developer defaults on the lease or on a mortgage or pledge of the property. As soon as reasonably possible the county shall provide for management and operation of the property by a private developer.

The board may lease space in the improvements constructed on the land which it leases to the private entities for use by the county government and county constitutional officers, if it pays fair market rent for the use of the space and if the lease of its land is not conditioned on the lease of such space. The lease of such space by the board may be for any terms of years not prohibited by the Virginia Constitution.

This section shall not be construed to in any way affect the requirements of §§ 15.2-1638, 15.2-1643 or § 16.1-69.50.

1986, c. 595, § 15.1-687.12; 1997, c. 587.

## § 15.2-735. Local housing fund and voluntary coordinated housing preservation and development districts.

The board may establish by resolution a housing fund, the purpose of which will be to assist for-profit or nonprofit housing developers or organizations to develop or preserve affordable housing for low and moderate income persons. The fund may be used to assist the developer or organization with such items as acquisition of land and buildings, lighting, sanitary and storm sewers, landscaping, walkways, construction of parking facilities, water-sewer hookup fees, and site improvements, including sidewalks, curbs, and gutters but not street improvements. Developers assisted in this manner shall provide a minimum of twenty percent of the units for low and moderate income persons as defined by the county for a minimum of ten years.

The board may declare by resolution that a portion of the county is eligible for use of the housing fund by designation of a voluntary coordinated housing preservation and development district. Such resolution shall contain a statement that (i) there exists within the county a serious shortage of sanitary and safe residential housing at rentals and prices which persons and families of low and moderate income can afford, and that this shortage has contributed and will contribute to the creation of substandard living conditions and is inimical to the health, welfare and prosperity of the residents of the county; (ii) it is imperative that the supply of rental and other housing for such persons and families be preserved or developed; and (iii) private enterprise is unable, without assistance, to produce the needed development or rehabilitation of sanitary and safe housing which persons or families of low and moderate income can afford.

The resolution shall include a statement that the owner of such rental property, or persons showing evidence of site control by a legally binding agreement, have requested the county to designate the site a voluntary coordinated housing preservation and development district.

The resolution shall also provide a plan for the district which outlines actions to be taken by the owner and by the county to assure that physical improvements to the structures, site and infrastructure are designed to improve the neighborhood, enhance the useful life of the buildings and promote energy conservation. Such plan shall further specify the actions to be taken by the owner and by the county (i) to minimize the displacement of persons or families of low and moderate income residing in the property; (ii) to reserve some units at rents and prices affordable to persons or families of low and moderate income; and (iii) otherwise to serve public purposes.

Upon declaration of an approved district, the county may:

1. Provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, and other site improvements essential to the development, preservation or rehabilitation planned;

2. Provide encouragement or financial assistance to the owners or occupants for acquisition of land and buildings, developing or preserving and upgrading residential buildings and for improving health

and safety, conserving energy, preventing erosion, enhancing the neighborhood, and reducing the displacement of low and moderate income residents of the property;

3. Require that the owner agree to maintain a portion of the property in residential rental or other residential use for a period of not less than ten years and that a portion of the dwelling units in the property be offered at rents and prices affordable to persons or families of low and moderate income; and

4. Provide that the value of assistance given by the county under subdivisions 1 and 2 above be proportionate to the value of considerations rendered by the owner in maintaining a portion of the dwelling units at reduced rents and prices for persons or families of low and moderate income.

1987, c. 29, § 15.1-687.13; 1992, c. 335; 1997, c. 587.

**§ 15.2-735.1. Affordable dwelling unit ordinance; permitting certain densities in the comprehensive plan.**

A. In a county that provides in its comprehensive plan for the physical development within the county, adopted pursuant to § 15.2-2223, for densities of development ranging between a floor area ratio (FAR) of 1.0 FAR and 10.0 FAR, or greater, the governing body may adopt as part of its zoning ordinance requirements for the provision of (i) on-site or off-site "Affordable Dwelling Units," as defined herein, or (ii) a cash contribution to the county's affordable housing fund, in lieu of such units, in such amounts as set out herein, as a condition of the governing body's approval of a special exception application for residential, commercial, or mixed-use projects with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre. Residential, commercial, or mixed-use projects with a density less than 1.0 FAR, or an equivalent density based on units per acre, shall be exempt from the requirements of this section and the county's zoning ordinance adopted pursuant to this section. The county's zoning ordinance requirements shall provide as follows:

1. Upon approval of a special exception application approving a residential, commercial, or mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant shall provide on-site Affordable Dwelling Units as part of the project the total gross square footage of which units shall be 5% of the amount of the gross floor area of the project that exceeds 1.0 FAR or an equivalent density based on units per acre. For purposes of this section, "applicant" shall mean the person or entity submitting a special exception application for approval of a residential, commercial or mixed-use project in the county and shall include the successors or assigns of the applicant.

2. As an alternative, upon approval of a special exception application approving a residential, commercial, or mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant may elect to provide any one of the following:

a. Affordable Dwelling Units shall be provided off-site at a location within one-half mile of any Metrorail Station for projects within a Metro Station Area as defined in the county's comprehensive plan, or within one-half mile of the residential, commercial, or mixed-use project for projects not within a Metro Station Area, as provided in the county's zoning ordinance, the total gross square footage of

which units shall be 7.5% of the amount of the gross floor area of the project that is over 1.0 FAR or an equivalent density based on units per acre, or

b. Affordable Dwelling Units shall be provided off-site at any other locations in the county other than those provided in the county's zoning ordinance in accordance with subdivision a, the total gross square footage of which units shall be 10% of the amount of the gross floor area of the project that is over 1.0 FAR, or an equivalent density based on units per acre, or

c. A cash contribution to the county's affordable housing fund, which contribution shall be calculated as follows for each of the below-described density tiers:

(1) One and one-half dollars per square foot of gross floor area for the first tier of density between zero and 1.0 FAR, or an equivalent density based on units per acre.

(2) Four dollars per square foot of gross floor area for the tier of density in residential projects between 1.0 FAR and 3.0 FAR, or an equivalent density based on units per acre, and $4 per square foot of gross floor area for the tier of density in commercial projects above 1.0 FAR.

(3) Eight dollars per square foot of gross floor area for the tier of density in residential projects above 3.0 FAR, or an equivalent density based on units per acre.

(4) For mixed-use projects, cash contributions shall be calculated by applying the proportionate amount of commercial and residential gross floor area to each tier.

The cash contribution shall be indexed to the Consumer Price Index for Housing in the Washington-Baltimore MSA as published by the Bureau of Labor Statistics and shall be adjusted annually based upon the January changes to such index for that year.

3. The applicant shall provide the county manager or his designee, prior to the issuance of the first certificate of occupancy for the residential, commercial, or mixed-use project, a written plan of how the applicant proposes to address the provision of Affordable Dwelling Units or cash contribution as provided in this section and the provisions of the zoning ordinance adopted pursuant to this section. The county manager or his designee shall approve or disapprove the applicant's plan in writing within 30 days of receipt of the written proposal from the applicant. If the county manager or his designee disapproves of the applicant's plan, specific reasons for such disapproval shall be provided.

4. An applicant may submit a written plan to be considered by the governing body or its designee to address the provision of Affordable Dwelling Units or cash contribution as provided in this section and the provisions of the zoning ordinance adopted pursuant to this section that deviate from the requirements of this section and the ordinance. Any such deviations may be approved in accordance with the procedures established in the county's zoning ordinance, which procedures shall include a provision for an appeal to the governing body of any administrative decision relative to the written plan submitted by the applicant.

5. The ordinance adopted by the county pursuant to this section may provide that, in the discretion of the governing body and with the agreement of the applicant, at the time of consideration of the special

exception application, the above requirements may be totally or partially substituted for other compelling public priorities established in plans, studies, policies, or other documents of the county.

6. Applications for a special exception approval of a residential, commercial, or mixed-use project that results in the demolition and rebuilding of an existing project shall be subject to the requirements of this section and the zoning ordinance adopted pursuant to this section at the time of redevelopment; however, only density that is replaced or rebuilt and any increased density shall be subject to the requirements. This section and the county's zoning ordinance adopted pursuant to this section shall not apply to rehabilitation or renovation of existing residential, commercial, or mixed-use projects.

7. For purposes of this section "Affordable Dwelling Unit" means units committed for a 30-year term as affordable to households with incomes at 60% of the area median income.

B. This section shall apply to an application for a special exception approval for a residential, commercial, or mixed-use project with a density provided for by the County's comprehensive plan designation for the property that is the subject matter of the application. This section shall further apply to such an application that requires rezoning of the property that is the subject matter of the application to permit a use provided for by the county's comprehensive plan designation for the subject property.

C. The ordinance adopted by the county pursuant to this section may provide that an application for approval of a special exception for a residential, commercial, or mixed-use project that requests an increase in density that exceeds the density provided for by the county's comprehensive plan designation for the property that is the subject matter of the application shall be subject to an affordable housing requirement in addition to the requirements of this section and the zoning ordinance adopted pursuant to this section.

D. The ordinance adopted by the county pursuant to this section or other provisions of law may provide that an application that requests to amend the county's comprehensive plan designation for the subject property to a higher density designation may be subject to an affordable housing requirement in addition to the requirements of this section and the zoning ordinance adopted pursuant to this section.

E. The ordinance adopted by the county pursuant to this section may provide that applications for a special exception approval for residential, commercial, or mixed-use projects that result in the elimination of existing units affordable to households with incomes equal to or below 80% of the area median income address replacement of the eliminated units as a condition of the governing body's approval of the special exception application.

F. With the exception of the authority under § 15.2-2304, this section establishes the legislative authority for the county to obtain Affordable Dwelling Units in exchange for the approval of a special exception application for a residential, commercial, or mixed-use project in the county, and a special exception may not be used in combination with any other provision of law in Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 to obtain Affordable Dwelling Units from an applicant. Nothing in this section shall be construed to repeal the county's authority under any other provision of law.

2006, c. 481.

### § 15.2-736. State benefits for certain employees.

Notwithstanding any other provision of law to the contrary, any person who is transferred from state to local employment pursuant to Chapter 816 of the Acts of Assembly of 1988, and who is a member of the Virginia Retirement System at the time of the transfer, shall continue to be a member of the System during the period of local employment. Any such transferred employee shall remain a member of the System under the same terms and conditions as would apply if the transferred employee had remained as a state employee, so long as the employee is employed with a local health department or returns to state employment. For purposes of any employment of the transferred employee as a state employee after local employment, the membership in the System during local employment shall be treated the same as any other membership in the System.

The board shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1.

1989, c. 352, § 15.1-687.14; 1997, c. 587.

### § 15.2-737. Tenant relocation payments.

The board may require by ordinance that the county and the owner divide equally the reimbursement of any tenant of a building containing at least four residential units for amounts actually expended to relocate when the tenant has been terminated by 120 days' notice given under § 55.1-1410 in order to carry out the rehabilitation of the building. The reimbursement shall not exceed the amount to which the tenant would have been entitled to receive under §§ 25.1-407 and 25.1-415 if the real estate comprising the units had been condemned by the Department of Transportation.

1989, c. 354, § 15.1-687.15; 1997, c. 587.

### § 15.2-738. Modification of grievance procedure.

Notwithstanding the provisions of §§ 2.2-1202.1, 15.2-1506, and 15.2-1507 to the contrary, in any county which has the county manager plan of government provided for in this chapter, a grievance procedure may be established which permits an Equal Employment Opportunity officer, except the Director of the Department of Human Resource Management appointed pursuant to § 2.2-1200 and any employees thereof, to be present at any step of a grievance procedure established under § 15.2-1506. Such officer shall not be an advocate or representative on behalf of either the grievant or management.

1989, c. 622, § 15.1-687.16; 1991, c. 143; 1995, cc. 770, 818; 1996, cc. 164, 869; 1997, c. 587; 2000, cc. 947, 1006; 2012, cc. 803, 835.

### § 15.2-739. Diversion of certain waters.

With the consent of the property owner, a county may enter private property and, at the county's expense, construct or reconstruct a system to divert water not requiring treatment by the county's sanitary sewer system into the county's storm sewer system.

1989, c. 622, § 15.1-687.17; 1997, c. 587.

**§ 15.2-740. Authority to impose assessments for local improvements; purposes.**

The board may impose taxes or assessments upon owners of abutting property for making, improving, replacing, or enlarging the walkways upon then existing streets; for improving and paving then existing alleys; and for either the construction or the use of sanitary or storm water sewers including retaining walls, curbs, and gutters. However, such taxes or assessments shall not exceed the peculiar benefits resulting from the improvements to the owners of abutting property and no assessment for retaining walls shall be imposed upon any property owner who does not agree to such assessment.

In addition to the foregoing, the board may impose taxes or assessments upon owners of abutting property for the construction, replacement, or enlargement of sidewalks, waterlines, sanitary sewers, or storm water sewers; for the installation of street lights; for the construction or installation of canopies or other weather protective devices; for the installation of lighting in connection with the foregoing; and for permanent amenities, including, but not limited to, benches or waste receptacles, provided that such taxes or assessments shall not exceed the peculiar benefits resulting from the improvements to such owners of abutting property.

All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Title 15.2, Chapter 24, Article 2 (§ 15.2-2404 et seq.), mutatis mutandis. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this article.

As used in this section, "owners of abutting property" includes the owners of property that abuts a state highway when the improvement is funded solely by county revenues.

1990, c. 323, § 15.1-687.18; 1997, c. 587.

**§ 15.2-741. (Effective until July 1, 2021) Regulation of child-care services and facilities in certain counties.**

A. The board may by ordinance provide for the regulation and licensing of (i) persons who provide child-care services for remuneration and (ii) child-care facilities. "Child-care services" includes regular care, protection, or guidance during a part of a day to one or more children, not related by blood or marriage to the provider of services, while they are not attended by their parent, guardian, or person with legal custody. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services for remuneration. However, such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 63.2-1716.

B. Such ordinance may be more restrictive or more extensive in scope than statutes or state regulations that may affect child-care services or child-care facilities, provided that such ordinance shall not impose additional requirements or restrictions on the construction or materials to be used in the erection, alteration, repair, or use of a residential dwelling.

1990, c. 545, § 15.1-687.19; 1997, c. 587.

### § 15.2-741. (Effective July 1, 2021) Regulation of child-care services and facilities in certain counties.

A. The board may by ordinance provide for the regulation and licensing of (i) persons who provide child-care services for remuneration and (ii) child-care facilities. "Child-care services" includes regular care, protection, or guidance during a part of a day to one or more children, not related by blood or marriage to the provider of services, while they are not attended by their parent, guardian, or person with legal custody. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services for remuneration. However, such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 22.1-289.031.

B. Such ordinance may be more restrictive or more extensive in scope than statutes or state regulations that may affect child-care services or child-care facilities, provided that such ordinance shall not impose additional requirements or restrictions on the construction or materials to be used in the erection, alteration, repair, or use of a residential dwelling.

1990, c. 545, § 15.1-687.19; 1997, c. 587; 2020, cc. 860, 861.

### § 15.2-742. Lighting level regulation.

The board may by ordinance provide for the regulation of exterior illumination levels of buildings and property.

1996, c. 567, § 15.1-687.23; 1997, c. 587.

### § 15.2-743. Fee for certain vacations, encroachments, and abandonments.

A county may charge a fee for processing applications for vacations as provided for in § 15.2-2273, applications for encroachments as provided for in § 15.2-2012, and petitions for abandonments under § 33.2-917. The fee for processing such applications and petitions shall be, at the county's discretion, either the amount provided in § 15.2-2273, the amount provided in § 15.2-2012, or an amount not to exceed the county's demonstrable costs for such processing, which costs may include title examination and appraisal of the property that is the subject of the application or petition. In lieu of including such costs in the application fee, the county may require submission of a title examination and appraisal by the applicant or petitioner.

1991, c. 143, § 15.1-687.21; 1997, c. 587; 2005, cc. 40, 84.

### § 15.2-744. Authority of county board to impose civil penalties for wrongful demolition, razing or moving of historic buildings.

The board may adopt an ordinance which establishes a civil penalty for the wrongful demolition, razing or moving of part or all of a building or structure when such building or structure has been designated as an historic structure or landmark or is part of an historic district. The civil penalty shall be imposed on the party deemed by the court to be responsible for the violation and shall not exceed twice the fair market value of the property, as determined by the county real estate tax assessment at the time of the demolition, razing or moving.

An action seeking the imposition of such a penalty shall be instituted by petition filed by the county in circuit court, which shall be tried in the same manner as any action at law. It shall be the burden of the county to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose. The filing of any action pursuant to this section shall preclude a criminal prosecution for the same offense.

The defendant, within twenty-one days after the filing of the petition, shall file an answer and may, without admitting liability, agree to restore the building or structure as it existed prior to demolition, razing or moving. If the restoration is completed within the time agreed upon by the parties, or as established by the court, the petition may be dismissed from the court's docket upon a finding by the court that the building or structure has been restored as it existed prior to demolition, razing or moving.

Nothing in this section shall preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or by the county under § 15.2-2208, either by separate action or as a part of the petition seeking a civil penalty.

1991, c. 467, § 15.1-687.22; 1997, c. 587.

**§ 15.2-745. Ordinance for installment collection of taxes.**

Notwithstanding any provisions of law to the contrary, the board is empowered to provide by ordinance for the collection of county taxes and levies on property in installments at such times and with such penalties for the delinquent payment thereof as it deems proper.

Code 1950, § 15-355.1; 1952, c. 474; 1962, c. 623, § 15.1-688; 1997, c. 587.

**§ 15.2-746. Board possesses general power of management.**

The board shall have, possess, and exercise the general management of the affairs of the county, and, in addition to such powers and duties as are designated and imposed by this chapter, shall exercise and perform all of the powers and duties now authorized or imposed by general law or special act on the board of supervisors of such county insofar as they are not inconsistent with the provisions of this chapter. The board shall also have all the powers conferred by general law on city councils.

Code 1950, § 15-356; 1962, c. 623, § 15.1-689; 1997, c. 587.

**§ 15.2-747. Board may prohibit and penalize acts which are misdemeanors under state law.**

In addition to the powers conferred by § 15.2-746, the board may prohibit any act defined as a misdemeanor and prohibited by the laws of this Commonwealth and provide a penalty for violations to the end that such governing body may parallel by ordinance the criminal laws of this Commonwealth.

Code 1950, § 15-356.1; 1950, p. 228; 1962, c. 623, § 15.1-690; 1997, c. 587.

**§ 15.2-748. Annexation by city.**

No part of a county's territory may be annexed by any city unless the whole county be annexed. In such latter case the county shall not be annexed until the question of annexation has been first submitted to a referendum of the voters of such county and approved by a majority of those voting thereon.

Code 1950, §§ 15-358, 15-359; 1962, c. 623, § 15.1-692; 1997, c. 587.

### § 15.2-749. Certain referenda in certain counties.

If on or before July 15 of any year in which such referendum is provided for by law a petition signed by 200 or more qualified voters of the county is filed with the circuit court of the county asking that a referendum be held on any question upon which a referendum is provided for by any applicable statute, then such court shall on or before August 1 of such year issue and enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such statute. If the statute providing for such referendum shall authorize or require the referendum to be held at a special election, then the petition hereinabove referred to shall be signed by 1,000 or more voters of the county and the court shall within fifteen days of the date such petition is filed enter an order requiring the election officials to open the polls and take the sense of the voters of the county on a date fixed in his order, which shall be in accordance with § 24.2-682. The clerk of the county shall cause a notice of such election to be published in a newspaper published or having general circulation in the county once a week for three successive weeks, and shall post a copy of the notice at the door of the county courthouse.

Code 1950, § 15-360.1; 1952, c. 49; 1962, c. 623, § 15.1-695; 1975, c. 517; 1997, c. 587.

### § 15.2-750. Board may accept dedication of rights to develop real property.

The board, in addition to any other zoning powers granted by general or special law, may include a provision for the dedication of density or other rights to develop real property, as defined by the locality, from one or more parcels of property that are not the subject of a development application and are located in the locality to one or more parcels of property that are the subject of a development application and are located elsewhere in the locality. Such dedication shall be subject to such terms as may be provided by zoning regulations, the conditions of a special use permit or special exception, or the proffered conditions of a rezoning application, including that the terms are binding on the owners of such property and on their successors and assigns.

2005, c. 755.

## Chapter 8 - Urban County Executive Form of Government

## Article 1 - GENERAL PROVISIONS

### § 15.2-800. Designation of form of government; applicability of chapter.

The form of county organization and government provided for in this chapter shall be known and designated as the urban county executive form. The provisions of this chapter shall apply only to the counties which have adopted the urban county executive form.

Code 1950, § 15-384.16; 1960, c. 382; 1962, c. 623, § 15.1-728; 1997, c. 587.

### § 15.2-801. Adoption of urban county executive form.

Any county with a population of more than 90,000 may adopt the urban county executive form of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.) of this title.

1997, c. 587.

**§ 15.2-802. Powers of county vested in board of supervisors; membership, election, terms, etc., of board; vacancies; powers of chairman.**

The powers of the county as a body politic and corporate shall be vested in an urban county board of supervisors, to consist of one member from each district of such county and to be known as the board of supervisors (the board). Each member shall be a qualified voter of his district and shall be elected by the qualified voters thereof. In addition to the above board members, the voters shall elect a county chairman who shall be a qualified voter of the county. No person may be a candidate for county chairman at the same time he is a candidate for membership on the county board from any district of the county. A quorum shall consist of a majority of the board and the chairman shall be included and counted.

The county chairman shall be the chairman of the board and preside at the meetings thereof. The chairman shall represent the county at official functions and ceremonial events. The chairman shall have all rights, privileges, and duties of other members of the board and such others, not in conflict with this article, as the board may prescribe. In addition, the chairman shall have the power to (i) call special meetings of the board in accordance with the procedures and restrictions of § 15.2-1418, mutatis mutandis; (ii) set the agenda for board meetings; however, any such agenda may be modified by an affirmative vote of the board; (iii) appoint county representatives to regional boards, authorities and commissions which are authorized in advance by the board; however, any such appointment shall be subject to revocation by an affirmative vote of a majority of all members elected to the board acting within the 30-day period following that appointment; and (iv) create and appoint committees of the board and name presiding members of such committees as authorized by the board; however, any such committee or appointment shall be subject to revocation by an affirmative vote of a majority of all members elected to the board.

At the first meeting at the beginning of its term and any time thereafter when necessary, the board shall elect a vice-chairman from its membership who shall perform the duties of the chairman in his absence.

The supervisors and chairman first elected under the provisions of this chapter shall hold office until January 1 following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

If the number of districts in any such county is increased by redistricting or otherwise subsequent to a general election for supervisors, and such supervisors have taken office, then the board shall adopt a resolution requesting a judge of the circuit court for such county to call a special election for an additional supervisor or supervisors in accordance with the increase in the number of districts, such additional supervisor or supervisors to be elected from the county at large, and such election shall be held within 45 days from the date of such request. The qualifications of candidates and the election shall be as at general law applying to special elections. Any supervisors thereby elected shall hold office until January 1 following the next regular election provided by general law for the election of members

of the board, and at the next regular election all supervisors of any such county shall be elected from districts as provided by law.

If a vacancy occurs on the board, the chief judge of the circuit court for such county shall call a special election, in the district if the vacancy is of a district supervisor, or in the county at large if the vacancy is of the chairman, to be held not fewer than 45 nor more than 90 days after the occurrence of the vacancy; however, if the vacancy occurs within 150 days prior to a general election, such special election may be held on the general election day; and if the vacancy occurs within 120 days prior to the date of a regular election for the board of supervisors, such vacancy shall be filled by appointment by the remaining members of the board within seven days of the occurrence of the vacancy, which appointment shall be for the duration of the term of office of the person whose absence from the board occasioned such vacancy. The qualification of candidates and the election shall be otherwise as at general law applying to special elections.

Code 1950, § 15-384.17; 1960, c. 382; 1962, c. 623, § 15.1-729; 1966, c. 464; 1968, c. 797; 1971, Ex. Sess., c. 158; 1972, c. 707; 1985, c. 138; 1994, c. 148; 1997, c. 587; 2012, c. 396.

**§ 15.2-803. General powers of board of supervisors.**

The board shall be the policy-determining body of the county and shall be vested with all rights and powers conferred on boards of supervisors by general law, not inconsistent with the form of county organization and government herein provided.

The board shall be the governing body of the urban county and of each of the districts established under Article 4 (§ 15.2-855 et seq.) of this chapter for the provision of certain services to residents of such districts.

Code 1950, § 15-384.18; 1960, c. 382; 1962, c. 623, § 15.1-730; 1997, c. 587.

**§ 15.2-804. Appointment, qualifications and compensation of urban county executive; to devote full time to work.**

The board shall appoint an urban county executive and fix his compensation. He shall devote his full time to the work of the county. He shall be appointed with regard to merit only, and need not be a resident of the county at the time of his appointment. No member of the board shall, during the time for which he has been elected, be chosen urban county executive, nor shall such powers be given to a person who at the same time is filling an elective office. The head of one of the departments of the county government may, however, also be appointed urban county executive.

Code 1950, § 15-384.19; 1960, c. 382; 1962, c. 623, § 15.1-731; 1997, c. 587.

**§ 15.2-805. Tenure of county executive; suspension or removal.**

The urban county executive shall not be appointed for a definite tenure, but may be removed at the pleasure of the board. If the board determines to remove the urban county executive, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the board prior to the date on which his final removal takes effect. Pending and during such hearing, the board may suspend him from office, provided that

the period of suspension be limited to thirty days. The board's action in suspending or removing the urban county executive shall not be subject to review by any court.

Code 1950, § 15-384.20; 1960, c. 382; 1962, c. 623, § 15.1-732; 1997, c. 587.

**§ 15.2-806. Absence or disability of county executive.**

In case of the absence or disability of the urban county executive, the board may designate some responsible person to perform the duties of the office.

Code 1950, § 15-384.21; 1960, c. 382; 1962, c. 623, § 15.1-733; 1997, c. 587.

**§ 15.2-807. Appointment of county officers and employees; federal employment, etc., not to disqualify; discussions with board.**

The board shall appoint, upon the recommendation of the urban county executive, all officers and employees in the administration service of the county, except as the board authorizes the urban county executive to appoint heads of a department or office and except as the board authorizes the heads of a department or office to appoint subordinates in such department or office. However, in appointing the county school board no recommendation by the urban county executive is required. All appointments shall be on the basis of ability, training and experience of the appointees which are relevant to the work which they are to perform.

No person otherwise eligible, shall be disqualified by reason of his accepting or holding employment, an office, post, trust or emolument under the United States government, from serving as a member of any board, commission, authority, committee or agency whose members are appointed by the board.

The county clerk, the attorney for the Commonwealth and the sheriff shall be selected in the manner and for the terms, and vacancies in such offices shall be filled, as provided by general law.

The urban county executive shall have the right to take part in all discussions and to present his views on all matters coming before the board. The attorney for the Commonwealth and the sheriff shall be entitled to present their views on matters relating to their respective departments.

Code 1950, § 15-384.22; 1960, c. 382; 1962, c. 623, § 15.1-734; 1968, c. 797; 1997, c. 587.

**§ 15.2-808. Tenure of county officers and employees; suspension or removal.**

All such appointments shall be without definite term, unless for limited term appointments for temporary services not to exceed one year in duration, except as otherwise specifically provided for herein.

Any county officer or employee appointed pursuant to § 15.2-807 may be suspended or removed from office or employment either by the board or the officer who appointed or employed him. In case of the absence or disability of any such officer, the board or other appointing power may designate some responsible person to perform the duties of the office.

Code 1950, § 15-384.23; 1960, c. 382; 1962, c. 623, § 15.1-735; 1968, c. 797; 1987, c. 419; 1997, c. 587.

**§ 15.2-809. Compensation of officers and employees.**

The board shall, subject to the limitations of general law, fix the compensation of all county officers and employees, except as it may authorize the head of some department or office to fix the compensation of subordinates and employees in such department or office.

Code 1950, § 15-384.24; 1960, c. 382; 1962, c. 623, § 15.1-736; 1997, c. 587.

**§ 15.2-810. Restrictions on activities of former officers and employees.**

The board, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment ceased, from assisting for remuneration a party, other than a governmental agency, in connection with any proceeding, application, case, contract, or other particular matter involving the urban county or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as an urban county officer or employee through decision, approval, or recommendation.

The term "officer or employee," as used in this section, includes members of the board, county officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the board.

1987, c. 419, § 15.1-736.1; 1997, c. 587.

**§ 15.2-811. Powers and duties of county executive.**

The urban county executive shall be the administrative head of the county. He shall attend all meetings of the board and recommend such action as he may deem expedient. He shall be responsible to the board for the proper administration of all county affairs which the board has authority to control.

He shall also:

1. Make monthly reports to the board on administrative matters, and keep the board fully advised as to the county's financial condition.

2. Submit to the board a proposed annual budget, with his recommendations, and execute the budget as finally adopted.

3. Execute and enforce all board resolutions and orders and shall see that all laws of the Commonwealth required to be enforced through the board or some other county officer subject to the board's control are faithfully executed.

4. Examine regularly the books and papers of every officer and department of the county and report to the board the condition in which he finds them.

5. Perform such other duties as the board requires of him.

Code 1950, § 15-384.26; 1960, c. 382; 1962, c. 623, § 15.1-738; 1997, c. 587.

**§ 15.2-812. County executive may act as director or head of department.**

The urban county executive may, if the board requires, act as the director or head of any department, the director or head of which is appointed by the board, provided he is otherwise eligible to head such department.

Code 1950, § 15-384.27; 1960, c. 382; 1962, c. 623, § 15.1-739; 1997, c. 587.

**§ 15.2-813. Certain officers not affected by adoption of plan.**

The following officers shall not, except as herein otherwise provided, be affected by the adoption of the urban county executive form:

1. Jury commissioners,

2. County electoral boards,

3. Registrars,

4. Judges and clerks of elections, and

5. Magistrates.

Code 1950, § 15-384.43; 1960, c. 382; 1962, c. 623, § 15.1-755; 1973, c. 545; 1997, c. 587.

**§ 15.2-814. Inquiries and investigations by board of supervisors.**

The board may inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any county or district officer. For these purposes it may subpoena witnesses, administer oaths and require the production of books, papers and other evidence. If any witness fails or refuses to obey any such lawful order of the board, he shall be deemed guilty of a misdemeanor.

Code 1950, § 15-384.49; 1960, c. 382; 1962, c. 623, § 15.1-762; 1997, c. 587.

**§ 15.2-815. Regulation of garbage, trash and refuse pickup and disposal services; contracting for such services in certain counties.**

The board may adopt an ordinance requiring the delivery of all or any portion of the garbage, trash and refuse generated or disposed of within such county to waste disposal facilities located therein or to waste disposal facilities located outside of such county if the county has contracted for capacity at or service from such facilities.

Such ordinances may provide that it is unlawful for any person to dispose of his garbage, trash and refuse in or at any other place. No such ordinance shall apply to the occupants of single-family residences or family farms disposing of their own garbage, trash or refuse if such occupants have paid the fees, rates and charges of other single-family residences and family farms in the same service area.

Such ordinance shall not apply to garbage, trash and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor,

refiner or converter. Nor shall such ordinance apply to (i) recyclable materials, which are those materials that have been source-separated by any person or materials that have been separated from garbage, trash and refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy, (ii) construction debris to be disposed of in a landfill, or (iii) waste oil. Such ordinances may provide penalties, fines and other punishment for violations.

Such county may contract with any person, whether profit or nonprofit, for garbage and refuse pickup and disposal services and enter into contracts relating to waste disposal facilities which recover energy or materials from garbage, trash and refuse. Such contracts may make provision for, among other things, (i) the purchase by the county of all or a portion of the disposal capacity of a waste disposal facility located within or outside the county for present or future waste disposal requirements; (ii) the operation of such facility by the county; (iii) the delivery by or on behalf of the contracting county of specified quantities of garbage, trash and refuse, whether or not such county collects such garbage, trash and refuse, and the making of payments for such quantities of garbage, trash and refuse whether or not such garbage, trash and refuse are delivered, including payments for revenues lost if garbage, trash and refuse are not delivered; (iv) adjustments to payments made by the county in regard to inflation, changes in energy prices or residue disposal costs, taxes imposed upon the facility owner or operator, or other events beyond the control of the facility operator or owners; (v) the fixing and collection of fees, rates or charges for use of the disposal facility and for any product or service resulting from operation of the facility; and (vi) such other provision as is necessary for the safe and effective construction, maintenance or operation of such facility, whether or not such provision displaces competition in any market. Any such contract shall not be deemed to be a debt or gift of the county within the meaning of any law, charter provision or debt limitation. Nothing in the foregoing powers granted such county shall include the authority to pledge the full faith and credit of such local government in violation of Article X, Section 10 of the Constitution of Virginia.

1985, c. 581, § 15.1-730.1; 1997, c. 587.

### § 15.2-816. Maintenance of certain sewer lines.

Upon petition of a majority of the affected property owners or members of an affected owners' association, (i) the county may take over the maintenance of undersized sewer lines installed as a result of the county's waiver of its adopted requirements developed under this title or Title 62.1; and (ii) the county shall be granted the right to convert the undersized sewer lines to county standards at its expense, if the county deems the conversion to be in its best interests for health or economic reasons; or (iii) if the property owners or their associations elect to convert the undersized sewer lines to county standards, the county may take over and maintain at county expense the converted sewer lines.

The cost for the maintenance of such lines shall be borne by the county general fund; or the county, at its discretion, may incorporate the sewer lines into an existing sanitary district for uniformity of maintenance and cost/budget allocations.

If the county determines that the builder/developer installed the undersized lines without the express permission of the appropriate county agency, then the county may collect the cost of conversion from the builder/developer; however, the county shall bear the ongoing cost of maintenance.

This section applies only to sewer lines installed on or before January 1, 1987.

1987, c. 253, § 15.1-730.2; 1997, c. 587.

**§ 15.2-816.1. Underground electric distribution lines; pilot program.**

A. There is hereby established a pilot program under which the governing body of any locality operating under the urban county executive form of government may request an electric utility to place underground electric distribution lines in transportation projects to serve and facilitate the creation of transit-oriented development in such locality in conjunction with a transportation infrastructure improvement project that the Commonwealth Transportation Board identifies that reduces congestion, improves mobility, incorporates transit systems, and improves safety. Such pilot program shall further an understanding of such underground electric distribution lines in regard to electric reliability, construction methods and related cost and timeline estimating, and the probability of meeting such projections. The pilot program shall consist of the approval to convert qualifying electric distribution lines in whole or in part underground in areas of transit-oriented developments in conjunction with a transportation infrastructure project the Commonwealth Transportation Board identifies. The pilot program shall terminate on July 1, 2022, after which date no agreement shall be entered into pursuant to subsection B. The termination of the pilot program shall not affect any such agreement entered into prior to such date or any of the terms of such an agreement, including any additional levy imposed pursuant to such an agreement.

B. The locality operating under the urban county executive form of government and the utility shall enter into an agreement that provides that (i) the locality shall pay to the utility its full additional costs of relocating and converting that portion of the line located in the locality underground rather than overhead that are not recoverable under applicable rates, net of relocation credits, which costs shall include associated feasibility costs, or any smaller portion of such costs as the utility and the locality may agree; (ii) the locality shall impose an additional levy on electric utility customers in the locality pursuant to § 58.1-3814 in an amount sufficient to cover the utility's additional costs, which additional levy shall be collected by the utility on behalf of the locality; (iii) the utility shall convert, operate, and maintain the agreed portion of the line underground; and (iv) other terms and conditions on which the parties may agree shall be included in the agreement.

C. If the locality operating under the urban county executive form of government and the utility enter into an agreement as described in subsection B, the locality shall by ordinance fix the amount of such additional levy, which shall not exceed $1 per month on residential customers. Any levy imposed pursuant to this section shall be in addition to the limit for any utility consumer tax prescribed in § 58.1-3814.

D. Upon presentation of the agreement to the Commonwealth Transportation Board, the Commissioner of Highways shall be responsible for securing the necessary easements and permits for the utility for the conversion of the existing distribution lines, based upon plans that the electric utility provides. The electric utility shall take such other actions as it deems appropriate in furtherance of the conversion of the approved distribution line, including acquiring the materials necessary for the underground installation.

E. If the provisions of this section are inconsistent with the provisions of any other law or local ordinance, the provisions of this section shall be controlling.

2019, c. 792.

**§ 15.2-817. No unincorporated area to be incorporated after adoption of urban county form of government.**

After the date of adoption of the urban county executive form of government, no unincorporated area within the limits of such county shall be incorporated as a separate town or city within the limits of such county, whether by judicial proceedings or otherwise.

Code 1950, § 15-384.72; 1960, c. 382; 1962, c. 623, § 15.1-785; 1968, c. 797; 1997, c. 587.

**§ 15.2-818. City may petition to become part of county.**

After the date of adoption of the urban county executive form of government, a city contiguous to or within the limits of such a county may petition, by action of its governing body, to become a part of the county on terms set forth in a resolution adopted by the board. Passage of a referendum within the petitioning city shall constitute approval of the city becoming a district of the county or a part or parts of one or more districts and action of the board shall constitute final approval thereof by the county.

Code 1950, § 15-384.73; 1960, c. 382; 1962, c. 623, § 15.1-786; 1997, c. 587.

**§ 15.2-819. Demolition of historic structures; civil penalty.**

A county may adopt an ordinance which establishes a civil penalty for the demolition, razing or moving of a building or structure which is located in an historic district or which has been designated by the governing body as an historic structure or landmark without the prior approval from either the architectural review board or the governing body as provided by subdivision A 2 of § 15.2-2306.

The civil penalty imposed for a violation of such an ordinance shall not exceed the market value of the property as determined by the assessed value of the property at the time of the destruction or removal of the building or structure. Such value shall include the value of any structures and the value of the real property upon which any such structure or structures were located. Such ordinances may be enforced by the county attorney by bringing an action in the name of the county in the circuit court. Such actions shall be brought against the party or parties deemed responsible for the violation. It shall be the burden of the county to show the liability of the violator by a preponderance of the evidence.

Nothing in this section shall preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or action by the board under § 15.2-2208.

1991, c. 201, § 15.1-499.2; 1997, c. 587.

### § 15.2-820. Donations to legal entities owning recreational facilities.

A county is authorized to make annual appropriations of public funds to any nonprofit legal entity that is not controlled in whole or in part by any church or religious body that has exclusionary membership practices or rules that owns recreational facilities in the county such as, but not limited to, swimming pools, tennis courts, etc., in an amount not to exceed the amount of real estate taxes that is owed on the recreational facilities owned by the legal entity receiving the appropriations.

The provisions of § 15.2-953 are not affected by this section.

1992, c. 866, § 15.1-27.2; 1997, c. 587; 2005, c. 928.

## Article 2 - DEPARTMENTS AND COMMISSIONS

### § 15.2-821. Board to provide for and set up departments; removal of department head or person assigned to county executive's office; powers of supervisors generally.

The board shall, as soon as its members are elected and take office, provide for the performance of all the governmental functions of the county and to that end shall provide for and set up all necessary departments of government consistent with the provisions of this chapter. Any deputy county executive, assistant county executive, or department head may be removed at the pleasure of the board, except as the board may authorize the urban county executive to remove such employees, and such removal shall not be subject to review by any other county employee, agency, board or commission or under the grievance procedure adopted pursuant to § 15.2-1506. The board shall have all authority and powers provided for by this chapter or by other law and shall have the power to raise annually by taxes and assessments on property, persons and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the board are necessary to pay the debts, defray the expenses, accomplish the purposes and perform the functions of the county.

However, any department head who could grieve his own removal from an office held prior to July 1, 1987, under the law in effect at the time he was appointed to office, shall retain such right to grieve his own removal from that office unless that right is waived in writing in consideration of a payment mutually agreed to by that department head and by the board.

Code 1950, § 15-384.50; 1960, c. 382; 1962, c. 623, § 15.1-763; 1966, c. 464; 1968, c. 797; 1987, c. 419; 1997, c. 587.

### § 15.2-822. Designation of officer or employee to exercise power or perform duty.

Whenever it is not designated herein what officer or employee of the county shall exercise any power or perform any duty conferred upon or required of the county, or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer or employee of the county so designated by ordinance or resolution of the board.

Code 1950, § 15-384.51; 1960, c. 382; 1962, c. 623, § 15.1-764; 1997, c. 587.

### § 15.2-823. Departments and commissions of county government.

The activities or functions of the county shall, with the exceptions herein provided, be distributed among the following general divisions or departments:

1. Department of finance.

2. Department of public works.

3. Department of social services.

4. Department of law enforcement.

5. Department of education.

6. Department of records.

7. Department of health.

The board may establish any of the following additional departments and commissions and such other departments and commissions as it deems necessary to the proper conduct of the county's business:

1. Department of assessments.

2. Department of farm and home demonstration.

3. Department of public safety.

4. Department of public utilities.

5. Commission on human rights.

Any activity which is unassigned by this chapter shall, upon recommendation of the urban county executive, be assigned by the board to the appropriate department. The board may, upon recommendations of the urban county executive, reassign, transfer or combine any county functions, activities or departments.

Code 1950, § 15-384.52; 1960, c. 382; 1962, c. 623, § 15.1-765; 1972, c. 73; 1980, c. 44; 1997, c. 587.

**§ 15.2-824. Appointment of members of certain boards, authorities and commissions.**

A. Notwithstanding the provisions of §§ 15.2-837, 15.2-855, 15.2-2212, 15.2-5113, 15.2-5703 and 36-11, the board may establish different terms of office for initial and subsequent appointments of (i) the commissioners of any county redevelopment and housing authority created pursuant to the Housing Authorities Law (§§ 36-1 through 36-55.6), (ii) the members of any county authority created pursuant to the Park Authorities Act (§ 15.2-5700 et seq.), (iii) the members of the county planning commission, (iv) the members of the county school board, (v) any commissions created pursuant to § 15.2-823 and (vi) the members of any county water or sewer authority created pursuant to § 15.2-5102.

Such different terms of office for such authorities, boards and commissions shall be for fixed terms, and such different terms of office may include, but are not limited to, terms of either two or four years and terms that extend until July 1 of the year following the year in which there is a regular election provided by general law for the election of supervisors. If the board establishes different terms of office

pursuant to this section, such new terms shall affect future appointments to such offices and shall not affect the existing terms of any commissioner or member then serving in office. This section shall not affect the removal of any member of an authority, board or commission for incompetency, neglect of duty or misuse of office pursuant to provisions of general law.

B. Notwithstanding the provisions of §§ 15.2-5113 and 36-11, the board may appoint as many as eleven persons as (i) commissioners of any county redevelopment and housing authority created pursuant to the Housing Authorities Law and (ii) members of any county water or sewer authority created pursuant to § 15.2-5102.

1989, c. 355, § 15.1-765.1; 1992, c. 524; 1997, c. 587.

**§ 15.2-825. Committee for legislative audit and review.**

The board may establish a committee for the audit and review of county agencies and county-funded functions. The committee shall be composed of not more than eleven members who shall be appointed by the board for a term of two years. The committee shall have the power to make performance reviews of operations of county agencies or county-funded programs to ascertain that sums appropriated are expended for the purposes for which such appropriations were made and to evaluate the effectiveness of those agencies and programs. The committee shall make such special studies and reports as it deems appropriate and as the board requests. Notwithstanding the provisions of § 15.2-1534, the board may appoint one or more of its members to serve on this committee.

The board may provide staff assistance to the committee which shall be independent of the administrative staff of the county. Any such staff shall be hired on the basis of merit and shall be paid in conformity with existing pay scales. The director of the staff to the committee shall serve at the pleasure of the board, and if removed, such removal shall not be subject to review by any other employee, agency, board or commission of the county or under the grievance procedure adopted pursuant to § 15.2-1506. The director of any such staff shall be known as the auditor of the board.

1992, c. 524, § 15.1-765.2; 1993, cc. 621, 781; 1995, c. 722; 1997, c. 587.

**§ 15.2-826. Department of finance; director; general duties.**

A. The director of finance shall be the head of the department of finance and as such have charge of (i) the administration of the county's financial affairs, including the budget; (ii) the assessment of property for taxation; (iii) the collection of taxes, license fees and other revenues; (iv) the custody of all public funds belonging to or handled by the county; (v) the supervision of the expenditures of the county and its subdivisions; (vi) the disbursement of county funds; (vii) the purchase, storage and distribution of all supplies, materials, equipment and contractual service needed by any department, office or other using agency of the county unless some other officer or employee is designated for this purpose; (viii) the keeping and supervision of all accounts; and (ix) such other duties as the board requires.

B. Notwithstanding any other provision of law, the board may enter into an agreement, similar to such agreements as are authorized under § 58.1-3910.1, with any town located partially or wholly within the county for the official responsible for the assessment or collection of taxes to collect and enforce

delinquent or non-delinquent real or personal property taxes owed to such town. The responsible official collecting town taxes pursuant to an agreement made under this section shall account for and pay over to the town the amounts collected, as provided by law. Any such agreement shall establish the terms for such collection and enforcement, including payment of reasonable compensation by the town for the services of the director of tax administration or other official and the order in which credit will be given for partial payments between taxes owed to the county and those owed to the town.

C. The board may assign the budget function to the urban county executive or a budget officer.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587; 2020, cc. 504, 505.

**§ 15.2-827. Same; expenditures and accounts.**

No money shall be drawn from the county treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of a legally enacted appropriation resolution, or legally enacted supplement thereto passed by the board. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriation made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

**§ 15.2-828. Same; powers of commissioners of revenue; real estate assessments.**

A. The director of finance shall exercise all the powers conferred and perform all the duties imposed by general law upon commissioners of the revenue, not inconsistent herewith, and shall be subject to the obligations and penalties imposed by general law.

B. Every general reassessment of real estate in the county, unless some other person is designated for this purpose, shall be made by the director of finance. He shall collect and keep data and devise methods and procedures to be followed in each such general reassessment that will make for uniformity in assessments throughout the county.

In addition to any other method provided by general law or by this chapter, the director of finance may provide for the annual assessment and equalization of real estate and any general reassessment ordered by the board. The director of finance or his designated agent shall collect data, provide maps and charts, and devise methods and procedures to be followed for such assessments that will make for uniformity in assessments throughout the county.

All real estate shall be assessed as of January 1 of each year by the director of finance or other person designated to make such assessment. Such assessment shall provide for the equalization of assessments of real estate, correction of errors in tax assessment records, addition of erroneously omitted properties to the tax rolls, and the removal of properties acquired by owners not subject to taxation.

Any reassessments which change the assessment of real estate shall not be extended for taxation until after a written notice has been mailed to the person in whose name such property is to be assessed at his last known address, setting forth the amount of the new assessment.

C. This section shall not apply to real estate assessable under the law by the State Corporation Commission.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

**§ 15.2-829. Same; powers of county treasurer; deposit of moneys.**

A. The director of finance shall also exercise the powers conferred and perform all the duties imposed by general law upon county treasurers, and shall be subject to the obligations and penalties imposed by general law. All moneys received by any county officer or employee for or in connection with the business of the county shall be paid promptly into the hands of the director of finance. All such money shall be promptly deposited by the director of finance to the credit of the county in such banks or trust companies as the board selects. No money shall be disbursed or paid out by the county except upon check signed by the chairman of the board, or other person the board designates, and countersigned by the director of the department of finance or by an electronic fund wire or payment system, or by any means deemed appropriate and sound by the director of finance and approved by the board drawn upon a warrant issued by the board. If any money is knowingly paid otherwise than upon the director of finance's check, electronic fund wire or payment system or by alternative means specifically approved by the director of finance and the urban county board of supervisors, drawn upon such warrant, this payment shall be invalid against the county.

B. The board may designate one or more banks or trust companies as a receiving or collecting agency under the direction of the department of finance. All funds so collected or received shall be deposited to the credit of the county in such banks or trust companies as the board selects.

C. Every bank or trust company serving as a depository or as a receiving or collecting agency for county funds shall be required by the board to give adequate security therefor, and to meet such interest requirements as the board establishes by ordinance or resolution. All interest on money so deposited shall accrue to the county's benefit. The director of finance or his authorized deputies may transfer funds from one such depository to another by wire.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

**§ 15.2-830. Same; claims against counties; accounts.**

The director of finance shall audit all claims against the county for goods or services. He shall also (i) ascertain that such claims are in accordance with the purchase orders or contracts of employment from which the claims arise; (ii) present such claims to the board for approval after such audit; (iii) draw all checks in settlement of such claims after approval by the board unless the board otherwise provides; (iv) keep a record of the revenues and expenditures of the county; (v) keep such accounts

and records of the county's affairs as shall be prescribed by the Auditor of Public Accounts; and (vi) at the end of each month, prepare and submit to the board statements showing the progress and status of the county's affairs in such form as agreed upon by the Auditor of Public Accounts and the board. Such accounts and records may be kept in such form, including microphotography or other reproductive method, as the board prescribes.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

**§ 15.2-831. Same; director as purchasing agent.**

The director of finance shall act as purchasing agent for the county, unless the board designates some other officer or employee for such purpose. The director of finance or the person designated as purchasing agent shall make all purchases, subject to such exceptions as the board allows. He may transfer supplies, materials or equipment between departments and offices; sell any surplus supplies, materials or equipment; and make such other sales as the board authorizes. He may also, with the board's approval, (i) establish suitable specifications or standards for all supplies, materials and equipment to be purchased for the county; (ii) inspect all deliveries to determine their compliance with such specifications and standards; and (iii) sell supplies, materials and equipment to volunteer emergency medical services agencies and firefighting companies at the same cost of such supplies, materials and equipment to the county. He shall have charge of such storerooms and warehouses of the county as the board provides.

All purchases shall be made in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 and under such rules and regulations consistent with Chapter 43 of Title 2.2 as the board establishes by ordinance or resolution, which ordinance or resolution may, notwithstanding the provisions of § 15.2-830, provide for the use of a combination purchase order-check, which check may be made valid for such maximum amount as the board may fix, not to exceed $250. Subject to such exceptions as the board provides, before making any sale the director shall invite competitive bidding under such rules and regulations as the board establishes by ordinance or resolution. He shall not furnish any supplies, materials, equipment or contractual services to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for the supplies, materials, equipment or contractual services.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587; 2015, cc. 502, 503.

**§ 15.2-832. Same; assistants.**

The director may have such deputies or assistants in the performance of his duties as the board allows.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

**§ 15.2-833. Same; obligations of chief assessing officer.**

The chief assessing officer shall be subject to the obligations and penalties imposed by general law upon commissioners of the revenue.

Code 1950, § 15-384.53; 1960, c. 382; 1962, c. 623, § 15.1-766; 1972, c. 456; 1982, c. 647; 1987, c. 419; 1997, c. 587.

### § 15.2-834. Department of public works.

The director of public works shall be head of the department of public works. He shall have charge of the construction and maintenance of county drains and all other public works and construction and care of public buildings, storerooms and warehouses. He shall have the custody of such equipment and supplies as the board authorizes. He shall exercise the powers conferred and perform the duties imposed upon him by the board.

Code 1950, § 15-384.54; 1960, c. 382; 1962, c. 623, § 15.1-767; 1997, c. 587.

### § 15.2-835. Department and board of social services.

The superintendent of social services, who shall be head of the department of social services, shall be chosen from a list of eligibles furnished by the State Department of Social Services. Such person shall exercise the powers conferred and perform the duties imposed by general law upon the county board of social services, not inconsistent herewith. Such person shall also perform such other duties as the board imposes upon him.

The board shall select at least five and not more than 11 qualified county citizens, one of whom may be a member of the urban county board of supervisors, who shall constitute the county board of social services. The board shall designate an additional seat on the board for a qualified citizen of each city to which the county is contractually obligated to provide social services. Such board shall advise and cooperate with the department of social services and may adopt necessary rules and regulations not in conflict with law concerning such department.

As provided for in Chapters 2 (§ 63.2-200 et seq.) and 3 (§ 63.2-300 et seq.) of Title 63.2, the urban county board of supervisors in its discretion may designate either the superintendent of social services or the above-mentioned county board of social services as the local board. If the urban county board of supervisors designates the superintendent of social services as constituting the local board, the county board of social services shall serve in an advisory capacity to such officer with respect to the duties and functions imposed upon him by law.

Code 1950, § 15-384.55; 1960, c. 382; 1962, c. 623, § 15.1-768; 1972, c. 73; 1974, cc. 44, 45; 1980, c. 62; 1981, c. 483; 1992, c. 524; 1997, c. 587; 2020, c. 12.

### § 15.2-836. Department of law enforcement.

The department of law enforcement shall consist of the attorney for the Commonwealth, chief of police, and sheriff, together with their assistants, police officers, deputies and employees. If a department of public safety is created, the chief of police, his police officers and employees shall be a part of such department as hereinafter provided.

The attorney for the Commonwealth shall exercise the powers conferred and perform the duties imposed upon such officer by general law and shall be accountable to the board in all matters affecting the county and shall perform such duties, consistent with his office, as the board directs. He shall be selected as provided by general law.

The department of law enforcement may also include a county attorney to be appointed by the board upon the recommendation of the county executive and who shall serve at an annual salary to be set by the board. If a county attorney is appointed, the attorney for the Commonwealth shall be relieved of the duties of advising the board, of drafting or preparing county ordinances, and of defending or bringing civil actions in which the county or any of its officials is a party. All such duties shall be performed by the county attorney, who shall be accountable to the board in all such matters.

The sheriff shall exercise the powers conferred and perform all the duties imposed upon sheriffs by general law except as herein provided. He shall have the custody, feeding and care of all prisoners confined in the county jail. He shall perform such other duties as the board may impose upon him. The sheriff shall be selected as provided by general law. The sheriff and such other deputies and assistants appointed hereunder shall receive such compensation as the board prescribes. Any police officer appointed by the urban county executive or the board shall be under the supervision and control of the board unless such supervision and control are conferred upon the urban county executive. Such police officer shall have such powers as may be provided by general law throughout the county, including all towns therein.

Code 1950, § 15-384.56; 1960, c. 382; 1962, c. 623, § 15.1-769; 1966, c. 464; 1968, c. 797; 1978, c. 558; 1997, c. 587.

### § 15.2-836.1. Animal protection police officer.

The department of police, if established in accordance with Chapter 17 (§ 15.2-1700 et seq.), may include an animal protection police officer who shall have all of the powers of an animal control officer, as defined in § 3.2-6500, conferred by general law and one or more deputy animal protection police officers to assist the animal protection police officer in the performance of his duties. An animal protection officer and his deputies also shall have all of the powers vested in law-enforcement officers, as defined in § 9.1-101, if they meet the minimum qualifications and have been certified under §§ 15.2-1705 and 15.2-1706.

2016, c. 498.

### § 15.2-837. Department of education.

The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise the powers conferred and perform the duties imposed upon them by general law. In addition the parks and playgrounds shall be under the supervision and control of the department of education unless otherwise provided by the urban county board of supervisors. The county school board shall be composed of not less than five

nor more than twelve members, who shall be chosen by the urban county board of supervisors to serve for a term of two years, except that as many as one half of the members of the first such board appointed may be appointed for lesser terms. The exact number of members shall be determined by the urban county board of supervisors. The term of office for any member appointed after July 1, 1972, shall expire on July 1 of the second year after his appointment.

The board of county supervisors may also appoint a county resident to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker, if any, shall be appointed for a four-year term whether appointed to fill a vacancy caused by expiration of a term or otherwise.

The chairman of the county school board, unless some other person in the department is designated by the school board for such purpose, may appear before the urban county board of supervisors and present his views on matters relating to the department of education.

Notwithstanding any contrary provisions of this section, a county which has an elected school board shall comply with the applicable provisions of Article 7 (§ 22.1-57.1 et seq.) of Title 22.1.

Code 1950, § 15-384.57; 1960, c. 382; 1962, c. 623, § 15.1-770; 1968, c. 797; 1972, c. 162; 1980, c. 559; 1981, c. 246; 1994, c. 445; 1997, c. 587.

**§ 15.2-838. Department of records.**

The department of records shall be under the supervision and control of the county clerk. He shall be clerk of the circuit court of the county and, if designated by the board, clerk for the county court. The county clerk shall also be clerk of the board unless the board designates some other person for this purpose. He shall exercise the powers conferred and perform the duties imposed upon such officers by general law and shall be subject to the obligations and penalties imposed by general law. He shall also perform such other duties the board imposes upon him.

Code 1950, § 15-384.58; 1960, c. 382; 1962, c. 623, § 15.1-771; 1966, c. 464; 1997, c. 587.

**§ 15.2-839. Department and board of health.**

The department of health shall consist of the county health officer, who shall be chosen from a list of eligibles furnished by the State Board of Health and the other officers and employees of such department. The county health officer shall be head of such department and shall exercise the powers conferred and shall perform the duties imposed upon the local health officer and the local board of health by general law, not inconsistent herewith. He shall also perform such other duties as the board imposes upon him.

The board of supervisors may select two qualified county citizens, who, together with the county health officer, shall constitute the county board of health. Such board shall advise and cooperate with the department of health and shall have power to adopt rules and regulations, not in conflict with law, concerning the department. The board of health may at any time be abolished by the board of supervisors.

Code 1950, § 15-384.59; 1960, c. 382; 1962, c. 623, § 15.1-772; 1997, c. 587.

### § 15.2-840. Department of assessments.

A. The department of assessments, if and when established, shall be headed by a commissioner of the revenue or supervisor of assessments, who shall exercise the power conferred and perform the duties imposed by § 15.2-826 upon the director of finance.

B. In addition to the powers and duties hereinabove conferred, the governing body of any county which has provided for a department of assessments headed by a supervisor of assessments may, in lieu of the method now prescribed by law, provide for the annual assessments and equalization of assessments of real estate by such department. All real estate shall thereafter be assessed as of January 1 of each year. The board of supervisors shall appoint a board of equalization of real estate assessments composed of not less than three nor more than eleven members. The board of supervisors may provide for terms varying in duration not to exceed four years. Such equalization board shall have the powers and duties provided by and be subject to, the provisions of Article 14 (§ 58.1-3370 et seq.) of Chapter 32 of Title 58.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided. The provisions of this section shall not, however, apply to any real estate assessable under the law by the State Corporation Commission.

C. The board of equalization may sit in panels of at least three members each under the following terms and conditions:

1. The presence of all members in the panel shall be necessary to constitute a quorum.

2. The chairman of the board of equalization shall assign the members to panels and, insofar as practicable, rotate the membership of the panels.

3. The chairman of the board of equalization shall preside over any panel of which he is a member and shall designate the presiding member of the other panels.

4. Each panel shall perform its duties independently of the others.

5. The board of equalization shall sit en banc (i) when there is a dissent in the panel to which the matter was originally assigned and an aggrieved party requests an en banc hearing or (ii) upon its own motion at any time, in any matter in which a majority of the board of equalization determines it is appropriate to do so. The board of equalization sitting en banc shall consider and decide the matter and may affirm, reverse, overrule or modify any previous decision by any panel.

Code 1950, § 15-384.60; 1960, c. 382; 1962, c. 623, § 15.1-773; 1968, c. 797; 1976, c. 174; 1989, c. 355; 1992, c. 524; 1997, c. 587.

### § 15.2-841. Department of farm and home demonstration.

The department of farm and home demonstration shall consist of the county agricultural agent, who shall be head of the department, a home demonstration agent and such assistants and employees as may be appointed or employed. The county agricultural agent and the home demonstration agent

shall be selected from lists of eligibles submitted by the Virginia Polytechnic Institute and State University. They shall perform such duties as the board imposes upon them.

Code 1950, § 15-384.61; 1960, c. 382; 1962, c. 623, § 15.1-774; 1997, c. 587.

### § 15.2-842. Department of public safety.

The department of public safety, if and when established, shall be under the supervision of a director of public safety. Such department may consist of the following divisions:

1. Division of police, in the charge of a chief of police and consisting of such other police officers and personnel as may be appointed.

2. Division of fire protection, in the charge of a fire chief and consisting of such fire fighters and other personnel as may be appointed.

Code 1950, § 15-384.62; 1960, c. 382; 1962, c. 623, § 15.1-775; 1977, c. 326; 1997, c. 587.

### § 15.2-843. Department of public utilities.

The department of public utilities, if and when established, shall be under the supervision of a director of public utilities. Such department shall be in charge of construction, operation, maintenance and administration of all public works coming under the general category of public utilities, owned, operated and controlled by any such county or district or any sanitary district of such county. Such department shall be responsible for the administration of the affairs of the sanitary districts, including but not limited to water systems, sewer systems, sewage disposal systems, garbage and any other sanitary district functions not assigned or administered by other departments or agencies. If the county has a division of fire protection and a fire chief under the provisions of § 15.2-842 then such fire protection shall not be under the department of public utilities.

Code 1950, § 15-384.63; 1960, c. 382; 1962, c. 623, § 15.1-776; 1997, c. 587.

### § 15.2-844. Examination and audit of books and accounts.

The board shall require an annual audit of the books of every county officer who handles public funds to be made by a certified public accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. An audit made by the Auditor of Public Accounts under the provisions of law may be considered as having satisfied the requirements of this paragraph.

Either the board or the urban county executive may at any time order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal or expiration of the term of any county officer, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the executive and the board. In the case of the death, resignation or removal of the director of finance, the board shall cause an audit to be made of his accounts. If as a result of any such audit, an officer is found indebted to the county, the board shall proceed forthwith to collect such indebtedness.

Code 1950, § 15-384.64; 1960, c. 382; 1962, c. 623, § 15.1-777; 1997, c. 587.

### § 15.2-845. Schedule of compensation.

The board shall establish a schedule of compensation for officers and employees which shall provide equitable compensation for officers and employees and which shall provide for recognition of length of service and of merit. The compensation prescribed shall be subject to such limitations made by general law.

Code 1950, § 15-384.65; 1960, c. 382; 1962, c. 623, § 15.1-778; 1997, c. 587.

### § 15.2-846. Salaries and expenses of board members; administrative staff.

The board shall establish the salaries and allowances of board members in accordance with the provisions of general law provided:

1. A public hearing shall be held on the salaries to be established;

2. No increase in such salaries shall be effective until the expiration of the current term of all board members whose salaries are to be increased; and

3. Any action or procedure necessary to be taken to increase such salaries shall be completed not later than April 15 of any year in which there is an election for board members.

Each board member, in addition to salary and allowances, shall be entitled to reasonable administrative staff support paid by the county in conformity with existing pay scales and whose duty shall be limited exclusively to county business.

1975, c. 143, § 15.1-778.1; 1978, c. 382; 1982, c. 376; 1983, c. 152; 1988, c. 879; 1997, c. 587.

### § 15.2-847. Budget; board to fix salaries and allowances.

Each year at least two weeks before the board must prepare its proposed annual budget, the urban county executive shall prepare and submit to the board a budget presenting a financial plan for conducting the county's affairs for the ensuing year. The budget shall be set up in the manner prescribed by general law. Hearings thereon shall be held and notice thereof given and the budget adopted in accordance with such general law. The board shall establish the salary and allowances of all county employees.

Code 1950, § 15-384.66; 1960, c. 382; 1962, c. 623, § 15.1-779; 1966, c. 464; 1968, c. 797; 1975, c. 143; 1997, c. 587.

### § 15.2-848. Compensation of officers and employees; fee system abolished.

All county officers and employees shall be paid regular compensation and the fee system as a method of compensation in the county shall be abolished, except as to those officers not affected by the adoption of this form of county organization and government. All such officers and employees shall, however, continue to collect all fees and charges provided for by general law, shall keep a record thereof, and shall promptly transmit all such fees and charges collected to the director of finance, who shall promptly receipt therefor. Such officers shall also keep such other records as are required by § 17.1-283. All fees and commissions, which but for this section would be paid to such officers by the Commonwealth for services rendered, shall be paid into the county treasury.

The excess, if any, of the fees collected by each of the officers mentioned in § 17.1-283 or collected by anyone exercising the powers of and performing the duties of any such officers, over (i) the allowance to which such officers would be entitled by general law but for the provisions of this section and (ii) expenses in such amount as allowed by the Compensation Board shall be paid, one third into the state treasury and two thirds to the county.

Any county officer or employee who fails or refuses to collect any fee which is collectible and should be collected under the provisions of this section, or who fails or refuses to pay any fee so collected to the county as herein provided, shall upon conviction be deemed guilty of a misdemeanor.

Code 1950, § 15-384.68; 1960, c. 382; 1962, c. 623, § 15.1-781; 1997, c. 587.

**§ 15.2-849. Establishing times and conditions of employment; personnel management, etc.**

A. A county may establish and prescribe for all county employees and, as necessary, for officers thereof, the following provisions:

1. Normal workdays and hours of employment therein;

2. Holidays;

3. Days of vacation allowed;

4. Days of sick leave allowed;

5. Other provisions concerning the hours and conditions of employment;

6. Plans of personnel management and control;

7. Systems of retirement for all or any classes of officers and employees of the county but the adoption of the urban county executive form of government shall in no way affect any retirement system in effect in any such county prior to the date of adoption of such form; and

8. Notwithstanding any other provision of law, such employee benefit programs as it deems appropriate. In connection with some or all of such employee benefit programs, the county may enter into voluntary salary reduction agreements with its officers and employees when such agreements are authorized under the laws of the United States relating to federal income taxes. Any such voluntary salary reduction agreements entered into prior to January 1, 1988, are hereby validated.

B. Any such county shall have the power to establish, alter, amend or repeal at will any provision adopted under subsection A hereof.

Code 1950, § 15-384.69; 1960, c. 382; 1962, c. 623, § 15.1-782; 1988, c. 879; 1997, c. 587.

**§ 15.2-850. Bonds of officers.**

The urban county executive shall give bond payable to the county in the amount of not less than $5,000. The director of finance shall give bond in the amount of not less than fifteen percent of the amount of money to be received by him annually, but he shall not be required to give a bond in excess of five million dollars except as hereinafter provided. If the urban county executive serves also as director of finance, he shall give bond to the full amount indicated above for the director of finance. The

board may fix bonds in excess of these amounts and require bonds of other county officers in the board's discretion, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession.

Code 1950, § 15-384.70; 1960, c. 382; 1962, c. 623, § 15.1-783; 1968, cc. 375, 797; 1997, c. 587.

**§ 15.2-851. Expedited land development review procedure.**

A. A county may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, architects, landscape architects and land surveyors who are also licensed pursuant to § 54.1-408 and recommended for submission by persons who have received special training in such county's land development ordinances and regulations. The purpose of such separate review procedure is to provide a procedure to expedite the county's review of certain qualified land development plans. If a separate procedure is established, the county shall establish within the adopted ordinance the criteria for qualification of persons and whose work is eligible to use the separate procedure as well as a procedure for determining if the qualifications are met by persons applying to use the separate procedure. Persons who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and recommended for submission by plans examiners and certified by the appropriately licensed professional engineer, architect, landscape architect or land surveyor shall qualify for the separate processing procedure.

B. The qualifications of those persons who may participate in this program shall include, but not be limited to, the following:

1. A bachelor of science degree in engineering, architecture, landscape architecture or related science or equivalent experience or a land surveyor certified pursuant to § 54.1-408.

2. Successful completion of an educational program specified by the county.

3. A minimum of two years of land development engineering design experience acceptable to the county.

4. Attendance at continuing educational courses specified by the county.

5. Consistent preparation and submission of plans which meet all applicable ordinances and regulations.

C. If an expedited review procedure is adopted by the board of supervisors pursuant to this section, the board of supervisors shall establish an advisory plans examiner board which shall make recommendations to the board of supervisors on the general operation of the program, on the general qualifications of those who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualification for such a program, and on the general administration and operation of such a program. In addition, the plans examiner board shall submit recommendations to the board of supervisors as to those persons who meet the established qualifications for participation in the program and as to whether those persons who have

previously qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The plans examiner board shall consist of six members who shall be appointed by the board of supervisors for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The plans examiner board shall consist of three persons in private practice as licensed professional engineers or land surveyors certified pursuant to § 54.1-408, at least one of whom shall be a certified land surveyor; one person employed by the county government; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All plans examiner board members who serve as licensed engineers or as certified surveyors must maintain their professional license or certification as a condition of holding office, and all such persons shall have at least two years of experience in land development procedures of the county. The citizen member shall meet the qualifications provided in § 54.1-107. However, such member, notwithstanding the proscription of provision (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed, certified or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a public institution of higher education. The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of county ordinances and regulations relating to plans and how they are applied.

E. The separate processing system may include a review of selected or random aspects of plans rather than a detailed review of all aspects. However, it shall also include periodic detailed review of plans prepared by persons who qualify for the system.

F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities and obligations which they would otherwise have with regard to the preparation of plans, nor shall it relieve the county of its obligation to review other plans in the time periods and manner prescribed by law.

1989, c. 735, § 15.1-783.01; 1990, c. 822; 1997, c. 587; 2009, c. 309.

**§ 15.2-851.1. Optional provisions of a subdivision ordinance.**

A. As an alternative to the requirements of the first paragraph of subdivision 5 of § 15.2-2241, a subdivision ordinance may include reasonable regulations and provisions that apply to or provide for the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner

or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction; (iii) furnishes a personal, corporate, or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iv) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount, and the form. If the owner or developer has not met all previous land development obligations in accordance with all development agreements with the locality as determined by the governing body or its designated administrative agency for the previous seven years, then a personal, corporate, or property bond may be disallowed by the governing body as security for such facilities, and in such event, security for such facilities shall be restricted to a certified check, cash escrow, or a letter of credit that meets the requirements of clause (iv) herein. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on current unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25% of the estimated construction costs. However, if for the previous seven years the owner or developer has not met all previous land development obligations in accordance with all development agreements with the locality as determined by the governing body or its designated administrative agency, the governing body may require that the allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities be greater than 25% of the estimated construction costs, but not to exceed 50% of the estimated construction costs. "Developer," as used in this section, means any owner, builder, subdivider or other person or entity engaged in the land development process and shall include their principals, officers, members, managers, partners, alter egos, and members of the immediate family related to any of the foregoing. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

B. As an alternative to the requirements of subsection E of § 15.2-2245, a subdivision ordinance may provide that upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 90% of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of public facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. If the subdivider or developer has not met all previous land development obligations in accordance with all development agreements with the locality as determined by the governing body or its designated administrative agency for the previous seven years prior to the written request for partial release, the

cumulative amount released may be equal to no less than 80% of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken. "Subdivider" and "developer," as used in this section, mean any owner, builder, subdivider, or other person or entity engaged in the land development process and shall include their principals, officers, members, managers, partners, alter egos, and members of the immediate family related to any of the foregoing. Periodic partial releases may not occur before the completion of at least 30% of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of the public facilities, the governing body or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

2006, c. 736.

**§ 15.2-852. Disclosures in land use proceedings.**

A. Each individual member of the board of supervisors, the planning commission, and the board of zoning appeals in any proceeding before each such body involving an application for a special exception or variance or involving an application for amendment of a zoning ordinance map, which does not constitute the adoption of a comprehensive zoning plan, an ordinance applicable throughout the county, or an application filed by the board of supervisors that involves more than 10 parcels that are owned by different individuals, trusts, corporations, or other entities, shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of any business or financial relationship which such member has, or has had within the 12-month period prior to such hearing, (i) with the applicant in such case, or (ii) with the title owner, contract purchaser or lessee of the land that is the subject of the application, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium, or (iii) if any of the foregoing is a trustee (other than a trustee under a corporate mortgage or deed of trust securing one or more issues of corporate mortgage bonds), with any trust beneficiary having an interest in such land, or (iv) with the agent, attorney or real estate broker of any of the foregoing. For the purpose of this subsection, "business or financial relationship" means any relationship (other than any ordinary customer or depositor relationship with a retail establishment, public utility or bank) such member, or any member of the member's immediate household, either directly or by way of a partnership in which any of them is a partner, employee, agent or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class, has, or has had within the 12-month period prior to such hearing, with the applicant in the case, or with the title owner, contract purchaser or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10%

or more of the units in the condominium, or with any of the other persons above specified. For the purpose of this subsection "business or financial relationship" also means the receipt by the member, or by any person, firm, corporation or committee in his behalf from the applicant in the case or from the title owner, contract purchaser or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium, or from any of the other persons above specified, during the 12-month period prior to the hearing in such case, of any gift or donation having a value of more than $100, singularly or in the aggregate.

If at the time of the hearing in any such case such member has a relationship of employee-employer, agent-principal, or attorney-client with the applicant in the case or with the title owner, contract purchaser or lessee of the subject land except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium, or with any of the other persons above specified, that member shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of such employee-employer, agent-principal, or attorney-client relationship and shall be ineligible to vote or participate in any way in such case or in any hearing thereon.

B. In any case described in subsection A pending before the board of supervisors, planning commission or board of zoning appeals, the applicant in the case shall, prior to any hearing on the matter, file with the board or commission a statement in writing and under oath identifying by name and last known address each person, corporation, partnership or other association specified in the first paragraph of subsection A. The requirements of this section shall be applicable only with respect to those so identified.

C. Any person knowingly and willfully violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

1968, c. 774, § 15.1-73.4; 1970, c. 654; 1988, c. 879; 1997, c. 587; 2004, cc. 498, 552; 2006, cc. 9, 287, 317; 2014, c. 743.

## Article 3 - Human Rights

### § 15.2-853. Commission on human rights; human rights ordinance.

A county may enact an ordinance prohibiting discrimination in housing, real estate transactions, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, status as a veteran, age, marital status, sexual orientation, gender identity, or disability. The board may enact an ordinance establishing a local commission on human rights that shall have the following powers and duties:

1. To promote policies to ensure that all persons be afforded equal opportunity;

2. To serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding discriminatory practices occurring within the county;

3. With the approval of the county attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any ordinance prohibiting discrimination; and

4. To exercise such other powers and duties as provided in this article. However, the commission shall have no power itself to issue subpoenas, award damages, or grant injunctive relief.

For the purposes of this article, "person" means one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts, or unincorporated organizations.

1986, c. 495, § 15.1-783.1; 1989, c. 355; 1997, cc. 404, 587; 2020, cc. 1137, 1140.

### § 15.2-854. Investigations.

Whenever the commission on human rights has a reasonable cause to believe that any person has engaged in, or is engaging in, any violation of a county ordinance that prohibits discrimination due to race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, status as a veteran, age, marital status, sexual orientation, gender identity, or disability, and, after making a good faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether such violation has occurred, is unable to obtain such data, information, or attendance, it may request the county attorney to petition the judge of the general district court for its jurisdiction for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. Any witness subpoena issued under this section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney. Any person failing to comply with a subpoena issued under this section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

1986, c. 495, § 15.1-783.2; 1994, c. 873; 1997, cc. 404, 587; 2020, cc. 1137, 1140.

## Article 4 - ELECTION DISTRICTS

### § 15.2-855. Division of county into districts; functions of districts; appointees to planning commission and school board.

Within ninety days after the adoption of the urban county executive form of government, the board, after holding a public hearing thereon, shall divide the county into from five to eleven districts. Each district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population in the district.

These districts shall serve as the electoral divisions for elections of members of the urban county board of supervisors, and as sanitary districts under the provisions of Article 5 (§ 15.2-858), and shall have such other functions as are specified herein.

Each district shall have at least one of its residents who is a qualified voter of the district appointed to the local planning commission of the county and to the county school board. Each member of the

county school board shall be appointed for terms and serve in accordance with all the provisions of § 15.2-837.

Code 1950, § 15-384.74; 1960, c. 382; 1962, c. 623, § 15.1-787; 1966, c. 464; 1968, c. 797; 1971, Ex. Sess., c. 201; 1973, c. 545; 1997, c. 587.

### § 15.2-856. Changes in boundaries of districts.

After the publication of the official results of each United States decennial census, the board shall make such changes in district boundaries as are required to meet the tests of equitable population distribution among the districts with a minimum disruption of the then existing district pattern of service. In 1971 and every ten years thereafter, and also whenever the boundaries of such districts are changed, the board shall reapportion the representation in the governing body among the districts, and may, within the limits established in § 15.2-855, increase or decrease the number of districts.

Each such reapportionment, other than decennial, shall become effective on January 1 following the year in which it occurs. If such reapportionment, other than decennial, results in the creation of a district or districts in which no member of the governing body resides, such vacancy shall be filled in the manner provided for by § 15.2-802. Each decennial reapportionment shall become effective as provided in § 24.2-311.

Code 1950, § 15-384.75; 1960, c. 382; 1962, c. 623, § 15.1-788; 1971, Ex. Sess., c. 201; 1972, c. 852; 1981, c. 12; 1990, c. 500; 1997, c. 587.

### § 15.2-857. Judicial review; mandamus.

Whenever the board changes the boundaries, or increases or diminishes the number of districts, or reapportions the representation in the board as prescribed hereinabove, such action shall not be subject to judicial review, except as otherwise provided in § 24.2-304.4. Whenever the board fails to reapportion the representation among the districts of such county, or fails to change the boundaries of districts, mandamus shall lie on behalf of any citizen thereof to compel performance by the board.

1971, Ex. Sess., c. 201, § 15.1-788.1; 1997, c. 587.

## Article 5 - SANITARY DISTRICTS WITHIN URBAN COUNTIES

### § 15.2-858. Creation, enlargement, contraction, etc., of sanitary districts.

A. Notwithstanding any other provision of law, no court shall entertain any petition filed for the creation, enlargement, contraction, merger, consolidation or dissolution of a district authorized to be created in accordance with the provisions of Chapters 2 (§ 21-112.22 et seq.), 6 (§ 21-292 et seq.), 7 (§ 21-427 et seq.), or 8 (§ 21-428 et seq.) of Title 21, Chapter 161, Acts of the Assembly of 1926, as amended, or any other law providing for the creation of those subdivisions referred to generally as sanitary or small districts hereinafter referred to as "sanitary districts." No petition for the creation, enlargement, contraction, merger, consolidation or dissolution of a sanitary district filed by any person or group of persons shall be of any effect and any court in which the petition is filed shall forthwith strike the petition from its dockets and no further proceedings thereon shall be had.

B. Notwithstanding any other provision of law, each district created under the provisions of § 15.2-855 shall be a sanitary district with all the rights and powers conferred on sanitary districts by general law. However, no incorporated town shall be included within any sanitary district without the consent of the council of such town.

Every sanitary district and every small and local sanitary district existing in the county shall be dissolved on the date that the form of government herein becomes effective and each shall at that time be recreated as a small district or small districts within the respective sanitary districts. The county shall assume the liabilities of the sanitary district and shall own all its properties and the existing assets less the liabilities assumed of such sanitary district shall be used by the board as a factor in establishing service charges within the small district or small districts. The services provided by the former sanitary districts shall be continued by the county in the new small districts.

Every small and local sanitary district existing in the county on the date that the form of government herein becomes effective shall at that time be continued as small and local sanitary districts, and such small and local districts, and all small and local districts hereafter created pursuant to this article shall be deemed sanitary districts for the purpose of borrowing of funds and issuance of bonds for projects within such small districts as provided for by law for sanitary districts.

Nothing in this section shall affect any sanitary district existing at the time of adoption of this form of government in which bonds of the district have been issued and for as long as such bonds are outstanding.

C. Notwithstanding any other provision of law, the board shall have the power and authority with regard to the creation, enlargement, contraction, merger, consolidation or dissolution of small districts and local districts within such county that is granted to the circuit court for the county in connection therewith by Title 21 and by Chapter 161 of the Acts of the Assembly of 1926 as amended.

D. The board may create, enlarge, contract, merge, consolidate and dissolve small and local districts, by resolution, after giving notice of its intention to do so by publishing notice in a newspaper having general circulation in the county in the manner specified by § 15.2-1427 for the adoption of county ordinances and after conducting a public hearing on the proposed resolution. Any such district may be described in the resolution either by a metes and bounds description or by a description that uses commonly known landmarks or geographic maps.

Code 1950, § 15-384.78; 1960, c. 382; 1962, c. 623, § 15.1-791; 1966, c. 464; 1968, c. 797; 1970, c. 218; 1977, c. 231; 1997, c. 587; 2004, c. 561.

# Subtitle II - POWERS OF LOCAL GOVERNMENT

## Chapter 9 - GENERAL POWERS OF LOCAL GOVERNMENTS

## Article 1 - PUBLIC HEALTH AND SAFETY; NUISANCES

### § 15.2-900. Abatement or removal of nuisances by localities; recovery of costs.

In addition to the remedy provided by § 48-5 and any other remedy provided by law, any locality may maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the locality may abate, raze, or remove such public nuisance, and a locality may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

The term "nuisance" includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" includes, but is not limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

1990, c. 674, § 15.1-29.21; 1997, c. 587.

**§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance

adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

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

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed $50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed $200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a

24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

Code 1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587; 1999, c. 174; 2000, c. 740; 2001, c. 750; 2003, c. 829; 2006, c. 275; 2009, c. 446; 2010, cc. 161, 403, 641; 2011, cc. 542, 695; 2012, cc. 311, 403, 430, 431; 2013, cc. 189, 490, 508; 2014, cc. 383, 384, 385; 2017, cc. 118, 213, 392, 610; 2020, cc. 13, 136, 399, 597.

**§ 15.2-901.1. Locality may provide for control of running bamboo; civil penalty.**

A. For purposes of this section, "running bamboo" means any bamboo that is characterized by aggressive spreading behavior, including species in the genus Phyllostachys.

B. Any locality may, by ordinance, provide that:

1. No landowner shall allow running bamboo to grow without proper upkeep and appropriate containment measures, including barriers or trenching; and

2. No landowner shall allow running bamboo to spread from his property to any public right-of-way or adjoining property not owned by the landowner.

C. A violation of a running bamboo ordinance authorized by this section shall be subject to a civil penalty, not to exceed $50 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed $200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000 in a 12-month period.

D. No violation of a running bamboo ordinance arising from the same set of operative facts shall be subject to a civil penalty under both (i) an ordinance adopted pursuant to this section and (ii) an ordinance adopted pursuant to § 15.2-901.

2017, cc. 213, 392.

**§ 15.2-902. Authority of locality to control certain noxious weeds.**

A. Any locality may by ordinance prevent, control and abate the growth, importation, spread and contamination of uninfested lands by the species of grass Sorghum halepense, commonly known as Johnson grass or by the woody shrub rosa multiflora, commonly known as multiflora rose.

The Virginia Department of Agriculture and Consumer Services is authorized to provide financial and technical assistance to, and enter into agreements with, any locality which adopts an ordinance for the control of Johnson grass or multiflora rose.

B. Any locality may by ordinance control the growth of musk thistle, the weed designated as Carduus nutans L., a biennial weed of the Compositae family, or curled thistle, the weed designated as Carduus acanthoides L., an annual and biennial weed of the Compositae family. Any such musk thistle or

curled thistle growing in the locality may be declared a public nuisance and noxious weed, harmful to plant and grass growth and to pastures, and may be destroyed.

1984, c. 216, § 15.1-28.4; 1997, c. 587; 2008, c. 860.

**§ 15.2-903. Ordinances taxing and regulating "automobile graveyards," "junkyards," and certain vacant and abandoned property.**

A. Any locality may adopt ordinances imposing license taxes upon and otherwise regulating the maintenance and operation of places commonly known as automobile graveyards and junkyards and may prescribe fines and other punishment for violations of such ordinances.

No such ordinance shall be adopted until after notice of the proposed ordinance has been published once a week for two successive weeks in a newspaper having general circulation in the locality. The ordinance need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed ordinance and a reference to the place or places within the locality where copies of the proposed ordinance may be examined.

As used in this section the terms "automobile graveyard" and "junkyard" have the meanings ascribed to them in § 33.2-804.

B. The Counties of Bedford, Campbell, Caroline, Fauquier, Rockbridge, Shenandoah, Tazewell, Warren and York may adopt an ordinance imposing the screening of automobile graveyards and junkyards, unless screening is impractical due to topography, as set forth in § 33.2-804. Any such ordinance may apply to any automobile graveyard or junkyard within the boundaries of such county regardless of the date on which any such automobile graveyard or junkyard may have come into existence, notwithstanding the provisions of § 33.2-804.

C. The City of Newport News may adopt an ordinance imposing screening or landscape screening for retail or commercial properties that have been vacant or abandoned for more than three years within designated areas consistent with the city's comprehensive plan.

Code 1950, § 15-18; 1956, c. 672; 1958, c. 552; 1962, c. 623, § 15.1-28; 1968, c. 409; 1993, c. 714; 1995, c. 207; 1997, c. 587; 1998, c. 180; 2001, c. 10; 2004, c. 493; 2005, c. 702; 2006, cc. 669, 722.

**§ 15.2-904. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.**

A. Any locality may, by ordinance, provide that it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and

wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality through its own agents or employees may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the locality as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the locality. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, which may be imposed in accordance with the provisions of § 15.2-2209.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

E. As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

1966, c. 390, § 15.1-11.1; 1970, c. 196; 1972, c. 572; 1973, c. 395; 1982, c. 368; 1985, c. 289; 1986, c. 245; 1989, c. 404; 1997, c. 587; 2003, c. 829; 2004, cc. 513, 934; 2005, cc. 465, 775.

**§ 15.2-905. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles.**

A. The governing bodies of the Counties of Albemarle, Arlington, Fairfax, Henrico, Loudoun, Prince George, and Prince William; any town located, wholly or partly, in such counties; and the Cities of Alexandria, Fairfax, Falls Church, Hampton, Hopewell, Lynchburg, Manassas, Manassas Park, Newport News, Petersburg, Portsmouth, Roanoke, and Suffolk may by ordinance prohibit any person from keeping, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned or used for residential purposes, or on any property zoned for commercial or agricultural purposes, any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperable.

The locality in addition may by ordinance limit the number of inoperable motor vehicles that any person may keep outside of a fully enclosed building or structure.

As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

As used in this section, an "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer which is not in operating condition; or does not display valid license plates; or does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than 60 days. The provisions of this section shall not apply to a licensed business that is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. The locality may, by ordinance, further provide that the owners of property zoned or used for residential purposes, or zoned for commercial or agricultural purposes, shall, at such time or times as the governing body may prescribe, remove therefrom any inoperable motor vehicle that is not kept within a fully enclosed building or structure. The locality may remove the inoperable motor vehicle, whenever the owner of the premises, after reasonable notice, has failed to do so. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

In the event the locality removes the inoperable motor vehicle, after having given such reasonable notice, it may dispose of the vehicle after giving additional notice to the owner of the premises. The cost of the removal and disposal may be charged to either the owner of the inoperable vehicle or the owner of the premises and the cost may be collected by the locality as taxes are collected. Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the inoperable vehicle was removed, the lien to continue until actual payment of the cost has been made to the locality.

1991, c. 673, § 15.1-11.03; 1992, c. 490; 1995, c. 58; 1997, cc. 587, 741; 1999, c. 901; 2004, cc. 508, 934; 2005, c. 775; 2013, c. 364; 2014, cc. 606, 731.

**§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.**

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

3. In the event that the locality, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section or as otherwise permitted under the Virginia Uniform Statewide Building Code in the event of an emergency, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed;

5. Notwithstanding the foregoing, with the written consent of the property owner, a locality may, through its agents or employees, demolish or remove a derelict nonresidential building or structure provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust or mortgage and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the first lienholder or the first lienholder's authorized

agent. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the first lienholder or the first lienholder's authorized agent is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subdivision 4. In the event the consent of the first lienholder or the first lienholder's authorized agent is not obtained, such lien shall be subordinate to that first lien but shall otherwise be subject to subdivision 4; and

6. A locality may prescribe civil penalties, not to exceed a total of $1,000, for violations of any ordinance adopted pursuant to this section.

1968, c. 423, § 15.1-11.2; 1992, c. 372; 1994, c. 505; 1995, c. 651; 1996, c. 235; 1997, c. 587; 1999, c. 174; 2003, c. 207; 2004, c. 968; 2006, c. 460; 2013, cc. 734, 770; 2017, cc. 118, 400, 610.

**§ 15.2-906.1. Expired.**

Expired.

**§ 15.2-907. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use or other criminal activity.**

A. As used in this section:

"Affidavit" means the affidavit sworn to under oath prepared by a locality in accordance with subdivision B 1 a.

"Commercial sex acts" means any specific activities that would constitute a criminal act under Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401.

"Corrective action" means (i) taking specific actions with respect to the buildings or structures on property that are reasonably expected to abate criminal blight on such real property, including the removal, repair, or securing of any building, wall, or other structure, or (ii) changing specific policies, practices, and procedures of the real property owner that are reasonably expected to abate criminal blight on real property. A local law-enforcement official shall prepare an affidavit on behalf of the locality that states specific actions to be taken on the part of the property owner that the locality determines are necessary to abate the identified criminal blight on such real property and that do not impose an undue financial burden on the owner.

"Criminal blight" means a condition existing on real property that endangers the public health or safety of residents of a locality and is caused by (i) the regular presence on the property of persons under the influence of controlled substances; (ii) the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances; (iii) the regular use of the property for the purpose of engaging in commercial sex acts; or (iv) repeated acts of the malicious discharge of a firearm within any building or dwelling that would constitute a criminal act under § 18.2-279 or a

substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

"Law-enforcement official" means an official designated to enforce criminal laws within a locality, or an agent of such law-enforcement official. The law-enforcement official shall coordinate with the building or fire code official of the locality as otherwise provided under applicable laws and regulations.

"Owner" means the record owner of real property.

"Property" means real property.

B. Any locality may, by ordinance, provide that:

1. The locality may require the owner of real property to undertake corrective action, or the locality may undertake corrective action, with respect to such property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) criminal blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the criminal blight; and (iii) the criminal blight constitutes a present threat to the public's health, safety, or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by (i) certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight delivery by a commercial service or the United States Postal Service, to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (a) the owner has up to 30 days from the date thereof to undertake corrective action to abate the criminal blight described in such affidavit and (b) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the criminal blight described in such affidavit. If the owner notifies the locality in writing within the 30-day period that additional time to complete the corrective action is needed, the locality shall allow such owner an extension for an additional 30-day period to take such corrective action.

c. If no corrective action is undertaken during such 30-day period, or during the extension if such extension is granted by the locality, the locality shall send by certified mail, return receipt requested, an additional notice to the owner of the property, at the address stated in subdivision b, stating (i) the date on which the locality may commence corrective action to abate the criminal blight on the property or (ii) the date on which the locality may commence legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property, which date shall be no earlier than 15 days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek judicial relief, and

the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

4. A criminal blight proceeding pursuant to this section shall be a civil proceeding in a court of competent jurisdiction in the Commonwealth.

C. If the owner of real property takes timely corrective action pursuant to the provisions of a local ordinance, the locality shall deem the criminal blight abated, shall close the proceeding without any charge or cost to the owner, and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the criminal blight recurs.

D. Nothing in this section shall be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Chapter 22 (§ 15.2-2200 et seq.) or under a local ordinance. If an owner in good faith takes corrective action, and despite having taken such action, the specific criminal blight identified in the affidavit of the locality persists, such owner shall be deemed in compliance with this section. Further, if a tenant in a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal blight on such property and the owner in good faith initiates legal action and pursues the same by requesting a final order by a court of competent jurisdiction, as otherwise authorized by this Code, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner shall be deemed in compliance with this section.

1994, c. 701, § 15.1-11.2:1; 1997, c. 587; 2011, cc. 384, 410; 2014, cc. 674, 719; 2017, cc. 118, 610; 2018, cc. 335, 805; 2020, c. 122.

**§ 15.2-907.1. Authority to require removal, repair, etc., of buildings that are declared to be derelict; civil penalty.**

Any locality that has a real estate tax abatement program in accordance with this section may, by ordinance, provide that:

1. The owners of property therein shall at such time or times as the governing body may prescribe submit a plan to demolish or renovate any building that has been declared a "derelict building." For purposes of this section, "derelict building" shall mean a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health,

safety, or welfare and for a continuous period in excess of six months, it has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

2. If a building qualifies as a derelict building pursuant to the ordinance, the locality shall notify the owner of the derelict building that the owner is required to submit to the locality a plan, within 90 days, to demolish or renovate the building to address the items that endanger the public's health, safety, or welfare as listed in a written notification provided by the locality. Such plan may be on a form developed by the locality and shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties may have been declared derelict buildings. The plan shall be subject to approval by the locality. The locality shall deliver the written notice to the address listed on the real estate tax assessment records of the locality. Written notice sent by first-class mail, with the locality obtaining a U.S. Postal Service Certificate of Mailing shall constitute delivery pursuant to this section.

3. If a locality delivers written notice and the owner of the derelict building has not submitted a plan to the locality within 90 days as provided in subdivision 2, the locality may exercise such remedies as provided in this section or as otherwise provided by law; for residential property, such remedy may include imposition of a civil penalty not exceeding $500 per month until such time as the owner has submitted a plan in accordance with this section; however, the total civil penalty imposed shall not exceed the cost to demolish the derelict building. Any such civil penalty shall be paid into the treasury of the locality.

4. The owner of a building may apply to the locality and request that such building be declared a derelict building for purposes of this section.

5. The locality, upon receipt of the plan to demolish or renovate the building, at the owner's request, shall meet with the owner submitting the plan and provide information to the owner on the land use and permitting requirements for demolition or renovation.

6. If the property owner's plan is to demolish the derelict building, the building permit application of such owner shall be expedited. If the owner has completed the demolition within 90 days of the date of the building permit issuance, the locality shall refund any building and demolition permit fees. This section shall not supersede any ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

7. If the property owner's plan is to renovate the derelict building, and no rezoning is required for the owner's intended use of the property, the site plan or subdivision application and the building permit, as applicable, shall be expedited. The site plan or subdivision fees may be refunded, all or in part, but in no event shall the site plan or subdivision fees exceed the lesser of 50 percent of the standard fees established by the ordinance for site plan or subdivision applications for the proposed use of the property, or $5,000 per property. The building permit fees may be refunded, all or in part, but in no event

shall the building permit fees exceed the lesser of 50 percent of the standard fees established by the ordinance for building permit applications for the proposed use of the property, or $5,000 per property.

8. Prior to commencement of a plan to demolish or renovate the derelict building, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of not less than 15 years, and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district. However, if the locality has an existing tax abatement program for less than 15 years, as of July 1, 2009, the locality may provide for a tax abatement period of not less than five years.

9. Notwithstanding the provisions of this section, the locality may proceed to make repairs and secure the building under § 15.2-906, or the locality may proceed to abate or remove a nuisance under § 15.2-900. In addition, the locality may exercise such remedies as may exist under the Uniform Statewide Building Code and may exercise such other remedies available under general and special law.

2009, cc. 181, 551; 2020, c. 9.

**§ 15.2-907.2. Authority of locality or land bank entity to be appointed to act as a receiver to repair derelict and blighted buildings in certain limited circumstances.**

A. Any locality that has adopted an ordinance pursuant to § 15.2-907.1 may petition the circuit court for the appointment of the locality or a land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.) to act as a receiver to repair real property that contains residential dwelling units only in accordance with all of the following:

1. The locality has properly declared the subject property to be a derelict building in compliance with the provisions of § 15.2-907.1;

2. The property owners are in noncompliance with the provisions of § 15.2-907.1;

3. The locality has properly declared the subject property to be blighted in compliance with the provisions of § 36-49.1:1 for spot blight abatement, and the subject property is itself blighted;

4. The property owners are in noncompliance with the provisions of § 36-49.1:1 requiring abatement of the blighted condition of the property;

5. The locality has made bona fide efforts to ensure compliance by the property owners of the subject property with the requirements of §§ 15.2-907.1 and 36-49.1:1;

6. The repairs to the subject property are necessary to bring the subject property into compliance with the provisions of the Uniform Statewide Building Code;

7. The repairs to the subject property necessary to satisfy the requirements of subdivision 6 shall not result in a change of use for zoning purposes of the subject property;

8. Upon appointment by the circuit court to serve as a receiver, the locality or land bank entity shall have the authority to contract for all reasonable repairs necessary to bring the property into compliance with the provisions of the Uniform Statewide Building Code, subject to all applicable requirements of state and local procurement laws. Such repairs shall be made in a time period established by the court, but in no event shall a receivership exceed two years;

9. Notwithstanding any other provision of law, the provisions of this section are subject to the requirements of the Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.); and

10. Notwithstanding any other provisions of law, the subject property shall be eligible for any real estate abatement programs that exist in the locality.

B. A petition by the locality to be appointed, or to appoint a land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.), to act as a receiver shall include affirmative statements that the locality has satisfied each of the requirements of this section and further state that the locality has recorded a memorandum of lis pendens simultaneously with the filing of said petition. The costs of the receivership, along with reasonable attorney fees, incurred by the locality or land bank entity as receiver shall constitute a lien in favor of the locality or land bank entity against the subject property in accordance with the provisions of § 58.1-3340, and shall be on par with and collectible in the same manner as delinquent real estate taxes owed to the locality. The judicial proceedings herein shall be held in accordance with the requirements, statutory or arising at common law, relative to effecting the sale of real estate by a creditor's bill in equity to subject real estate to the lien of a judgment creditor.

C. The locality or land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.) appointed to be a receiver may enforce the receiver's lien by a sale of the property at public auction, but only upon application for and entry of an order of sale by the circuit court. The court shall appoint a special commissioner to conduct the sale, and an attorney employed by the locality may serve as special commissioner. Such sale shall be upon order of the court entered after notice as required by the Rules of the Supreme Court of Virginia and following publication of notice of the sale once a week for four consecutive weeks in a newspaper of general circulation. Following such public auction, the special commissioner shall file an accounting with the court and seek confirmation of the sale. Upon confirmation, the special commissioner shall be authorized to execute a deed conveying title, which shall pass free and clear to the purchaser at public auction. Following such sale, the former owner or owners, or any heirs, assignees, devisees, or successors in interest to the property shall be entitled to the surplus received in excess of the receiver's lien, taxes, penalties, interest, reasonable attorney fees, costs, and any recorded liens chargeable against the property. At any time prior to confirmation of the sale provided for herein, the owner shall have the right to redeem the property, as provided for in

subsection D. The character of the title acquired by the purchaser of the property at public auction shall be governed by the principles and rules applicable to the titles of purchases at judicial sales of real estate generally.

D. The owner of any property subject to receivership may redeem the property at any time prior to the expiration of the two-year period or prior to confirmation of sale at public auction by paying the receiver's lien in full and the taxes, penalties, interest, reasonable attorney fees, costs, and any recorded liens chargeable against the property. Partial payment shall not be sufficient to redeem the property and shall not operate to suspend the receivership.

E. In lieu of appointment of a receiver, the circuit court shall permit repair by a property owner or a person with an interest in the property secured by a deed of trust properly recorded upon the following conditions:

1. Demonstration of the ability to complete the repair within a reasonable amount of time to be determined by the court; and

2. Entry of a court order setting forth a schedule for such repair.

2012, cc. 220, 761; 2017, c. 381.

**§ 15.2-908. Authority of localities to remove or repair the defacement of buildings, walls, fences and other structures.**

A. Any locality may by ordinance undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such defacement is visible from any public right-of-way. The ordinance may provide that whenever the property owner, after reasonable notice, fails to remove or repair the defacement, the locality may have such defacement removed or repaired by its agents or employees. Such agents or employees shall have any and all immunity normally provided to an employee of the locality. For purposes of this section, the term "defacement" means the unauthorized application by any means of any writing, painting, drawing, etching, scratching, or marking of an inscription, word, mark, figure, or design of any type.

If the defacement occurs on a public or private building, wall, fence, or other structure located on an unoccupied property, and the locality, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. No lien shall be chargeable to the owners of such property unless the locality shall have given a minimum of 15 days notice to the property owner prior to the removal of the defacement.

Every charge authorized by this section with which the owner of any such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in

Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

B. The court may order any person convicted of unlawfully defacing property described in subsection A to pay full or partial restitution to the locality for costs incurred by the locality in removing or repairing the defacement if the locality has adopted an ordinance pursuant to this section.

C. An order of restitution pursuant to this section shall be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the locality and may be enforced by the locality in the same manner as a judgment in a civil action.

1995, cc. 332, 667, § 15.1-11.2:2; 1997, cc. 587, 874; 2008, c. 582; 2009, cc. 319, 462, 475; 2017, cc. 118, 610.

**§ 15.2-908.1. Authority to require removal, repair, etc., of buildings and other structures harboring a bawdy place.**

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Bawdy place" means the same as that term is defined in § 18.2-347.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

"Owner" means the record owner of real property.

"Property" means real property.

B. The governing body of any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) a bawdy place exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the bawdy place; and (iii) the bawdy place constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty days from the date thereof to undertake corrective action to abate the bawdy place described in such affidavit and (ii) the locality will, if

requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the bawdy place described in such affidavit.

c. If no corrective action is undertaken during such thirty-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the bawdy place on the property, which date shall be no earlier than fifteen days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes and levies are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the bawdy place abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the bawdy place recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

1997, c. 498, § 15.1-11.2:3; 2017, cc. 118, 610.

**§ 15.2-909. Authority to require removal, repair, etc., of wharves, piers, pilings, bulkheads, vessels or abandoned, obstructing or hazardous property.**

Any locality may by ordinance provide:

1. The owners of property therein shall at such time or times as the governing body may prescribe, remove, repair or secure any vessel which has been abandoned or any wharf, pier, piling, bulkhead or any other structure or vessel which might endanger the public health or safety of other persons, or which might constitute an obstruction or hazard to the lawful use of the waters within or adjoining such locality. If such property is deemed to be abandoned, the governing body may designate and empower an official to ascertain the lawful owner of such property and to have the owner repair, remove or secure such property;

2. The locality, through its own agents or employees, may remove, repair or secure any vessel which has been abandoned or any wharf, pier, piling, bulkhead, or other structure or vessel which might endanger the public health or safety of other persons or which might constitute a hazard or obstruction to the lawful use of the waters within such locality, if the owner of such property, after reasonable notice and reasonable time to do so, has failed to remove, repair or secure such wharf, pier, piling, bulkhead or other structure or vessel;

3. In the event the locality, through its own agents or employees removes, repairs or secures any wharf, pier, piling, bulkhead or other structure or vessel after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and to the extent applicable may be collected by the locality as taxes are collected;

4. If the identity or whereabouts of the lawful owner is unknown or not able to be ascertained after a reasonable search and after lawful notice has been made to the last known address of any known owner, the locality, through its own agents or employees, may repair such wharf, pier, piling, bulkhead or other structure or vessel or remove such property after giving notice by publication once each week for two weeks in a newspaper of general circulation in the area where such property is located;

5. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid, to the extent applicable, shall constitute a lien against the owner's real property, and such lien shall be recorded in the judgment lien docket book in the circuit court for such locality. Such lien may also be reduced to a personal judgment against the owner.

1976, c. 449, § 15.1-11.3; 1997, cc. 548, 587.

**§ 15.2-910. Ordinance certifying boiler and pressure vessel operators; penalty.**

A. Any locality may by ordinance require any person who engages in, or offers to engage in, for the general public for compensation, the operation or maintenance of a boiler or pressure vessel in such locality, to obtain a certificate from the locality.

B. The ordinance shall require the applicant for such certificate to furnish evidence of his ability and proficiency; shall require the examination of every such applicant to determine his qualifications; and shall designate or establish an agent or board for the locality to examine and determine a person's qualifications for certification. A certificate shall not be granted to an applicant found not to be qualified.

C. In accordance with the Administrative Process Act (§ 2.2-4000 et seq.), the Safety and Health Codes Board shall establish standards to be used in determining an applicant's ability, proficiency and qualifications.

D. No person certified pursuant to this section or certified or licensed pursuant to Chapter 3.1 (§ 40.1-51.5 et seq.) of Title 40.1 shall be required to obtain any other such certificate or to pay a fee, other than the initial certification fee, in any locality in which he practices his trade.

E. Any such ordinance adopted by a locality may provide for penalties not exceeding those applicable to Class 3 misdemeanors.

1989, c. 224, § 15.1-11.6; 1997, c. 587.

**§ 15.2-911. Regulation of alarm company operators.**

A. Any locality may by ordinance regulate the installation and maintenance of alarm systems operated by alarm company operators.

B. As used in this section, an "alarm company operator" means and includes any business operated for profit, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. Such term, however, shall not include alarm systems maintained by governmental agencies or departments, nor shall it include a business which merely sells from a fixed location or manufactures alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

C. As used in this section, the term "alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police or fire-fighters are expected to respond. Such system may be installed, maintained, altered or serviced by an alarm company operator in both commercial and residential premises.

1978, c. 587, § 15.1-28.2; 1997, c. 587.

**§ 15.2-912. Regulation of tattoo parlors and body-piercing salons; definition; exception.**

A. Any locality may by ordinance regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons and specify procedures for enforcement of compliance with the disease control and disclosure requirements of § 18.2-371.3.

B. For the purposes of this section:

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. "Body piercing" does not include the use of a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

"Tattoo parlor" means any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

C. This section shall not apply to medical doctors, veterinarians, registered nurses or any other medical services personnel licensed pursuant to Title 54.1 in performance of their professional duties.

D. Localities requiring regulation of tattoo parlors and piercing salons by ordinance shall include in such ordinance authorization for unannounced inspections by appropriate personnel of the locality.

1983, c. 429, § 15.1-28.3; 1997, c. 587; 2000, c. 842; 2001, c. 270.

**§ 15.2-912.1. Regulation of martial arts instruction.**

A. The Cities of Chesapeake and Norfolk may by ordinance require any person who operates a business providing martial arts instruction to have at the site where instruction is taking place a person who has current certification or, within the last two years, has received training in emergency first aid and cardio-pulmonary resuscitation.

Any person who violates such an ordinance may be subject to a civil penalty not to exceed $50 for the first violation and $100 for any subsequent violation.

B. As used in this section, "martial arts instruction" means any course of instruction for self defense, such as judo or karate.

1998, c. 583; 2007, c. 813.

**§ 15.2-912.2. Proceeds exempt from local taxation.**

No locality may impose a gross receipts, entertainment, admission or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

The definitions set forth in § 18.2-340.16 shall apply to this section.

1995, c. 837, § 18.2-340.32; 1997, cc. 777, 838; 1998, c. 679; 2003, c. 884; 2004, c. 462; 2006, c. 644.

**§ 15.2-912.3. (Effective until July 1, 2021) Regulation of dance halls by counties, cities and towns.**

For the purposes of this section, "public dance hall" means any place open to the general public where dancing is permitted; however, a restaurant located in any city licensed under § 4.1-210 to serve food and beverages having a dance floor with an area not exceeding 10 percent of the total floor area of the establishment shall not be considered a public dance hall.

Any locality may by ordinance regulate public dance halls in such locality, and prescribe punishment for violation of such ordinance not to exceed that prescribed for a Class 3 misdemeanor.

Such ordinance shall prescribe for: (i) the issuance of permits to operate public dance halls, grounds for revocation and procedure for revocation of such permits; (ii) a license tax not to exceed $600 on every person operating or conducting any such dance hall; and (iii) rules and regulations for the operation of such dance halls. Such ordinances may exempt from their operation dances held for benevolent or charitable purposes and dances conducted under the auspices of religious, educational, civic or military organizations.

No county ordinance adopted under the provisions of this section shall be in effect in any town in which an ordinance adopted under the provisions of this section is in effect.

Code 1950, § 18.1-354; 1960, c. 358; 1962, c. 620; 1975, cc. 14, 15, § 18.2-433; 1978, c. 661; 1993, c. 866; 2004, c. 462.

**§ 15.2-912.3. (Effective July 1, 2021) Regulation of dance halls by counties, cities, and towns.**

For the purposes of this section, "public dance hall" means any place open to the general public where dancing is permitted; however, a restaurant located in any city licensed under subsection A of §

4.1-206.3 to serve food and beverages having a dance floor with an area not exceeding 10 percent of the total floor area of the establishment shall not be considered a public dance hall.

Any locality may by ordinance regulate public dance halls in such locality and prescribe punishment for violation of such ordinance not to exceed that prescribed for a Class 3 misdemeanor.

Such ordinance shall prescribe for (i) the issuance of permits to operate public dance halls, grounds for revocation and procedure for revocation of such permits; (ii) a license tax not to exceed $600 on every person operating or conducting any such dance hall; and (iii) rules and regulations for the operation of such dance halls. Such ordinances may exempt from their operation dances held for benevolent or charitable purposes and dances conducted under the auspices of religious, educational, civic, or military organizations.

No county ordinance adopted under the provisions of this section shall be in effect in any town in which an ordinance adopted under the provisions of this section is in effect.

Code 1950, § 18.1-354; 1960, c. 358; 1962, c. 620; 1975, cc. 14, 15, § 18.2-433; 1978, c. 661; 1993, c. 866; 2004, c. 462; 2020, cc. 1113, 1114.

**§ 15.2-913. Ordinances regulating certain vendors.**

A. Any locality may by ordinance provide for the regulation of persons not otherwise licensed by the Commonwealth under Title 38.2, offering any item for sale within the locality when such persons go from one place of human habitation to another offering an item, other than newspapers and fresh farm products, for sale. The purpose of such ordinance is to reasonably control the activities of door-to-door vendors for the safety and well-being of the people residing in the locality. However, the locality may in such ordinance exempt such activities when they are conducted on behalf of a nonprofit charitable, civic or religious organization and may provide for other reasonable exemptions in such ordinance.

B. Any locality adopting an ordinance under this section may collect a fee in an amount not to exceed twenty dollars, from each person granted a permit to sell door to door.

1975, c. 378, §§ 15.1-37.3:1, 15.1-37.3:2; 1983, c. 383; 1997, c. 587.

**§ 15.2-914. (Effective until July 1, 2021) Regulation of child-care services and facilities in certain counties and cities.**

Any (i) county that has adopted the urban county executive form of government, (ii) city adjacent to a county that has adopted the urban county executive form of government, or (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 63.2-1716.

Except as otherwise provided in this section, such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities and may be more extensive in scope than comparable state statutes or regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

1990, cc. 605, 609, § 15.1-37.3:12; 1997, c. 587; 2010, c. 649; 2011, c. 251; 2017, c. 809; 2020, cc. 910, 911.

**§ 15.2-914. (Effective July 1, 2021) Regulation of child-care services and facilities in certain counties and cities.**

Any (i) county that has adopted the urban county executive form of government, (ii) city adjacent to a county that has adopted the urban county executive form of government, or (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 22.1-289.031.

Except as otherwise provided in this section, such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities and may be more extensive in scope than comparable state statutes or regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

1990, cc. 605, 609, § 15.1-37.3:12; 1997, c. 587; 2010, c. 649; 2011, c. 251; 2017, c. 809; 2020, cc. 860, 861, 910, 911.

**§ 15.2-915. Control of firearms; applicability to authorities and local governmental agencies.**

A. No locality shall adopt or enforce any ordinance, resolution, or motion, as permitted by § 15.2-1425, and no agent of such locality shall take any administrative action, governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. For purposes of this section, a statute that does not refer to firearms, ammunition, or components or combination thereof shall not be construed to provide express authorization.

Nothing in this section shall prohibit a locality from adopting workplace rules relating to terms and conditions of employment of the workforce. However, no locality shall adopt any workplace rule, other than for the purposes of a community services board or behavioral health authority as defined in § 37.2-100, that prevents an employee of that locality from storing at that locality's workplace a lawfully possessed firearm and ammunition in a locked private motor vehicle. Nothing in this section shall prohibit a law-enforcement officer, as defined in § 9.1-101, from acting within the scope of his duties.

The provisions of this section applicable to a locality shall also apply to any authority or to a local governmental entity, including a department or agency, but not including any local or regional jail, juvenile detention facility, or state-governed entity, department, or agency.

B. Any local ordinance, resolution, or motion adopted prior to July 1, 2004, governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms, ammunition, or components or combination thereof, other than those expressly authorized by statute, is invalid.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action challenging (i) an ordinance, resolution, or motion as being in conflict with this section or (ii) an administrative action taken in bad faith as being in conflict with this section.

D. For purposes of this section, "workplace" means "workplace of the locality."

E. Notwithstanding the provisions of this section, a locality may adopt an ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof (i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) in any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality; or (iv) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose.

Any such ordinance may include security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, or public streets, roads, alleys, or sidewalks or public rights-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit by a person with any firearms, ammunition, or components or combination thereof, such as the use of metal detectors and increased use of security personnel.

The provisions of this subsection shall not apply to the activities of (i) a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. § 2101 et seq. or (ii) any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. Such activities shall follow strict guidelines developed by such institutions for these activities and shall be conducted under the supervision of staff officials of such institutions.

F. Notice of any ordinance adopted pursuant to subsection E shall be posted (i) at all entrances of any building, or part thereof, owned or used by the locality, or by any authority or local governmental entity

created or controlled by the locality, for governmental purposes; (ii) at all entrances of any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) at all entrances of any recreation or community center facilities operated by the locality, or by any authority or local governmental entity created or controlled by the locality; and (iv) at all entrances or other appropriate places of ingress and egress to any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit.

1987, c. 629, § 15.1-29.15; 1988, c. 392; 1997, cc. 550, 587; 2002, c. 484; 2003, c. 943; 2004, cc. 837, 923; 2009, cc. 735, 772; 2012, c. 757; 2020, cc. 1205, 1247.

**§ 15.2-915.1. Repealed.**

Repealed by Acts 2020, cc. 1205 and 1247, cl. 2.

**§ 15.2-915.2. Regulation of transportation of a loaded rifle or shotgun.**

The governing body of any county or city may by ordinance make it unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within such locality. Any violation of such ordinance shall be punishable by a fine of not more than $100. Conservation police officers, sheriffs and all other law-enforcement officers shall enforce the provisions of this section. No ordinance adopted pursuant to this section shall be enforceable unless the governing body adopting such ordinance so notifies the Director of the Department of Wildlife Resources by registered mail prior to May 1 of the year in which such ordinance is to take effect.

The provisions of this section shall not apply to duly authorized law-enforcement officers or military personnel in the performance of their lawful duties, nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

1976, c. 506, § 18.2-287.1; 1977, c. 377; 1989, c. 50; 2004, c. 462; 2020, c. 958.

**§ 15.2-915.3. Repealed.**

Repealed by Acts 2012, cc. 175 and 557, cl. 2.

**§ 15.2-915.4. Counties, cities and towns authorized to regulate use of pneumatic guns.**

A. A locality may prohibit, by ordinance, the shooting of pneumatic guns in any areas of the locality that are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof, and may require supervision by a parent, guardian, or other adult supervisor approved by a parent or guardian of any minor below the age of 16 in all uses of pneumatic guns on private or public property. The ordinance may specify that minors above the age of 16 may, with the written consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor, whether permitted by a parent or guardian to use a pneumatic gun or not, shall be responsible for obeying all laws, regulations and restrictions governing such use. Any penalty for a pneumatic gun offense set forth in such an ordinance shall not exceed a Class 3 misdemeanor.

B. No such ordinance authorized by subsection A shall prohibit the use of pneumatic guns at facilities approved for shooting ranges, on other property where firearms may be discharged, or on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

C. Training of minors in the use of pneumatic guns shall be done only under direct supervision of a parent, guardian, Junior Reserve Officers Training Corps instructor, or a certified instructor. Training of minors above the age of 16 may also be done without direct supervision if approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Ranges and instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, any service of the Department of Defense, or any person authorized by these authorities to certify ranges and instructors.

D. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

E. As used in this section, "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

2004, c. 930; 2011, c. 832.

**§ 15.2-915.5. Disposition of firearms acquired by localities.**

A. No locality or agent of such locality may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the locality or agent of such locality unless the governing body of the locality has enacted an ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality in such program.

B. Any ordinance enacted pursuant to this section shall require that any firearm received, except a firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited by federal law, shall be destroyed by the locality unless the person surrendering the firearm requests in writing that the firearm be offered for sale by public auction or sealed bids to a person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the date, time, and place of any sale conducted pursuant to this subsection shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the locality in which the property to be sold is located. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened. Any firearm remaining in possession of the locality or agent of the locality after attempts to sell at public auction or

by sealed bids shall be disposed of in a manner the locality deems proper, which may include destruction of the firearm or, subject to any registration requirements of federal law, sale of the firearm to a licensed dealer.

2012, c. 211; 2020, cc. 1205, 1247.

**§ 15.2-916. Prohibiting shooting of compound bows, slingbows, arrowguns, crossbows, longbows, and recurve bows.**

Any locality may prohibit the shooting of an arrow from a bow or arrowgun in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. For the purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

1995, c. 284, § 15.1-518.2; 1997, c. 587; 2017, c. 530; 2018, cc. 557, 558.

**§ 15.2-917. Applicability of local noise ordinances to certain sport shooting ranges.**

A. No local ordinance regulating any noise shall subject a sport shooting range to noise control standards more stringent than those in effect at its effective date. The operation or use of a sport shooting range shall not be enjoined on the basis of noise, nor shall any person be subject to action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of the range, if the range is in compliance with all ordinances relating to noise in effect at the time construction or operation of the range was approved, or at the time any application was submitted for the construction or operation of the range.

B. Any sport shooting range operating or approved for construction within the Commonwealth, which has been condemned through an eminent domain proceeding by any condemning entity, and which relocates to another site within the same locality within two years of the final condemnation order, shall not be subjected to any noise control standard more stringent than those in effect at the effective date of such sport shooting range.

C. For purposes of this section, "sport shooting range" means an area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

For purposes of this section, "effective date" means the time the construction or operation of the sports shooting range initially was approved, or at the time any application was submitted for the construction or operation of the sports shooting range, whichever is earliest.

1990, cc. 541, 577, § 15.1-29.20; 1997, c. 587; 2005, c. 544; 2006, c. 704.

**§ 15.2-918. Locality may prohibit or regulate use of air cannons.**

Any locality may by ordinance prohibit or regulate the use within its jurisdiction of certain devices, including air cannons, carbide cannons, or other loud explosive devices which are designed to produce high intensity sound percussions for the purpose of repelling birds.

Such ordinance may prescribe the degree of sound or the decibel level produced by the cannon or device which is unacceptable in that jurisdiction.

In adopting an ordinance pursuant to the provisions of this section, the governing body may provide that any person who violates the provisions of such ordinance shall be guilty of a Class 3 misdemeanor.

1986, c. 106, § 15.1-29.13; 1997, c. 587.

**§ 15.2-919. Regulation of motorcycle, moped, or motorized skateboard or scooter noise.**

Any locality may, by ordinance, regulate noise from a motorcycle, moped, or motorized skateboard or scooter, as defined in § 46.2-100, which is not equipped with a muffler and exhaust system conforming to §§ 46.2-1047 and 46.2-1049, if such noise may be hazardous to the health and well-being of its citizens.

Code 1950, § 15.1-29.12; 1974, c. 339; 1985, c. 170; 1997, c. 587; 2006, cc. 529, 538; 2013, c. 783.

**§ 15.2-920. Regulation of outdoor lighting near certain facilities.**

In addition to any other authority granted to localities by law, any locality may by ordinance regulate outdoor lighting within an area one-half mile around planetariums, astronomical observatories and meteorological laboratories. This section shall not be construed to affect any ordinance heretofore adopted by a locality.

1980, c. 512, § 15.1-29.8; 1997, c. 587.

**§ 15.2-921. Ordinances requiring fencing of swimming pools.**

For the purposes of this section:

"Fence" means a close type vertical barrier not less than four feet in height above ground surface. A woven steel wire, chain link, picket or solid board type fence or a fence of similar construction which will prevent the smallest of children from getting through shall be construed as within this definition.

"Swimming pool" includes any outdoor man-made structure constructed from material other than natural earth or soil designed or used to hold water for the purpose of providing a swimming or bathing place for any person or any such structure for the purpose of impounding water therein to a depth of more than two feet.

Any locality may adopt ordinances making it unlawful for any person to construct, maintain, use, possess or control any pool on any property in such locality, without having a fence completely around such swimming pool. Such ordinances also may provide that every gate in such fence shall be capable of being securely fastened at a height of not less than four feet above ground level; that it shall be unlawful for any such gate to be allowed to remain unfastened while the pool is not in use; and that

such fence shall be constructed so as to come within two inches of the ground at the bottom and shall be at least five feet from the edge of the pool at any point.

Violation of any such ordinance may be made punishable by a fine of not more than $300 or confinement in jail for not more than thirty days, either or both. Each day's violation may be construed as a separate offense.

Any such ordinance may be made applicable to swimming pools constructed before, as well as those constructed after, the adoption thereof. No such ordinance shall take effect less than ninety days from the adoption thereof, nor shall any such ordinance apply to any swimming pool operated by or in conjunction with any hotel located on a government reservation.

Code 1950, § 15-18.1; 1958, c. 123; 1962, c. 623, § 15.1-29; 1997, c. 587.

**§ 15.2-922. Smoke alarms in certain buildings.**

A. Any locality, notwithstanding any contrary provision of law, general or special, may by ordinance require that smoke alarms be installed in the following structures or buildings if smoke alarms have not been installed in accordance with the Uniform Statewide Building Code (§ 36-97 et seq.): (i) any building containing one or more dwelling units, (ii) any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons, and (iii) any rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations. Smoke alarms installed pursuant to this section shall be installed only in conformance with the provisions of the Uniform Statewide Building Code and shall be permitted to be either battery operated or AC powered. Such installation shall not require new or additional wiring and shall be maintained in accordance with the Statewide Fire Prevention Code (§ 27-94 et seq.) and subdivision C 6 of § 36-105, Part III of the Uniform Statewide Building Code. Nothing herein shall be construed to authorize a locality to require the upgrading of any smoke alarms provided by the building code in effect at the time of the last renovation of such building, for which a building permit was required, or as otherwise provided in the Uniform Statewide Building Code.

B. The ordinance may require the owner of a rental unit to provide the tenant a certificate that all smoke alarms are present, have been inspected by the owner, his employee, or an independent contractor, and are in good working order. Except for smoke alarms located in public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke alarms in rented or leased dwelling units shall be the responsibility of the tenant in accordance with § 55.1-1227.

1981, c. 324, § 15.1-29.9; 1984, c. 387; 1990, c. 184; 1997, c. 587; 2011, c. 766; 2018, cc. 41, 81.

**§ 15.2-922.1. Regulating or prohibiting the making of fires.**

A. Any city or town may by ordinance regulate or prohibit the making of fires in streets, alleys, and other public places and regulate the making of fires on private property.

B. In addition to the authority provided under § 27-98, any county may by ordinance regulate or prohibit the making of fires in streets, alleys, and other public places and, when a declared emergency exists, pursuant to § 44-146.21, regulate the making of fires on private property.

2007, c. 256.

### § 15.2-922.2. Special fee for emergency services in certain counties.

A. Any county with a population of less than 3,000 may by ordinance, and after a public hearing and subject to such terms and conditions as set forth in the ordinance, levy a fee to fund the provision of emergency medical services in the county, not to exceed the actual cost incurred by the county in providing such services.

B. The county may enter into a contractual agreement with any water or heat, light, and power company or other corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 for the collection of such fee. The agreement may include a commission for such service in the form of a deduction from the fee remitted. The commission shall be provided for in the ordinance, which shall set the rate not to exceed five percent of the amount of fees due and collected.

2018, c. 660.

### § 15.2-923. Local water-saving ordinances.

Notwithstanding any contrary provision of law, as shall be necessary to protect the public health, safety and welfare, any locality may by ordinance (i) require the installation of water conservation devices in the case of the retrofitting of buildings constructed prior to July 1, 1978, and (ii) restrict the nonessential use of ground water during declared water shortages or water emergencies.

For purposes of this section "nonessential use" shall not include agricultural use.

1978, c. 469, § 15.1-37.2:1; 1992, c. 589; 1997, c. 587; 2004, c. 402.

### § 15.2-924. Water supply emergency ordinances.

A. Whenever the governing body of any locality finds that a water supply emergency exists or is reasonably likely to occur if water conservation measures are not taken, it may adopt an ordinance restricting the use of water by the citizens of such locality for the duration of such emergency or for a period of time necessary to prevent the occurrence of a water supply emergency. However, such ordinance shall apply only to water supplied by a locality, authority, or company distributing water for a fee or charge. Such ordinance may include appropriate penalties designed to prevent excessive use of water, including, but not limited to, a surcharge on excessive amounts used.

B. After such an emergency has been declared in any locality, any owner of a water supply system serving that locality may apply to the State Water Control Board for assistance. If the State Water Control Board confirms the existence of an emergency, and finds that such owner and such locality have exhausted available means to relieve the emergency and that the owner and locality are applying all feasible water conservation measures, and in addition finds that there is water available in neighboring localities in excess of the reasonable needs of such localities, and that there exists between such neighboring localities interconnections for the transmission of water, the Board shall so inform the Governor. The Governor, if requested jointly by the locality and the owner of the systems supplying the locality, may then appoint a committee consisting of one representative of the locality declaring the emergency, one representative of the system supplying the locality under emergency, and those two

representatives shall choose a third representative and failing to choose such third representative within seven days he shall be selected by the Governor. The committee shall have the duty and authority to allocate the water available in such localities for the period of the emergency, provided that the period of the emergency shall not exceed that determined by the locality declaring the emergency or the State Water Control Board whichever period termination is earlier, so that the best water supply possible will be provided to all water users during the emergency as previously described. Nothing in this section shall be construed as requiring the construction of pipeline interconnections between any locality or any water supply system.

C. Any water taken from one water supplier for the benefit of another shall be paid for by using the established rate schedule of the supplier for treated water. Raw water shall be furnished at rates which shall reflect all costs to the supplying locality, including, but not limited to, capital investment costs. Should there be imposed upon the supplier any additional obligation, water production costs or other capital or operating expenditures beyond those normal to the suppliers' system, then the cost of same shall be chargeable to the receiving locality by single payment or by incorporation in a special rate structure, all of the same as shall be reasonable.

D. Nothing contained in this section shall authorize any locality to regulate the use of water taken from a river or any flowing stream when such water is used for industrial purposes and the approximate same quantity of water is returned to such river or stream after such industrial usage.

1978, c. 669, § 15.1-37.3:4; 1997, c. 587; 2001, c. 258.

**§ 15.2-924.1. Repealed.**

Repealed by Acts 2011, cc. 341 and 353, cl. 2.

**§ 15.2-925. Regulation, etc., of assemblies or movement of persons or vehicles under certain circumstances.**

Any locality may empower the chief law-enforcement officer to regulate, restrict or prohibit any assembly of persons or the movement of persons or vehicles if there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger. In such circumstances the governing body may convene immediately in a special meeting and enact an emergency ordinance or ordinances for such purposes, notwithstanding any contrary provisions in any charter or under the general law.

1968, c. 459, § 15.1-514.1; 1997, c. 587.

**§ 15.2-925.1. Local notifications.**

Any locality may by ordinance establish a system to deliver notifications to residents by email, phone, text message or other similar means of communication. Such ordinance shall be adopted only after a public hearing and shall contain an opt-in provision for non-emergency notifications.

2015, c. 192.

**§ 15.2-926. Prohibiting loitering; frequenting amusements and curfew for minors; penalty.**

A. Any locality may by ordinance prohibit loitering in, upon or around any public place, whether on public or private property. Any locality may by ordinance also prohibit minors who are not attended by their parents from frequenting or being in public places, whether on public or private property, at such times, between 10:00 p.m. and 6:00 a.m., as the governing body deems proper.

A violation of such ordinances by a minor shall be disposed of as provided in §§ 16.1-278.4 and 16.1-278.5.

B. A locality may by ordinance regulate the frequenting, playing in or loitering in public places of amusement by minors, and may prescribe punishment for violations of such ordinances not to exceed that prescribed for a Class 3 misdemeanor.

C. Without limiting or restricting the general powers created by this section, the term "public place" shall also include public libraries.

Code 1950, § 15-8; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, c. 279; 1960, c. 606; 1962, c. 623, § 15.1-514; 1968, c. 425; 1983, c. 502, § 15.1-33.4; 1995, cc. 59, 658; 1997, c. 587; 1998, c. 865; 1999, c. 1023; 2004, c. 462; 2009, c. 481.

**§ 15.2-926.1. Bounties for coyotes.**

Any locality may by ordinance permit the killing of coyotes within its boundaries at any time and may pay, out of any available funds, a bounty for each coyote killed within its boundaries. The ordinance may prescribe the conditions to be met and the evidence to be submitted before any such payment is made, as well as the amount of the bounty to be paid.

1999, c. 487.

**§ 15.2-926.2. Adoption of ordinances prohibiting obscenity.**

The locality may adopt ordinances to prohibit obscenity or conduct paralleling the provisions of Article 5 (§ 18.2-372 et seq.) and Article 6 (§ 18.2-390 et seq.) of Chapter 8 of Title 18.2 and prohibiting the dissemination to juveniles of, and their access to, materials deemed harmful to juveniles as defined in subsection (6) of § 18.2-390 in public at places frequented by juveniles or where juveniles are or may be invited as part of the general public. Exceptions as provided in § 18.2-391.1 shall apply thereto. The penalty for violating the provisions of such ordinance shall not be greater than the penalty imposed for a Class 1 misdemeanor.

Code 1950, § 18.1-236.5; 1970, c. 423; 1975, cc. 14, 15, § 18.2-389; 1977, c. 295; 1982, c. 477; 1991, c. 710; 2004, c. 462.

**§ 15.2-926.3. (Effective until January 1, 2021) Local regulation of certain aircraft.**

No political subdivision may regulate the use of a privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries. Nothing in this section shall permit a person to go or enter upon land owned by a political subdivision solely because he is in possession of an unmanned aircraft system if he would not otherwise be permitted entry upon such land.

2016, c. 451; 2018, cc. 851, 852.

**§ 15.2-926.3. (Effective January 1, 2021) Local regulation of certain aircraft.**

A. No political subdivision may regulate the use of a privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries.

B. Notwithstanding the prohibition of subsection A, a political subdivision may, by ordinance or regulation, regulate the take-off and landing of an unmanned aircraft, as defined in § 19.2-60.1, on property owned by the political subdivision. Such ordinance or regulation shall be developed and authorized in accordance with the rules and regulations promulgated by the Department of Aviation (the Department). Such rules and regulations shall be in accordance with federal rules and regulations and shall include a process for adoption of an ordinance or regulation, exemptions to the ordinance or regulation, political subdivision training, and notification requirements. The political subdivision shall report to the Department any ordinance or regulation adopted pursuant to this section, and the Department shall publish and update annually on its website, and any other website the Department deems appropriate, a summary of any such ordinance or regulation adopted.

C. Nothing in this section shall permit a person to go or enter upon land owned by a political subdivision solely because he is in possession of an unmanned aircraft system if he would not otherwise be permitted entry upon such land.

D. Nothing in this section shall be construed to prohibit (i) the take-off or landing of an unmanned aircraft by a commercial operator in compliance with Federal Aviation Administration regulations, or as deemed reasonable or necessary by private or public entities for emergency or maintenance support functions or services, including the protection and maintenance of public or private critical infrastructure; (ii) the landing of an unmanned aircraft by an operator in compliance with Federal Aviation Administration regulations as deemed reasonable or necessary by the operator in the event of a technical malfunction of an unmanned aircraft system; (iii) the take-off or landing of an unmanned aircraft being operated by a sworn public safety officer in the performance of his duties; or (iv) the take-off or landing of an unmanned aircraft owned or operated by the United States government, or any operator under contract with any agency of the United States government, in performance of his assigned duties.

2016, c. 451; 2018, cc. 851, 852; 2020, c. 345.

**§ 15.2-926.4. Regulation of smoking in outdoor amphitheater or concert venue; civil penalty.**

A. Any locality, by ordinance, may designate reasonable no-smoking areas within an outdoor amphitheater or concert venue owned by that locality.

B. An ordinance adopted pursuant to this section shall:

1. Require the locality to install adequate signs within each outdoor amphitheater or concert venue that designate the no-smoking areas within such outdoor amphitheater or concert venue;

2. Provide that no person shall smoke in any area or place designated as a no-smoking area and that any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25; and

3. Provide that any law-enforcement officer may issue a summons regarding a violation of the ordinance.

C. Civil penalties assessed under this section shall be paid into the treasury of the locality where the offense occurred and shall be expended solely for public health purposes.

2019, c. 713.

## Article 2 - WASTE AND RECYCLING

### § 15.2-927. Garbage and refuse disposal.

Any locality may collect and dispose of garbage and other refuse; may regulate and inspect incinerators, dumps and other places and facilities for the disposal of garbage and other refuse and the manner in which such incinerators, dumps, places and facilities are operated or maintained; and without liability to the owner thereof may prevent the use thereof for such purposes when they contribute or are likely to contribute to the contraction or spread of infectious, contagious or dangerous diseases.

Code 1950, § 15-77.21; 1958, c. 328; 1962, c. 623, § 15.1-857; 1997, c. 587.

### § 15.2-928. Local recycling and waste disposal; powers; penalties.

A. Any locality may (i) provide and operate, within or outside its boundaries, solid waste management facilities and appurtenances for the collection, management, recycling and disposal of solid waste, recyclable materials, and other refuse of the residents and businesses of the locality; (ii) contract with other localities to provide such services jointly; (iii) contract with others for supplying such services; (iv) contract with any locality or agency of the Commonwealth to provide such services for either entity; (v) prohibit the disposal of garbage or recyclable materials in or at any place other than that provided by the public or private sector for the purpose; (vi) charge and collect compensation for such services; (vii) regulate the times and placement of waste and waste containers set out for collection, such regulation to require notice so as to allow removal by the owner of the waste or waste containers prior to imposition of a civil penalty, provided that, in the City of Roanoke, provided the third notice required herein included an opportunity for the owner to be heard, the civil penalty may be imposed without further notice after the third notice for violation; (viii) provide penalties, including either criminal or civil penalties, for the unauthorized use of or failure to use such facilities. Prosecution of either a civil or criminal offense shall preclude prosecution of the other for the same offense; and (ix) grant incentives to encourage recycling.

B. Any locality may by ordinance limit the use of solid waste depositories or receptacles, owned or maintained by the locality, to the disposal of garbage and other solid waste originating from within the boundaries of such locality. Any locality adopting such an ordinance may provide penalties for its violation pursuant to subsection A.

C. For the purposes of this section, recyclable materials shall be those materials identified in a plan adopted pursuant to § 10.1-1411 and regulations promulgated thereunder. Nothing in this section

shall invalidate the actions of any locality taken prior to enactment of this section. Nothing in this section shall be construed as prohibiting any generator of recyclable materials from selling, conveying or arranging for transportation of such materials to a recycler for reuse or reclamation, nor preventing a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buyback center, drop box or any generator of recyclable materials.

1991, c. 665, § 15.1-11.5:3; 1997, cc. 236, 587; 2000, c. 231; 2002, cc. 161, 690; 2003, c. 518; 2006, c. 847.

**§ 15.2-929. Solid waste management facility siting approval.**

A. Any locality may enact an ordinance regulating the siting of solid waste management facilities within its boundaries. The ordinance shall prescribe the criteria, form of application, and procedure, which shall include a public hearing, for siting approval. In establishing the criteria, the locality shall consider the potential effect of the siting of a solid waste management facility on the health, safety and welfare of the residents of the locality. Any person desiring to site a solid waste management facility within the boundaries of any locality which has adopted an ordinance pursuant to this section shall file its application with the governing body of the locality. Within 120 days of the receipt of an application which complies with the provisions of the ordinance, the governing body shall grant or deny siting approval. Failure to act within 120 days shall constitute a granting of siting approval.

B. Whenever any governing body denies siting approval, the applicant shall be entitled to appeal such decision to the circuit court of the jurisdiction denying siting approval.

C. Any person who has already been issued a permit to operate a solid waste management facility by the Department of Environmental Quality or has received zoning or other land use approval for the siting of the facility, prior to July 1, 1989, shall not be required to obtain siting approval for such solid waste management facility pursuant to the provisions of this section.

1989, c. 623, § 15.1-11.02; 1997, c. 587.

**§ 15.2-930. Regulation of garbage and refuse pickup and disposal services; contracting for such services.**

A. Any locality may by ordinance impose license taxes upon and otherwise regulate the services rendered by any business engaged in the pickup and disposal of garbage, trash or refuse, wherein service will be provided to the residents of any such locality. Such regulation may include the delineation of service areas, the limitation of the number of persons engaged in such service in any such service area, including the creation of one or more exclusive service areas, and the regulation of rates of charge for any such service.

Such locality is authorized to contract with any person, whether profit or nonprofit, for garbage and refuse pickup and disposal services in its respective jurisdiction.

B. Prior to enacting an ordinance pursuant to subsection A which displaces a private company engaged in the provision of pickup and disposal of garbage, trash or refuse in service areas, the governing body shall: (i) hold at least one public hearing seeking comment on the advisability of such

ordinance; (ii) provide at least forty-five days' written notice of the hearing, delivered by first class mail to all private companies which provide the service in the locality and which the locality is able to identify through local government records; and (iii) provide public notice of the hearing. Following the final public hearing held pursuant to the preceding sentence, but in no event longer than one year after the hearing, a governing body may enact an ordinance pursuant to subsection A which displaces a private company engaged in the provision of pickup and disposal of garbage, trash or refuse in a service area if the ordinance provides that private companies will not be displaced until five years after its passage. As an alternative to delaying displacement five years, a governing body may pay a company an amount equal to the company's preceding twelve months' gross receipts for the displaced service in the displacement area. Such five-year period shall lapse as to any private company being displaced when such company ceases to provide service within the displacement area.

For purposes of this section, "displace" or "displacement" means an ordinance prohibiting a private company from providing the service it is providing at the time a decision to displace is made. Displace or displacement does not mean: (i) competition between the public sector and private companies for individual contracts; (ii) situations where a locality or combination of localities, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company or, following a competitive process conducted in accordance with the Virginia Public Procurement Act, decides for any reason to contract with a public service authority established pursuant to the Virginia Water and Waste Authorities Act, or, following such competitive process, decides for any reason to provide such pickup and disposal service itself; (iii) situations where action is taken against a company because the company has acted in a manner threatening to the health and safety of the locality's citizens or resulting in a substantial public nuisance; (iv) situations where action is taken against a private company because the company has materially breached its contract with the locality or combination of localities; (v) situations where a private company refuses to continue operations under the terms and conditions of its existing agreement during the five-year period; (vi) entering into a contract with a private company to provide pickup and disposal of garbage, trash or refuse in a service area so long as such contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing pickup and disposal of garbage, trash or refuse in such service area; or (vii) situations where at least fifty-five percent of the property owners in the displacement area petition the governing body to take over such collection service.

C. Any county with a population in excess of 800,000 may by ordinance provide civil penalties not exceeding $500 per offense for persons willfully contracting with a solid waste collector or collectors not licensed or permitted to perform refuse collection services within the county. For purposes of this section, evidence of a willful violation is the voluntary contracting by a person with a solid waste collector after having received written notice from the county that the solid waste collector is not licensed or permitted to operate within that county. Written notice may be provided by certified mail or by any appropriate method specified in Article 4 (§ 8.01-296 et seq.) of Chapter 8 of Title 8.01.

D. Fairfax County may by ordinance authorize the local police department to serve a summons to appear in court on solid waste collectors operating within that county without a license or permit. Each day the solid waste collector operates within the county without a license or permit is a separate offense, punishable by a fine of up to $500.

1968, c. 419, § 15.1-28.1; 1970, c. 219; 1978, c. 251; 1984, c. 763; 1994, c. 458; 1995, c. 660; 1997, c. 587; 2007, c. 813.

**§ 15.2-931. Regulation of garbage and refuse pickup and disposal services; contracting for such services in certain localities.**

A. Localities may adopt ordinances requiring the delivery of all or any portion of the garbage, trash or refuse generated or disposed of within such localities to waste disposal facilities located therein, or to waste disposal facilities located outside of such localities if the localities have contracted for capacity at or service from such facilities.

Such ordinances may not be adopted until the local governing body, following one or more public hearings, has made the following findings:

1. That other waste disposal facilities, including privately owned facilities and regional facilities, are: (i) unavailable; (ii) inadequate; (iii) unreliable; or (iv) not economically feasible, to meet the current and anticipated needs of the locality for waste disposal capacity; and

2. That the ordinance is necessary to ensure the availability of adequate financing for the construction, expansion or closing of the locality's facilities, and the costs incidental or related thereto.

No ordinance adopted by a locality under this subsection shall prevent or prohibit the disposal of garbage, trash or refuse at any facility: (i) which has been issued a solid waste management facility permit by an agency of the Commonwealth on or before July 1, 1991; or (ii) for which a Part A permit application for a new solid waste management facility permit, including local governing body certification, was submitted to the Department of Waste Management in accordance with § 10.1-1408.1 B on or before December 31, 1991.

B. Localities may provide in any ordinance adopted under this section that it is unlawful for any person to dispose of his garbage, trash and refuse in or at any other place. No such ordinance making it unlawful to dispose of garbage, trash and refuse in any other place shall apply to the occupants of single-family residences or family farms disposing of their own garbage, trash or refuse if such occupants have paid the fees, rates and charges of other single-family residences and family farms in the same service area.

No ordinance adopted under this section shall apply to garbage, trash and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter. Nor shall such ordinance apply to (i) recyclable

materials, which are those materials that have been source-separated by any person or materials that have been separated from garbage, trash and refuse by any person for utilization in both cases as a raw material to be manufactured into a product other than fuel or energy, (ii) construction debris to be disposed of in a landfill, or (iii) waste oil. Such ordinances may provide penalties, fines and other punishment for violations.

Such localities are authorized to contract with any person, whether profit or nonprofit, for garbage and refuse pickup and disposal services in their respective localities and to enter into contracts relating to waste disposal facilities which recover energy or materials from garbage, trash and refuse. Such contracts may make provision for, among other things, (i) the purchase by the localities of all or a portion of the disposal capacity of a waste disposal facility located within or outside the localities for their present or future waste disposal requirements, (ii) the operation of such facility by the localities, (iii) the delivery by or on behalf of the contracting localities of specified quantities of garbage, trash and refuse, whether or not such counties, cities, and towns collect such garbage, trash and refuse, and the making of payments in respect of such quantities of garbage, trash and refuse, whether or not such garbage, trash and refuse are delivered, including payments in respect of revenues lost if garbage, trash and refuse are not delivered, (iv) adjustments to payments made by the localities in respect of inflation, changes in energy prices or residue disposal costs, taxes imposed upon the facility owner or operator, or other events beyond the control of the facility operator or owners, (v) the fixing and collection of fees, rates or charges for use of the disposal facility and for any product or service resulting from operation of the facility, and (vi) such other provision as is necessary for the safe and effective construction, maintenance or operation of such facility, whether or not such provision displaces competition in any market. Any such contract shall not be deemed to be a debt or gift of the localities within the meaning of any law, charter provision or debt limitation. Nothing in the foregoing powers granted such localities includes the authority to pledge the full faith and credit of such localities in violation of Article X, Section 10 of the Constitution of Virginia.

It has been and is continuing to be the policy of the Commonwealth to authorize each locality to displace or limit competition in the area of garbage, trash or refuse collection services and garbage, trash or refuse disposal services to provide for the health and safety of its citizens, to control disease, to prevent blight and other environmental degradation, to promote the generation of energy and the recovery of useful resources from garbage, trash and refuse, to protect limited natural resources for the benefit of its citizens, to limit noxious odors and unsightly garbage, trash and refuse and decay and to promote the general health and welfare by providing for adequate garbage, trash and refuse collection services and garbage, trash and refuse disposal services. Accordingly, governing bodies are directed and authorized to exercise all powers regarding garbage, trash and refuse collection and garbage, trash and refuse disposal notwithstanding any anti-competitive effect.

C. The following localities may by ordinance require the delivery of all or any portion of the garbage, trash and refuse generated or disposed of within such localities to waste disposal facilities located therein or to waste disposal facilities located outside of such localities if the localities have contracted

for capacity at or service from such facilities: (i) Arlington County or the City of Alexandria, singly or jointly, two or all of such counties and cities; (ii) Fairfax County, Fauquier County, Loudoun County, Prince William County, or Stafford County and any town situated within or city wholly surrounded by any of such counties, singly or jointly, two or more of such localities, that have by resolution of the governing body committed the locality to own or operate a resource recovery waste disposal facility; and (iii) localities which are members of the Richmond Regional Planning District No. 15 or Crater Planning District No. 19, singly or jointly, two or more of such localities, that by ordinance of the governing body after a minimum of two public hearings, and after complying with applicable provisions of the Public Procurement Act (Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2), have committed the locality to own, operate or contract for the operation of a resource recovery waste disposal facility.

1984, c. 763, § 15.1-28.01; 1987, c. 422; 1988, c. 264; 1991, cc. 521, 615; 1997, c. 587; 2007, c. 813.

**§ 15.2-932. Authorization to enter into certain contracts for garbage and refuse pickup and disposal services; waste recovery facilities.**

Any locality is authorized to contract with any person, whether profit or nonprofit, for garbage and refuse pickup and disposal services in its locality and to enter into contracts relating to waste disposal facilities which recover energy or materials from garbage, trash and refuse. Such contracts may make provision for, among other things, (i) the purchase by the locality of all or a portion of the disposal capacity of a waste disposal facility located within or outside the locality for its present or future waste disposal requirements, (ii) the operation of such facility by the locality, (iii) the delivery by or on behalf of the contracting locality of specified quantities of garbage, trash and refuse, whether or not such locality collects such garbage, trash and refuse, and the making of payments in respect of such quantities of garbage, trash and refuse, for such garbage, trash and refuse delivered, (iv) adjustments to payments made by the locality in respect of inflation, changes in energy prices or residue disposal costs, taxes imposed upon the facility owner or operator, or other events beyond the control of the facility operator or owners, (v) the fixing and collection of fees, rates or charges for use of the disposal facility and for any product or service resulting from operation of the facility, and (vi) such other provision as is necessary for the safe and effective construction, maintenance or operation of such facility, whether or not such provision displaces competition in any market. Any such contract shall not be deemed to be a debt or gift of the localities within the meaning of any law, charter provision or debt limitation. Nothing in the foregoing powers granted such locality shall include the authority to pledge the full faith and credit of such locality in violation of Article X, Section 10 of the Constitution of Virginia.

1985, c. 558, § 15.1-28.02; 1997, c. 587.

**§ 15.2-933. Ordinances requiring delivery of garbage, trash and refuse to certain facilities; exceptions.**

Any ordinance requiring the delivery of all or any portion of the garbage, trash or refuse generated or disposed of within a locality to waste disposal facilities located within or outside the locality, or otherwise prohibiting the disposal of garbage, trash and refuse in or at any other place other than that provided for the purpose, shall not apply to garbage, trash and refuse generated, purchased or utilized

by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter. Nor shall such ordinance apply to (i) recyclable materials, which are those materials that have been source-separated by any person or materials that have been separated from garbage, trash and refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy, (ii) construction debris to be disposed of in a landfill or (iii) waste oil.

1985, c. 558, § 15.1-28.03; 1997, c. 587.

**§ 15.2-934. Displacement of private waste companies.**

No locality or combination of localities shall displace a private company providing garbage, trash or refuse collection service without first: (i) holding at least one public hearing seeking comment on the advisability of the locality or combination of localities providing such service; (ii) providing at least 45 days' written notice of the hearing, delivered by first class mail to all private companies that provide the service in the locality or localities and that the locality or localities are able to identify through local government records; (iii) providing public notice of the hearing; and (iv) making a written finding of at least one of the following: (a) adequate or sufficient privately-owned refuse collection and disposal services are not available; (b) the use of privately-owned and operated services has substantially endangered the public health or created a public nuisance; (c) privately-owned services, although available, are not able to provide needed services in a reasonable and cost-efficient manner; or (d) displacement is necessary to provide for the development or operation of a regional system of refuse collection or disposal for two or more localities. After making the findings required by this section, and not longer than one year after the final public hearing, the locality or combination of localities may proceed to take measures necessary to provide such service. A locality or combination of localities shall provide five years' notice to a private company before the locality or combination of localities engages in the actual provision of the service that displaces the company. As an alternative to delaying displacement five years, a locality or combination of localities may pay a displaced company an amount equal to the company's preceding 12 months' gross receipts for the displaced service in the displacement area. Such five-year period shall lapse as to any private company being displaced when such company ceases to provide service within the displacement area.

For purposes of this section, "displace" or "displacement" means a locality's or a combination of localities' provision of a service which prohibits a private company from providing the same service and which the company is providing at the time the decision to displace is made. Displace or displacement does not mean: (i) competition between the public sector and private companies for individual contracts; (ii) situations where a locality or combination of localities, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company or, following a competitive process conducted in accordance with the Virginia Public Procurement Act, decides for any reason to contract with a public service authority established pursuant to the Virginia

Water and Waste Authorities Act, or, following such competitive process, decides for any reason to provide such collection service itself; (iii) situations where action is taken against a private company because the company has acted in a manner threatening to the health and safety of a locality's citizens or resulting in a substantial public nuisance; (iv) situations where action is taken against a private company because the company has materially breached its contract with the locality or combination of localities; (v) situations where a private company refuses to continue operations under the terms and conditions of its existing agreement during the five-year notice period; (vi) entering into a contract with a private company to provide garbage, trash or refuse collection so long as such contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing garbage, trash or refuse collection; or (vii) situations where at least 55% of the property owners in the displacement area petition the governing body to take over such collection service.

1995, c. 660, § 15.1-28.04; 1997, c. 587; 2006, c. 74.

**§ 15.2-935. Authority to prohibit placement of leaves or grass clippings in landfills.**

A. Any locality may by ordinance prohibit the disposal of leaves or grass clippings in any privately operated landfill within its jurisdiction, provided such locality has implemented a composting program which is capable of handling all leaves and grass clippings generated within the jurisdiction. However, no such ordinance shall contain provisions which penalize anyone other than the initial generator of such leaves or grass clippings.

B. For purposes of this section, the term "composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

C. Nothing in this section shall be construed to prohibit any locality from prohibiting the disposal of leaves and grass clippings in any public landfill which it operates if that locality has implemented a composting program which is capable of handling all leaves and grass clippings generated within its jurisdiction.

1990, c. 172, § 15.1-11.5:1; 1992, c. 638; 1997, c. 587.

**§ 15.2-936. Garbage and refuse disposal; fee exemption.**

Persons may be exempted, deferred, or charged a lesser amount by a locality from paying any charges and fees authorized by any law for the collection and disposal of garbage and refuse. Ordinances providing for such exemptions, deferrals or charges of lesser amounts may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010.

1992, cc. 197, 458, § 15.1-11.04; 1993, cc. 643, 651; 1997, c. 587; 2011, cc. 438, 496.

**§ 15.2-937. Separation of solid waste.**

A. Any locality may by ordinance require any person to separate solid waste for collection and recycling. Any such ordinance shall specify the type of materials to be separated. No such ordinance shall affect the right of any person to sell or otherwise dispose of waste material as provided in § 15.2-933 or permitted under any other law of the Commonwealth, nor shall any such ordinance impose any

liability upon any apartment or commercial office building owner or manager for failure of tenants to comply with any provisions of the ordinance adopted pursuant to this section or upon any waste hauler for failure of its customers to comply with such ordinance. No such ordinance shall impose criminal penalties for failure to comply with its provisions; however, such ordinance may prescribe civil penalties for violations of the provisions of the ordinance.

B. Any locality may by ordinance provide for the reasonable inspection at any landfill within their jurisdiction of any tractor truck semitrailer combination with five or more axles transporting solid waste to any landfill within their jurisdiction to ensure separation of such solid waste in accordance with all applicable state laws and regulations. In enforcing such ordinance, there shall be a rebuttable presumption that solid waste transported from any jurisdiction which has comparable requirements for waste recycling is in compliance with such ordinance.

C. For purposes of this section, the term "recycling" has the meaning ascribed to it in § 10.1-1414.

1988, c. 373, § 15.1-11.5; 1990, cc. 608, 961; 1992, c. 638; 1997, c. 587.

### § 15.2-938. Preference for purchase of recycled paper and paper products.

A. Any locality may by ordinance require that in determining the award of any contract for paper or paper products to be purchased for use by any division, department, or agency of such locality, the purchasing agent for such locality shall procure using competitive sealed bidding and shall award to the lowest responsible bidder offering recycled paper or paper products of a quality suitable for the purpose intended, so long as the bid price is not more than ten percent greater than the bid price of the low responsive and responsible bidder offering a product that does not qualify under subsection B of this section.

B. For purposes of this section, recycled paper and paper products means any paper and paper products meeting the EPA Recommended Content Standards as defined in former 40 C.F.R. Part 247.

1990, cc. 449, 857, § 15.1-11.5:01; 1997, c. 587.

### § 15.2-939. Ordinances requiring recycling reports.

Any locality may by ordinance require all nonresidential solid waste generators and companies that manage solid waste or recycle materials generated within its jurisdiction to annually report such nonproprietary information regarding waste generation, waste management, and recycling as is necessary to facilitate compliance with regulations adopted pursuant to § 10.1-1411. Any report required under this section shall be based on volume or weight, provided that where such measurements cannot be accurately determined, the report may be based on carefully estimated data.

1990, cc. 540, 563, § 15.1-11.5:2; 1997, c. 587.

## Article 3 - ECONOMIC DEVELOPMENT; TOURISM; HISTORIC PRESERVATION

### § 15.2-940. Expenditures for promoting resources and advantages of locality.

Any locality may, in its discretion, expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality. Such purpose shall include, without limiting the generality thereof, watershed projects and expenditures in connection therewith.

Code 1950, §§ 15-11 through 15-13; 1952, c. 117; 1956, c. 25; 1960, cc. 168, 176; 1962, c. 623, § 15.1-10; 1994, c. 593; 1997, c. 587.

**§ 15.2-941. Participation by local government in certain loan programs.**

Any locality or other political subdivision may participate in a program known as the "Virginia Shell Building Initiative." It is the intent of the General Assembly that this program, administered by the Virginia Economic Development Partnership, make available moneys to any locality or any other political subdivision for the express purpose of constructing industrial shell buildings, or renovating existing buildings, to be sold or leased at public or private sale to any person that will locate thereon any manufacturing, processing, technology-related or similar establishment.

Prior to filing an application with the Authority to participate in this program, the governing body shall hold a public hearing on the application and disposal of the proposed industrial shell buildings and related real estate. This public hearing process shall fulfill the public hearing requirements for the disposal of property set forth in § 15.2-1800.

1989, c. 285, § 15.1-18.4; 1996, cc. 590, 598; 1997, c. 587; 2001, c. 66.

**§ 15.2-941.1. Creation of abandoned school revitalization zones.**

A. Any locality may establish by ordinance one or more abandoned school revitalization zones for the purpose of providing incentives to private entities to purchase or develop real property or to assemble parcels suitable for economic development that include an abandoned school site. Each locality establishing an abandoned school revitalization zone may grant incentives and provide regulatory flexibility.

B. The incentives provided for in this section may include, but shall not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax or any other type of local tax as permitted by state law, and (iv) waiver of tax liens to facilitate the sale of property, if deemed appropriate.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the abandoned school revitalization zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in an abandoned school revitalization zone may include (i) special zoning for the district; (ii) the use of a special permit process; (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.); and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.).

F. A school located in an abandoned school revitalization zone shall be eligible for participation in the Virginia Shell Building Initiative pursuant to § 15.2-941.

G. This section shall not authorize any local government powers that are not expressly granted herein.

H. Prior to adopting or amending any ordinance pursuant to this section, a locality shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

2018, cc. 498, 499.

**§ 15.2-942. Local government participation in certain events.**

Any locality may provide for the re-creation and portrayal of important historical or cultural events associated with or which have taken place within the locality. Such locality may:

1. Enter into agreements with public or private nonprofit organizations to stage and promote such events;

2. Charge admission to such events, permit street vending, the sale of food, beverages, and merchandise related to and compatible with the objectives of the public celebration arranged for such events, or to delegate to such organizations the authority to do so;

3. Delegate to such organizations the collection of license fees from vendors;

4. Require a surety bond adequate to protect the public interest;

5. Restrict traffic on designated streets for the duration of the events; and

6. Make gifts by ordinance to such organizations from its treasury in furtherance of the re-creation and portrayal of such important historical or cultural events.

1984, c. 588, § 15.1-28.6; 1997, c. 587.

**§ 15.2-943. Operation and maintenance of living historical farm museums.**

A. The General Assembly finds that there is a public interest in encouraging the development of living historical farm museums to preserve for posterity living examples of earlier farm operation and farm life in Virginia. Such living historical farm museums lead to respect for the past, the education of the young and also serve as tourist attractions in the Commonwealth.

B. A "living historical farm museum," for the purposes of this section, shall be a nonprofit corporation or association dedicating no less than five acres for the sole purpose of portraying by restoration, preservation or reconstruction of farm operation and farm life, including milling, of a selected period in the agricultural history of Virginia. The requirement that the museum shall be nonprofit shall not prevent the museum from charging admittance fees adequate to cover costs of operation and maintenance.

C. Any locality may provide, by appropriate ordinance, that whenever a person dedicates five or more acres to a nonprofit corporation or association dedicated solely for the purpose of organizing,

operating, and maintaining a living historical farm museum, such person may be authorized to build and maintain such structures for the living historical farm museum as will be used in the operation, maintenance and support of such museum, subject, however, to any provisions of any zoning or planning ordinance of such locality.

1973, c. 332, § 15.1-18.1:1; 1997, c. 587.

**§ 15.2-943.1. Creation of arts and cultural districts.**

A. Any locality, or combination of localities, may by ordinance, or in the case of multiple localities by substantially similar ordinances, establish within the boundaries of such localities one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture in the locality. The locality may provide incentives for the support and creation of arts and cultural venues in each district. The locality may also grant tax incentives and provide certain regulatory flexibility in each arts and cultural district.

B. The tax incentives for each district may be provided for up to 10 years and may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) rebate of real estate property taxes. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in each district that may include, but not be limited to, (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

2018, c. 396.

**§ 15.2-944. Authority to acquire and preserve places and things of historical interest.**

Any locality may acquire, except by condemnation, sites, landmarks, structures and records of historical interest and value to the Commonwealth and may restore and preserve them, or may convey them to a nonstock corporation chartered under Virginia law for the purposes of acquiring and preserving such places and things. A locality may appropriate money to any such corporation.

Code 1950, § 15-7.3; 1962, c. 333, § 15.1-18.1; 1997, c. 587.

**§ 15.2-944.1. Notification prior to sale or transfer of ownership of certain historic properties.**

A. Any charitable or civic organization or museum that (i) has been granted tax exempt status under § 501(c)(3) of the Internal Revenue Code; (ii) owns real property that is designated as historic under a local zoning ordinance or meets the criteria for a historic area under § 15.2-2201; and (iii) is operating that property as a historic attraction open to the public for interpretation for more than 100 days per year, shall notify in writing the locality's chief administrative officer, the Department of Historic Resources, and the Office of Attorney General of its intent to sell or transfer ownership of such property.

B. Such notification shall be provided at least ninety days prior to the public offering for sale of such property, or if no public offering is made, at least ninety days prior to the acceptance of a purchase offer for such property.

C. The notification required pursuant to subsection A shall be waived where (i) only a portion of the property is sold or transferred and the portion that is not sold or transferred remains open to the public at least 100 days a year; (ii) the property is being transferred to another owner who has been granted tax exempt status under § 501(c)(3) of the Internal Revenue Code and the property remains open to the public at least 100 days a year; or (iii) an easement, right-of-way, or leasehold interest in the property is being sold or transferred and the property remains open to the public at least 100 days a year.

D. Failure to provide the notification required by this section shall not be the basis for invalidation of any sale, but may subject the terms of the sale to special review by the locality or the Attorney General to ensure that such sale has not resulted in a violation of any public law or charitable trust obligation by the transferring organization or entity.

2001, c. 780.

**§ 15.2-945. Acquisition and housing of relics, paintings, carvings, sculpture and other works of art.**
The governing body of any locality may enter into agreements with appropriate authorities or agencies, acting under legislation enacted by the Congress of the United States, or with any person to provide and secure for such locality such relics and such paintings, carvings, sculpture and other works of art as may be specified in such agreements and may appropriate buildings to house them. For such purposes the governing body, notwithstanding any provision of Chapter 18 (§ 15.2-1800 et seq.) or this chapter to the contrary, may furnish such materials, services and supplies and appropriate and expend from the general funds of such locality such moneys as the governing body deems proper.

Code 1950, § 15-706; 1962, c. 623, § 15.1-281; 1997, c. 587.

**§ 15.2-946. Regulation of tour guides and tourist guides.**
Any locality may, before issuing any license to do business as a tour guide or tourist guide, require that an applicant for such license take and pass an examination to determine the fitness of such person as to his knowledge of the history of the locality and of the historical and tourist attractions located therein.

1984, c. 675, § 15.1-28.7; 1997, c. 587.

## Article 3.1 - GOVERNOR'S ECONOMIC DEVELOPMENT GRANT FUND

**§§ 15.2-946.1 through 15.2-946.4. Expired.**
Expired.

## Article 4 - PUBLIC TRANSPORTATION

**§ 15.2-947. Systems of public transportation for certain counties or cities.**

Notwithstanding any other provision of law, the governing body of any county or city not a member of a transportation district, upon finding a need for a system of public transportation and the inability of the governing body to reach a reasonable agreement for membership with an existing transportation district, may create, operate, maintain or contract for a system of public transportation to be operated in such county or city for the safety, comfort and convenience of the public. The governing body of any such county or city providing a system of public transportation or desiring to provide such a system may contract with any authority providing public transportation in contiguous localities for transportation services or the interchange of passengers for the purpose of providing continuous service between localities.

1974, c. 325, § 15.1-526.2; 1975, c. 404; 1997, c. 587.

**§ 15.2-948. Locality may designate continuing source of revenue for mass transit.**

The governing body of any locality may, within the limits permitted by the Constitution, designate any of its continuing sources of revenue, or portions thereof, as a stable and reliable source of revenue to pay its mass transit operating and debt service expenses to the extent that such designation is required by the United States as a prerequisite pursuant to Public Law 96-184 to the provision of funds for mass transit construction and debt service which benefits any such locality.

1980, c. 226, § 15.1-37.3:5; 1997, c. 587.

**§ 15.2-949. Shared ride taxi systems, etc.; nonprofit vanpools.**

As used herein, "shared ride taxi system" means a transportation system which employs taxicab-type vehicles or other motor vehicles which can carry no more than six passengers, and which attempts to arrange for use of such vehicles by more than one passenger per trip.

Notwithstanding any other provision of law to the contrary, any locality which is a member of any transportation district may, with the concurrence of the transportation district commission that there is a need for a shared ride taxi system and the unavailability of adequate existing public transportation or public transportation proposed to be available within a reasonable period of time, construct, finance, purchase, operate, maintain or contract for a shared ride taxi system to be operated in such locality for the health, safety, welfare, comfort and convenience of the public. Such system may be financed from general revenues or funds received from the United States government, from the Commonwealth or any other source. Such system or the equipment and property needed for such system may also be constructed or purchased from proceeds of bonds which may be issued pursuant to the Public Finance Act (§ 15.2-2600 et seq.). Rates may be charged for the use of the system in such amount as the governing body of the locality deems reasonable, and different rates may be charged to different reasonable classifications of users.

The need for a shared ride taxi system and the unavailability of adequate existing or proposed public transportation may be based on the lack of such system or on the lack of such system at such user rates as will promote the health, safety, welfare, comfort and convenience of the public. Contracts may

be made with existing or proposed shared ride taxi systems, both publicly and privately owned, for the subsidy of all users or groups of users.

In the administration of this section, private carriers are preferred over public ownership or operation; therefore, before any such locality undertakes to establish and operate its own transportation system which uses taxis or other similar vehicles, it shall first make a bona fide attempt to enter into contracts with existing privately owned taxi businesses. If such locality cannot reach a reasonable agreement within an equitable period of time, then it may by ordinance proceed to establish and operate its own system.

In lieu of establishing a shared ride taxi system, such a locality may provide financial subsidies, low-interest or interest-free loans, or tax incentives to assist with the capital costs involved in the establishment of nonprofit vanpools meeting the definition of ridesharing arrangements set forth in § 46.2-1400.

Any such locality shall have all powers necessary or convenient to carry out any of the foregoing powers.

1976, c. 303, § 15.1-37.3:3; 1988, c. 109; 1997, c. 587; 2002, c. 337.

## Article 5 - ADDITIONAL POWERS

### § 15.2-950. Appropriations.

A locality may make appropriations for the purposes for which it is empowered to levy taxes and make assessments, for the support of the locality, for the performance of its functions, and the accomplishment of all other lawful purposes and objectives, subject to such limitations as may be imposed by law.

Code 1950, § 15-77.6; 1958, c. 328; 1962, c. 623, § 15.1-842; 1997, c. 587.

### § 15.2-951. Acquisition, disposition and use of personal property by localities generally.

Localities, for the purposes of exercising any of their powers and duties and performing any of their functions, may acquire by gift, bequest, purchase, lease, or installment purchase contract; and may own and make use of and may grant security interests in, sell and otherwise dispose of, within and outside the localities, personal property, including any interest, right or estate therein. In addition, localities may sell and otherwise dispose of surplus materials, as defined in § 2.2-1124, by public sale or auction, including online public auction, provided that such sale or auction conforms with the procedures set forth in subdivisions B 3 through B 5 and subdivision B 8 of § 2.2-1124. In any instance where personal property in any of the following categories: school or transit bus fleet, vehicle fleet, or road construction equipment is sold with the intent to lease back the property, when the value of the proposed sale amount exceeds $2,000,000 approval by the governing body, after notice and a public hearing, shall be required. The public hearing shall be advertised once in a newspaper having general circulation in the locality at least seven days prior to the date set for the hearing. Any debt incurred

by a municipality pursuant to the provisions of this section shall be subject to the limitations imposed by Article VII, Section 10 of the Constitution of Virginia.

1986, c. 573, § 15.1-526.4; 1988, c. 810; 1989, c. 340, § 15.1-29.17; 1997, c. 587; 2005, c. 531; 2006, cc. 468, 493.

**§ 15.2-952. Political subdivisions may acquire property from United States.**

Notwithstanding the provisions of any charter or any ordinance, any locality, sanitary district or other political subdivision may, by ordinance or resolution, authorize the acquisition and purchase from the United States of America, or any agency thereof, whether now existing or hereafter created, of any equipment, supplies, materials or other property, real or personal, in such manner as such governing body may determine.

It is the purpose of this section to enable any political subdivision of this Commonwealth to secure from time to time promptly the benefits of acquisition and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends such political subdivisions may do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

Code 1950, § 15-24; 1962, c. 623, § 15.1-32; 1997, c. 587.

**§ 15.2-953. Donations to charitable institutions and associations, volunteer and nonprofit organizations, chambers of commerce, etc.**

A. Any locality may make appropriations of public funds, of personal property or of any real estate and donations to the Virginia Indigent Health Care Trust Fund and to any charitable institution or association, located within their respective limits or outside their limits if such institution or association provides services to residents of the locality; however, such institution or association shall not be controlled in whole or in part by any church or sectarian society. The words "sectarian society" shall not be construed to mean a nondenominational Young Men's Christian Association, a nondenominational Young Women's Christian Association, Habitat for Humanity, or the Salvation Army. Nothing in this section shall be construed to prohibit any county or city from making contracts with any sectarian institution for the care of indigent, sick or injured persons.

B. Any locality may make gifts and donations of property, real or personal, or money to (i) any charitable institution or nonprofit or other organization providing housing for persons 60 years of age or older or operating a hospital or nursing home; (ii) any association or other organization furnishing voluntary firefighting services; (iii) any nonprofit or volunteer emergency medical services agency, within or outside the boundaries of the locality; (iv) any nonprofit recreational association or organization; (v) any nonprofit organization providing recreational or daycare services to persons 65 years of age or older; or (vi) any nonprofit association or organization furnishing services to beautify and maintain communities or to prevent neighborhood deterioration. Gifts or donations of property, real or personal, or money by any locality to any nonprofit association, recreational association, or organization described

in provision (iv), (v), or (vi) may be made provided the nonprofit association, recreational association, or organization is not controlled in whole or in part by any church or sectarian society. Donations of property or money to any such charitable, nonprofit or other hospital or nursing home, institution or organization or nonprofit recreational associations or organizations may be made for construction purposes, for operating expenses, or both.

A locality may make like gifts and donations to chambers of commerce which are nonprofit and nonsectarian.

A locality may make like gifts, donations and appropriations of money to industrial development authorities for the purposes of promoting economic development.

A locality may make like gifts and donations to any and all public and private nonprofit organizations and agencies engaged in commemorating historical events.

A locality may make like gifts and donations to any nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality.

A locality may make like gifts and donations to any nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is engaged in providing emergency relief to residents, including providing the repair or replacement of private property damaged or destroyed by a natural disaster.

A locality may make like gifts and donations to nonprofit foundations established to support the locality's public parks, libraries, and law enforcement. For the purposes of this paragraph, "donations" to any such foundation shall include the lawful provision of in-kind resources.

A locality may make monetary gifts, donations, and appropriations of money to a public institution of higher education in the Commonwealth that provides services to such locality's residents.

Public library materials that are discarded from their collections may be given to nonprofit organizations that support library functions, including, but not limited to, friends of the library, library advisory boards, library foundations, library trusts and library boards of trustees.

C. Any locality may make gifts and donations of personal property and may deliver such gifts and donations to another governmental entity in or outside of the Commonwealth within the United States.

D. Any locality may by ordinance provide for payment to any volunteer emergency medical services agency that meets the required minimum standards for such volunteer emergency medical services agency set forth in the ordinance a sum for each rescue call the volunteer emergency medical services agency makes for an automobile accident in which a person has been injured on any of the highways or streets in the locality. In addition, unless otherwise prohibited by law, any locality may make appropriations of money to volunteer fire companies or any volunteer emergency medical services agency in an amount sufficient to enroll any qualified member of such volunteer fire company or emer-

gency medical services agency in any program available within the locality intended to defray out-of-pocket expenses for transportation by an emergency medical services vehicle.

E. For the purposes of this section, "donations" shall include the lawful provision of in-kind resources for any event sponsored by the donee and, with respect to any association or other organization furnishing voluntary firefighting services or a nonprofit or volunteer emergency medical services agency, the provision of in-kind resources for contract management services for capital projects; assistance in preparing requests for information, bids, or proposals; and budgeting services.

F. Nothing in this section shall be construed to obligate any locality to appropriate funds to any entity. Such charitable contribution shall be voluntary.

Code 1950, §§ 15-16, 15-16.1, 15-16.2; 1952, c. 381; 1959, Ex. Sess., c. 36; 1960, cc. 50, 225, 453; 1962, c. 623, §§ 15.1-24, 15.1-25, 15.1-26; 1964, c. 32; 1974, c. 514; 1994, cc. 254, 317; 1995, c. 333; 1997, c. 587; 1998, c. 376; 1999, c. 430; 2003, c. 182; 2004, c. 272; 2005, c. 327; 2006, c. 118; 2007, cc. 292, 592, 641; 2008, cc. 612, 632; 2010, cc. 509, 600; 2014, c. 711; 2015, cc. 502, 503; 2020, cc. 439, 440.

**§ 15.2-954. Loans to volunteer firefighting and rescue organizations.**

Any locality may make loans of money appropriated from public funds to any nonprofit organization furnishing firefighting or rescue services for the construction of facilities or the acquisition of equipment that is to be used for the purpose of providing firefighting or rescue services.

1990, c. 125, § 15.1-24.1; 1997, c. 587.

**§ 15.2-954.1. Volunteer firefighter or volunteer emergency medical services personnel tuition reimbursement.**

Notwithstanding any other provision to the contrary, any locality may by ordinance establish and administer a tuition reimbursement program for eligible volunteer firefighters or volunteer emergency medical services personnel, or both, for the purposes of recruitment and retention.

2003, c. 208; 2015, cc. 502, 503.

**§ 15.2-955. Approval by local governing body for the establishment of volunteer emergency medical services agencies and firefighting organizations.**

A. No volunteer emergency medical services agency or volunteer firefighting organization shall be established in any locality on or after July 1, 1984, without the prior approval by resolution of the governing body.

B. Each locality shall seek to ensure that emergency medical services are maintained throughout the entire locality.

1984, c. 599, § 15.1-26.01; 1997, c. 587; 2005, c. 418; 2015, cc. 502, 503.

**§ 15.2-956. Participation in certain federal development programs.**

A. Any locality may participate in a program under Title I (Community Development) of the United States Housing and Community Development Act of 1974, as amended, the National Affordable

Housing Act of 1990, the Housing and Community Development Act of 1992 or any other federal legislation or program under which the locality may receive and use or administer the use of federal funds for housing, community development or economic development purposes. Any such locality may undertake the community development activities specified in such legislation or programs unless such activities are prohibited by the Constitution of Virginia. Any locality may appropriate its own moneys for the same purposes for which federal funds may be employed under the provisions of such federal legislation or program unless prohibited by the Constitution of Virginia. Any federal funds, or portion thereof, received by a locality under such legislation or programs may be deposited in a special fund which shall be established separate and apart from any other funds, general or special; such funds shall be deemed to be federal funds and shall not be construed to be part of the revenues of such locality.

B. Any city with a population over 100,000 which appropriates local funds pursuant to subsection A may use the income guidelines established by the Virginia Housing Development Authority for its single-family mortgage subsidy program to determine eligibility for home-ownership assistance from its local funds.

1976, c. 251, § 15.1-29.7; 1978, c. 374; 1979, c. 187; 1993, c. 380; 1995, c. 349; 1997, c. 587.

**§ 15.2-957. Participation by localities in certain leasing programs.**

Any locality may participate in a program under § 8 (Housing Assistance Payments Program) of the United States Housing Act of 1937, as amended, on behalf of eligible families or eligible persons leasing privately owned housing directly from owners or private leaseholders. Any such locality may also appropriate its own money for the same purposes for which federal funds may be employed under the provisions of such federal legislation as well as for the purpose of increasing the payments to eligible families or eligible persons beyond federally approved levels when the fair market rent of the rental unit is greater than that established by the United States Department of Housing and Urban Development.

If any power granted in the foregoing paragraph is held invalid, the other remaining power shall not be affected thereby. If the application of the power granted in the foregoing paragraph to any persons or circumstances is held invalid, the application of the power to other persons shall not be affected thereby. Nothing in the foregoing powers granted localities includes the authority to pledge the full faith and credit of such locality in violation of Article X, Section 10 of the Constitution of Virginia.

1975, c. 534, § 15.1-29.6; 1976, c. 154; 1978, c. 592; 1997, c. 587.

**§ 15.2-958. Local funding for repair or production of low and moderate income rental property or repair of residential property; other housing experiments.**

It is hereby declared that the preservation of existing housing in safe and sanitary condition and the production of new housing for persons of low and moderate income are public purposes and uses for which public money may be spent, and that such preservation and production are governmental functions of concern to the Commonwealth. Therefore, the governing body of any locality may provide by

ordinance that such locality may make grants or loans to owners of residential rental property occupied, or to be occupied, following rehabilitation or after construction if new, by persons of low and moderate income, for the purpose of rehabilitating or producing such property. Owners assisted in this manner must provide a minimum of 20 percent of the units for low and moderate income persons as defined by the locality for a minimum of 10 years. Participation by an owner under this section is voluntary.

Any locality in the ordinance herein authorized may:

1. Provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, and other site improvements essential to the development, preservation or rehabilitation planned;

2. Provide encouragement or financial assistance to the owners or occupants for developing or preserving and upgrading apartment buildings and for improving health and safety, conserving energy, preventing erosion, enhancing the neighborhood, and reducing the displacement of low and moderate income residents of the property;

3. Require that the owner agree to maintain a portion of the property in residential rental use for a period longer than ten years and that a portion of the dwelling units in the property be offered at rents affordable to persons or families of low and moderate income;

4. Provide that the value of assistance given by the locality under subdivisions 1 and 2 above be proportionate to the value of considerations rendered by the owner in maintaining a portion of the dwelling units at reduced rents for persons or families of low and moderate income; and

5. Make loans or grants of local funds to individuals for the purpose of rehabilitating owner-occupied residences or assisting in the purchase of an owner-occupied residence in designated conservation or rehabilitation districts. The locality shall publish annually a report listing the property purchased or rehabilitated pursuant to this provision and the amounts of any grants or loans made for such purpose. Such ordinance shall require that any such loans or grants be applied using the income guidelines issued by the Virginia Housing Development Authority for use in its single family mortgage loan program financed with bonds on which the interest is exempt from federal income taxation. The locality shall offer financial institutions as defined in § 6.2-604 the opportunity to participate in local loan programs established pursuant to this subsection.

1988, c. 862, § 15.1-37.3:9; 1993, c. 791; 1995, c. 393; 1997, c. 587; 2008, c. 580.

**§ 15.2-958.1. Sale of certain property in certain cities.**

A. The City of Richmond may by ordinance provide for the sale of property for the nominal amount of one dollar if such property (i) has been acquired in accordance with § 58.1-3970 or § 58.1-3970.1 or (ii) has been declared a blighted structure and has been acquired by the city in accordance with § 36-49.1:1.

B. If the city sells a property acquired under subsection A, the city shall require any purchaser by covenants in the deed or other security instrument to (i) begin repair or renovation of the property within six months of purchase and (ii) complete all repairs or renovations necessary to bring the property into compliance with the local building code within a period not to exceed two years of the purchase. The city may include any additional reasonable conditions it deems appropriate in order to carry out the intent of this section and assure that the property is repaired or renovated in accordance with applicable codes.

C. A "blighted structure" means a structure as defined in § 36-49. Notwithstanding any other provisions of law, such city may exercise within its boundaries any spot blight abatement procedures set forth in § 36-49.1:1. The owner shall have the opportunity to take corrective action or present a reasonable plan to do so in accordance with such section.

2000, c. 364; 2007, c. 813.

**§ 15.2-958.2. Grants for homeownership; workforce housing.**

A. In order to ensure its competitiveness as an employer, a locality may, by ordinance, provide for the use of funds, other than state funds, to provide homeownership grants to employees of the locality, employees of the school board and employees of constitutional officers, to purchase their primary residences in the locality. The ordinance shall require that individual grants not exceed $25,000 per employee, nor lifetime cumulative grants exceed $25,000 per employee. Any such grants issued shall be subject to the Virginia Housing and Development Authority regional sales price and household income limitations. The ordinance may establish such other terms and conditions to ensure the integrity of the homeownership grant program.

B. In addition to the homeownership grants authorized in subsection A, a locality may by ordinance, and in cooperation with the local school division, offer residential housing assistance grants in amounts not to exceed those permitted in subsection A and, with the local school division, enter into public-private partnerships and other arrangements to provide affordable workforce housing alternatives to school division personnel.

2004, c. 541; 2007, cc. 578, 674; 2009, c. 198.

**§ 15.2-958.2:01. Grants for certain corporations and pass-through entities.**

A. The counties and cities listed in subsection B may give grants or loans to any eligible company, as defined in § 58.1-405.1.

B. The counties and cities that may give grants pursuant to subsection A are:

1. The Counties of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, Page, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Galax, and Norton;

2. The Counties of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward and the Cities of Danville and Martinsville;

3. The Counties of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland; and

4. The Counties of Brunswick and Dinwiddie and the City of Petersburg.

2018, cc. 801, 802; 2019, cc. 262, 263.

**§ 15.2-958.3. Financing clean energy, resiliency, and stormwater management programs.**

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy, resiliency, or stormwater management improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum and maximum aggregate dollar amount that may be financed with respect to a property and (ii) if a locality or other public body is originating the loan, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body;

4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of clauses (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems, resiliency improvements, or stormwater management improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55.1-2000:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its

particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

G. The Department of Mines, Minerals and Energy shall have the authority to serve as a statewide sponsor for a clean energy financing program that meets the requirements of this section. The Department of Mines, Minerals and Energy shall engage a private entity through a competitive selection process to develop and administer the program.

2009, c. 773; 2010, c. 141; 2015, cc. 389, 427; 2019, cc. 564, 753; 2020, c. 664.

**§ 15.2-958.4. Waiver of certain fees for affordable housing.**

A. A locality may by ordinance provide for the waiver of building permit fees and other local fees associated with the construction, renovation, or rehabilitation of housing by a § 501(c)(3) organization with a primary purpose of assisting with the provision of affordable housing.

B. A locality may by ordinance provide for the waiver of building permit fees and other local fees associated with the construction, renovation, or rehabilitation of housing by a private-sector entity that is pursuing an affordable housing development. For purposes of this subsection, a locality may determine in its ordinance what constitutes affordable housing and may set other conditions on the waiver of fees as it deems appropriate.

2009, c. 799; 2019, c. 393.

**§ 15.2-958.5. Local funding for community revitalization.**

A. The City of Richmond may by ordinance provide for the creation of a community revitalization fund for the purpose of preventing neighborhood deterioration. The community revitalization fund shall be exclusively comprised of appropriated local moneys.

B. Any such community fund established pursuant to this section shall be used for one or more of the following purposes:

1. Loans or grants to for-profit and nonprofit organizations for the construction, renovation, or demolition of residential structures in the City;

2. Infrastructure improvements; and

3. Acquisition of blighted structures in accordance with § 36-49.1:1.

C. Such ordinance shall establish (i) qualifying income guidelines for participants and the communities in which community revitalization funds may be expended and (ii) criteria for participation by for-profit and nonprofit organizations that may be eligible for loans or grants pursuant to the provisions of this section.

2011, cc. 770, 833.

**§ 15.2-958.6. Financing the repair of failed septic systems.**

A. Any locality may, by ordinance, authorize contracts with property owners to provide loans for the repair of septic systems. Such an ordinance shall state:

1. The kinds of septic system repairs for which loans may be offered;

2. The proposed arrangement for such loan program, including (i) the interest rate and time period during which contracting property owners shall repay the loan; (ii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality; and (iii) the possibility that the locality may partner with a planning district commission (PDC) to coordinate and provide financing for the repairs, including the locality's obligation to reimburse the PDC as the loan is repaid;

3. A minimum and maximum aggregate dollar amount that may be financed;

4. A method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality; and

6. A draft contract specifying the terms and conditions proposed by the locality or by a PDC acting on behalf of the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. In cases in which local property records fail to identify all of the individuals having an ownership interest in a property containing a failing septic system, the locality may set a minimum total ownership interest that it will require a property owner or owners to prove before it will allow the owner or owners to participate in the program.

D. The locality or PDC acting on behalf of the locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

E. In order to secure the loan authorized pursuant to this section, the locality is authorized to place a lien equal in value to the loan against any property where such septic system repair is being undertaken. Such liens shall be subordinate to all liens on the property as of the date loans authorized pursuant to this section are made, except that with the prior written consent of the holders of all liens on the property as of the date loans authorized pursuant to this section are made, the liens securing loans authorized pursuant to this section shall be liens on the property ranking on a parity with liens for unpaid local taxes. The locality may bundle or package such loans for transfer to private lenders in such a manner that would allow the liens to remain in full force to secure the loans.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

2013, c. 185.

**§ 15.2-959. Housing research.**

Any locality which does not have a redevelopment and housing authority as authorized by Chapter 1 (§ 36-1 et seq.) of Title 36, shall be authorized to engage in research, studies, and experimentation in housing alternatives, including the rehabilitation of existing housing stock and the construction of additional housing.

1988, c. 862, § 15.1-37.3:9; 1993, c. 791; 1995, c. 393; 1997, c. 587.

**§ 15.2-960. Planting of trees destroyed during construction.**

Any locality may establish reasonable rules, regulations, and schedules for planting trees in and along areas dedicated for public use where trees have been destroyed in the construction process. This provision shall not affect the validity of any local ordinance adopted pursuant to any other provision of law.

1986, c. 183, § 15.1-14.1; 1997, c. 587.

**§ 15.2-961. Replacement of trees during development process in certain localities.**

A. Any locality with a population density of at least 75 persons per square mile or any locality within the Chesapeake Bay watershed may adopt an ordinance providing for the planting and replacement of trees during the development process pursuant to the provisions of this section. Population density shall be based upon the latest population estimates of the Cooper Center for Public Service of the University of Virginia.

B. The ordinance shall require that the site plan for any subdivision or development include the planting or replacement of trees on the site to the extent that, at 20 years, minimum tree canopies or covers will be provided in areas to be designated in the ordinance, as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;

2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;

3. Fifteen percent tree canopy for a residential site zoned more than 10 but less than 20 units per acre; and

4. Twenty percent tree canopy for a residential site zoned 10 units or less per acre.

However, the City of Williamsburg may require at 10 years the minimum tree canopies or covers set out above.

C. The ordinance shall require that the site plan for any subdivision or development include, at 20 years, that a minimum 10 percent tree canopy will be provided on the site of any cemetery as defined

in § 54.1-2310, notwithstanding any other provision of this section. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements of this subsection.

D. The ordinance shall provide for reasonable provisions for reducing the tree canopy requirements or granting tree cover credit in consideration of the preservation of existing tree cover or for preservation of trees of outstanding age, size or physical characteristics.

E. The ordinance shall provide for reasonable exceptions to or deviations from these requirements to allow for the reasonable development of farm land or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or otherwise when the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the ordinance may provide for a tree canopy bank whereby a portion of a development's tree canopy requirement may be met from off-site planting or replacement of trees at the direction of the locality. The following shall be exempt from the requirements of any tree replacement or planting ordinance promulgated under this section: dedicated school sites, playing fields and other nonwooded recreation areas, and other facilities and uses of a similar nature.

F. The ordinance may designate tree species that cannot be planted to meet minimum tree canopy requirements due to tendencies of such species to (i) negatively impact native plant communities, (ii) cause damage to nearby structures and infrastructure, or (iii) possess inherent physiological traits that cause such trees to structurally fail. All trees to be planted shall meet the specifications of the AmericanHort. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

G. Existing trees which are to be preserved may be included to meet all or part of the canopy requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet standards of desirability and life-year expectancy which the locality may establish.

H. For purposes of this section:

"Tree canopy" or "tree cover" includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 10 or 20 years maturity. Planted canopy at 10 or 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.

I. Penalties for violations of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

J. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements set forth herein.

K. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section prior to July 1, 1990, which imposes standards for tree replacement or planting during the development process.

L. Nothing in this section shall invalidate any local ordinance adopted by the City of Williamsburg that imposes standards for 10-year-minimum tree cover replacement or planting during the development process.

M. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section after July 1, 1990, which imposes standards for 20-year-minimum tree cover replacement or planting during the development process.

1989, c. 715, § 15.1-14.2; 1990, c. 362; 1994, c. 420; 1997, c. 587; 2002, cc. 191, 226; 2003, c. 875; 2007, c. 813; 2013, c. 248; 2018, c. 399.

**§ 15.2-961.1. Conservation of trees during land development process in localities belonging to a nonattainment area for air quality standards.**

A. For purposes of this section, "tree canopy" or "tree cover" includes all areas of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height, and the extent of planted tree canopy at 20-years maturity.

B. Any locality within Planning District 8 that meets the population density criteria of subsection A of § 15.2-961 and is classified as an eight-hour nonattainment area for ozone under the federal Clean Air Act and Amendments of 1990, in effect as of July 1, 2008, may adopt an ordinance providing for the conservation of trees during the land development process pursuant to the provisions of this section. In no event shall any local tree conservation ordinance adopted pursuant to this section also impose the tree replacement provisions of § 15.2-961.

C. The ordinance shall require that the site plan for any subdivision or development provide for the preservation or replacement of trees on the development site such that the minimum tree canopy or tree cover percentage 20 years after development is projected to be as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;

2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;

3. Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;

4. Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per acre;

5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; and

6. Thirty percent tree canopy for a residential site zoned two or fewer units per acre.

In meeting these percentages, (i) the ordinance shall first emphasize the preservation of existing tree canopy where that canopy meets local standards for health and structural condition, and where it is feasible to do so within the framework of design standards and densities allowed by the local zoning and other development ordinances; and (ii) second, where it is not feasible in whole or in part for any of the justifications listed in subsection E to preserve existing canopy in the required percentages listed above, the ordinance shall provide for the planting of new trees to meet the required percentages.

D. Except as provided in subsection E, the percentage of the site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the requirements identified in subsection C that shall be provided through tree preservation. This portion of the canopy requirements shall be identified as the "tree preservation target" and shall be included in site plan calculations or narratives demonstrating how the overall requirements of subsection C have been met.

E. The ordinance shall provide deviations, in whole or in part, from the tree preservation target defined in subsection D under the following conditions:

1. Meeting the preservation target would prevent the development of uses and densities otherwise allowed by the locality's zoning or development ordinance.

2. The predevelopment condition of vegetation does not meet the locality's standards for health and structural condition.

3. Construction activities could be reasonably expected to impact existing trees to the extent that they would not likely survive in a healthy and structurally sound manner. This includes activities that would cause direct physical damage to the trees, including root systems, or cause environmental changes that could result in or predispose the trees to structural and health problems.

If, in the opinion of the developer, the project cannot meet the tree preservation target due to the conditions described in subdivision 1, 2, or 3, the developer may request a deviation from the preservation requirement in subsection D. In the request for deviation, the developer shall provide a letter to the locality that provides justification for the deviation, describes how the deviation is the minimum necessary to afford relief, and describes how the requirements of subsection C will be met through tree planting or a tree canopy bank or fund established by the locality. Proposed deviations shall be reviewed by the locality's urban forester, arborist, or equivalent in consultation with the locality's land development or licensed professional civil engineering review staff. The locality may propose an alternative site design based upon adopted land development practices and sound vegetation management practices that take into account the relationship between the cost of conservation and the benefits of the trees to be preserved as described in ANSI A300 (Part 5) -- 2005 Management: Tree, Shrub, and Other Woody Plant Maintenance -- Standard Practices, Management of Trees and Shrubs During Site Planning, Site Development, and Construction, Annex A, A-1.5, Cost Benefits Analysis (or the latest version of this standard). The developer shall consider the alternative and redesign the plan accordingly, or elect to satisfy the unmet portion of the preservation threshold through on-site tree planting or through the off-site planting mechanisms identified in subsection G, so long as the developer provides

the locality with an explanation of why the alternative design recommendations were rejected. Letters of explanation from the developer shall be prepared and certified by a licensed professional engineer as defined in § 54.1-400. If arboricultural issues are part of explanation then the letter shall be signed by a Certified Arborist who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status or by a Registered Consulting Arborist as designated by the American Society of Consulting Arborists. If arboricultural issues are the sole subject of the letter of explanation then certification by a licensed professional engineer shall not be required.

F. The ordinance shall provide for deviations of the overall canopy requirements set forth in subsection C to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.

G. The ordinance shall provide for the establishment of a tree canopy bank or fund whereby any portion of the tree canopy requirement that cannot be met on-site may be met through off-site tree preservation or tree planting efforts. Such provisions may be offered where it can be demonstrated that application of the requirements of subsection C would cause irresolvable conflicts with other local site development requirements, standards, or comprehensive planning goals, where sites or portions of sites lack sufficient space for future tree growth, where planting spaces will not provide adequate space for healthy root development, where trees will cause unavoidable conflicts with underground or overhead utilities, or where it can be demonstrated that trees are likely to cause damage to public infrastructure. The ordinance may utilize any of the following off-site canopy establishment mechanisms:

1. A tree canopy bank may be established in order for the locality to facilitate off-site tree preservation, tree planting, stream bank, and riparian restoration projects. Banking efforts shall provide tree canopy that is preserved in perpetuity through conservation easements, deed restrictions, or similar protective mechanisms acceptable to the locality. Projects used in off-site banking will meet the same ordinance standards established for on-site tree canopy; however, the locality may also require the submission of five-year management plans and funds to ensure the execution of maintenance and management obligations identified in those plans. Any such bank shall occur within the same nonattainment area in which the locality approving the tree banking is situated.

2. A tree canopy fund may be established to act as a fiscal mechanism to collect, manage, and disburse fees collected from developers that cannot provide full canopy requirements on-site. The locality may use this fund directly to plant trees on public property, or the locality may elect to disburse this fund to community-based organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code with tree planting or community beautification missions for tree planting programs that benefit the community at large. For purposes of establishing consistent and predictable fees, the ordinance shall establish cost units that are based on average costs to establish 20-year canopy areas using two-inch caliper nursery stock trees. Any funds collected by localities for these purposes shall

be spent within a five-year period established by the collection date, or the locality shall return such funds to the original contributor, or legal successor.

H. The following uses shall be exempt from the requirements of any ordinance promulgated under this section: bona fide silvicultural activity as defined by § 10.1-1181.1 and the areas of sites included in lakes, ponds, and the normal water elevation area of stormwater retention facilities. The ordinance shall modify the canopy requirements of dedicated school sites, playing fields, and other nonwooded active recreation areas by allowing these and other facilities and uses of a similar nature to provide 10 percent tree canopy 20 years after development.

I. 1. In recognition of the added benefits of tree preservation, the ordinance shall provide for an additional tree canopy credit of up to one and one-quarter times the canopy area at the time of plan submission for individual trees or the coalesced canopy of forested areas preserved from the predevelopment tree canopy.

2. The following additional credits may be provided in the ordinance in connection with tree preservation:

a. The ordinance may provide canopy credits of up to one and one-half times the actual canopy area for the preservation of forest communities that achieve environmental, ecological, and wildlife conservation objectives set by the locality. The ordinance may establish minimal area, dimensional and viability standards as prerequisites for the application of credits. Forest communities shall be identified using the nomenclature of either the federal National Vegetation Classification System (FGDC-STD-005, or latest version) or the Natural Communities of Virginia Classification of Ecological Community Groups, Second Approximation (Version 2.2, or latest version).

b. The ordinance may provide canopy credits of up to three times the actual canopy area of trees that are officially designated for preservation in conjunction with local tree conservation ordinances based on the authority granted by § 10.1-1127.1.

J. The following additional credits shall be provided in the ordinance in connection with tree planting:

1. The ordinance shall provide canopy credits of one and one-half the area normally projected for trees planted to absorb or intercept air pollutants, tree species that produce lower levels of reactive volatile organic compounds, or trees that act to reduce air pollution or greenhouse gas emissions by conserving the energy used to cool and heat buildings.

2. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for trees planted for water quality-related reforestation or afforestation projects, and for trees planted in low-impact development and bioretention water quality facilities. The low-impact development practices and designs shall conform to local standards in order for these supplemental credits to apply.

3. The ordinance shall provide canopy credits of one and one-half the area normally projected for native tree species planted to provide food, nesting, habitat, and migration opportunities for wildlife. These canopy credits may also apply to cultivars of native species if the locality determines that such

a cultivar is capable of providing the same type and extent of wildlife benefit as the species it is derived from.

4. The ordinance shall provide canopy credits of one and one-half the area normally projected for use of native tree species that are propagated from seed or tissue collected within the mid-Atlantic region.

5. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for the use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and the development of cavities, show high levels of resistance to disease or insect infestations, or exhibit high survival rates in harsh urban environments.

K. Tree preservation areas and individual trees may not receive more than one application of additional canopy credits provided in subsection I. Individual trees planted to meet these requirements may not receive more than two categories of additional canopy credits provided in subsection J. Canopy credits will only be given to trees with trunks that are fully located on the development site, or in the case of tree banking projects only to trees with trunks located fully within easements or other areas protected by deed restrictions listed in subsection G.

L. All trees planted for tree cover credits shall meet the specifications of the American Association of Nurserymen and shall be planted in accordance with the publication entitled "Tree and Shrub Planting Guidelines," published by the Virginia Cooperative Extension.

M. In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to limit the use of species that cause negative impacts to native plant communities, cause damage to nearby structures, or possess inherent physiological traits that prone trees to structural failure, the ordinance may designate species that cannot be used to meet tree canopy requirements or designate species that will only receive partial 20-year tree canopy credits.

N. The locality may allow the use of tree seedlings for meeting tree canopy requirements in large open spaces, low-density residential settings, or in low-impact development reforestation/afforestation projects. In these cases, the ordinance shall allow the ground surface area of seedling planting areas to equate to a 20-year canopy credit area. Tree seedling plantings will be comprised of native species and will be planted in densities that equate to 400 seedlings per acre, or in densities specified by low-impact development designs approved by the locality. The locality may set standards for seedling mortality rates and replacement procedures if unacceptable rates of mortality occur. The locality may elect to allow native woody shrubs or native woody seed mix to substitute for tree species as long as these treatments do not exceed 33 percent of the overall seedling planting area. The number of a single species may not exceed 10 percent of the overall number of trees or shrubs planted to meet the provisions of this subsection.

O. The following process shall be used to demonstrate achievement of the required percentage of tree canopy listed in subsection C:

1. The site plan shall graphically delineate the edges of predevelopment tree canopy, the proposed limits of disturbance on grading or erosion and sedimentation control plans, and the location of tree protective fencing or other tree protective devices allowed in the Virginia Erosion and Sediment Control Handbook.

2. Site plans proposing modification to tree canopy requirements or claiming supplemental tree canopy credits will require a text narrative.

3. The site plan shall include the 20-year tree canopy calculations on a worksheet provided by the locality.

4. Site plans requiring tree planting shall provide a planting schedule that provides botanical and common names of trees, the number of trees being planted, the total of tree canopy area given to each species, variety or cultivars planted, total of tree canopy area that will be provided by all trees, planting sizes, and associated planting specifications. The site plan will also provide a landscape plan that delineates where the trees shall be planted.

P. The ordinance shall provide a list of commercially available tree species, varieties, and cultivars that are capable of thriving in the locality's climate and ranges of planting environments. The ordinance will also provide a 20-year tree canopy area credit for each tree. The amount of tree canopy area credited to individual tree species, varieties, and cultivars 20 years after they are planted shall be based on references published or endorsed by Virginia academic institutions such as the Virginia Polytechnic Institute and State University and accepted by urban foresters, arborists, and horticulturalists as being accurate for the growing conditions and climate of the locality.

Q. The ordinance shall establish standards of health and structural condition of existing trees and associated plant communities to be preserved. The ordinance may also identify standards for removal of trees or portions of trees that are dead, dying, or hazardous due to construction impacts. Such removal standards may allow for the retention of trunk snags where the locality determines that these may provide habitat or other wildlife benefits and do not represent a hazardous condition. In the event that existing tree canopy proposed to be preserved for tree canopy credits dies or must be removed because it represents a hazard, the locality may require the developer to remove the tree, or a portion of the tree and to replace the missing canopy area by the planting of nursery stock trees, or if a viable alternative, by tree seedlings. Existing trees that have been granted credits will be replaced with canopy area determined using the same supplemental credit multipliers as originally granted for that canopy area.

R. Penalties for violation of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

S. In no event shall any local tree conservation ordinance adopted pursuant to this section exceed the requirements set forth herein; however, any local ordinance adopted pursuant to the provisions of § 15.2-961 prior to July 1, 1990, may adopt the tree conservation provisions of this section based on 10-year minimum tree canopy requirements.

T. Nothing in this section shall invalidate any local ordinance adopted pursuant to § 15.2-961.

2008, cc. 333, 711.

**§ 15.2-961.2. Conservation of trees; notice of infill lot grading plan.**

An ordinance adopted pursuant to § 15.2-961.1 may allow a locality to post signs on private property that is proposed to be redeveloped with one single-family home that notify the public that an infill lot grading plan is pending for review before the locality. The locality may not require the applicant to be responsible for such posting. The failure to post the property shall not be a ground for denial of such grading plan.

2016, cc. 317, 412.

**§ 15.2-962. Authority to require a unified geographic information system for a locality.**

Any locality may by ordinance require that any or all of its agencies, departments, authorities, committees, instrumentalities, or political subdivisions participate in one or more unified or centralized systems for geographic information, mapping, surveying, or land information. The ordinance may establish such conditions as may be necessary to develop, maintain, and operate any such system for geographic information, mapping, surveying, or land information.

1992, c. 39, § 15.1-11.7; 1997, c. 587.

**§ 15.2-963. Local offices of consumer affairs; establishment; powers and duties.**

Any county or city may, by ordinance, establish a local office of consumer affairs that shall have only such powers as may be necessary to perform the following duties:

1. To serve as a central coordinating agency and clearinghouse for receiving and investigating complaints of illegal, fraudulent, deceptive, or dangerous practices occurring in such county or city, and referring such complaints to the local departments or agencies charged with enforcement of consumer laws. The processing of complaints involving statutes or regulations administered by state agencies shall be coordinated, where applicable, with the Division of Consumer Counsel of the Department of Law;

2. To attempt to resolve complaints received pursuant to subdivision 1 by means of voluntary mediation or arbitration that may involve the creation of written agreements to resolve individual complaints between complainants and respondents to complaints;

3. To develop programs of community consumer education and information; and

4. To maintain records of consumer complaints and their eventual disposition, provided that records disclosing the business interests of any person, trade secrets, or the names of customers shall be held confidential except to the extent that disclosures of such matters may be necessary for the enforcement of laws. A copy of all periodic reports compiled by any local office of consumer affairs shall be filed with the Division of Consumer Counsel of the Department of Law.

1974, c. 644, § 15.1-23.2; 1987, c. 463; 1997, c. 587; 1998, c. 194; 2013, c. 24.

## § 15.2-964. Organization of local human services activities; authorization of reorganization by Governor.

A. Any city or county may prepare and submit to the Governor a plan to reorganize the governmental structures or administrative procedures and systems of human resources agencies should provisions of law or the rules, regulations and standards of any state agency prohibit or restrict the implementation of such a reorganization. The plan shall set forth the proposed reorganization and the provisions of law or the rules, regulations or standards that prohibit or restrict the implementation of such proposed reorganization.

B. The Governor shall prepare, and provide to those counties and cities which request them, guidelines for the preparation and submission to him of reorganization plans by a city or county. The Governor may consider only those reorganization plans adopted by resolution of the governing body of the city or county applying for approval to reorganize its human services agencies.

C. The several state boards and commissions which are empowered to promulgate rules, regulations and guidelines affecting the organization or administration of local human service agencies are hereby authorized to modify their respective rules, regulations and guidelines at the direction of the Governor in furtherance of any reorganization plan approved by him.

D. If a provision or provisions of law prohibit or restrict the implementation of all or part of such reorganization plan the Governor shall transmit such plan or such parts of such plan affected by such laws to each House of the General Assembly at least 45 days prior to the commencement of a regular or special session of the General Assembly. Such plan or portions of such plan so transmitted by the Governor under this section shall not become effective unless it is introduced by bill and enacted into law.

E. The plan or such portions of the plan transmitted by the Governor to the General Assembly shall set forth: (i) the provision or provisions of law that prohibit or restrict the implementation of such plan or parts of such plan; (ii) the changes in governmental structure or administrative procedure system of the human resources agencies affected; and (iii) the anticipated effects of such changes upon the efficiency and effectiveness of the agencies affected.

F. Any reorganization authorized under the provision of this section shall be implemented within appropriations or other funds which may be made available to the city or county requesting such reorganization approval.

G. Nothing in this section shall be interpreted to permit a city or county to eliminate the provision of any service required by law or to reduce the level of service below any level required by law.

H. The localities shall be required to maintain financial and statistical records in accordance with the guidelines issued by the Governor so as to allow responsible state agencies to review records and determine costs for programs for which the agency is responsible.

I. For the purposes of this section the term "human resource agencies" means agencies that deliver social, employment, health, mental health and developmental, rehabilitation, nursing, or information and referral services and such other related services.

1978, c. 832, § 15.1-36.2; 1983, c. 352; 1997, c. 587; 2012, cc. 476, 507.

**§ 15.2-965. Human rights ordinances and commissions.**

A. Any locality may enact an ordinance, not inconsistent with nor more stringent than any applicable state law, prohibiting discrimination in housing, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, status as a veteran, age, marital status, sexual orientation, gender identity, or disability.

B. The locality may enact an ordinance establishing a local commission on human rights that shall have the powers and duties granted by the Virginia Human Rights Act (§ 2.2-3900 et seq.).

C. As used in this section:

"Gender identity" means the gender-related identity, appearance, or other gender-related characteristics of an individual, without regard to the individual's designated sex at birth.

"Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

1987, c. 569, § 15.1-37.3:8; 1997, cc. 404, 587; 2020, cc. 131, 1137, 1140.

**§ 15.2-965.1. Participation of small, women-owned, and minority-owned businesses.**

A. Any locality may enact an ordinance providing that whenever there exists (i) a rational basis for small business enhancement, or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the chief executive of the local governing entity shall be authorized and encouraged to require implementation of appropriate enhancement and remedial measures consistent with prevailing law.

B. A small, women-owned, or minority-owned business that is certified by the Department of Small Business and Supplier Diversity pursuant to § 2.2-1606 shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.

2004, cc. 865, 891; 2006, cc. 831, 921; 2009, c. 869; 2013, c. 482.

**§ 15.2-965.2. Enhancement of micro-business participation in local procurement.**

A. Any locality may enact an ordinance to enhance micro-business participation in local government procurement practices. Such measures may include special designation of local micro-businesses, providing technical support to micro-businesses, setting target goals for micro-business participation in the local procurement process, and other reasonable measures intended to promote micro-business participation in the locality.

B. For purposes of this section, "micro-business" means a small, women-owned, or minority-owned business with no more than 25 employees.

2020, c. 1123.

**§ 15.2-966. Establishment and operation of educational television stations.**

Any locality may provide for the establishment, ownership, maintenance and operation of educational television stations within or outside the locality. The operation of any such station shall be under the direction of the school board of the locality establishing the station.

The facilities of any such station may be made available to any educational institution upon terms as may be agreed upon by the operating board of the station and the governing body of the institution.

Code 1950, § 15-15.3; 1960, c. 533; 1962, c. 623, § 15.1-23; 1997, c. 587.

**§ 15.2-966.1. Establishment of primary health care facility for employees of locality.**

Any locality may establish and operate a primary care health care facility for the locality's employees and covered dependents. Such facility may provide vision and dental care in addition to medical services.

2019, c. 505.

**§ 15.2-967. Parking facilities.**

Any locality may provide off-street automobile parking facilities and open them to the public, with or without charge, and when any locality constructs or has constructed any such facility, it may lease space therein for private commercial purposes which are necessary for sound fiscal management of the parking facility or which space is not suitable for parking.

Code 1950, § 15-6; 1960, c. 528; 1962, c. 623, § 15.1-14; 1970, c. 453; 1973, c. 402; 1990, c. 58; 1997, c. 587.

**§ 15.2-967.1. Regulation of certain transportation services.**

A local transportation service that operates as a nonprofit organization and that primarily serves senior citizens and disabled citizens shall be exempted from any local license tax imposed upon taxicab services and other for-hire transportation services.

2010, c. 556.

**§ 15.2-967.2. Electric vehicle charging stations.**

Any locality may locate and operate a retail fee-based electric vehicle charging station on property the locality owns or leases. A locality may provide that the use of such station is restricted to employees of the locality and authorized visitors and may install signage that provides notice of such restriction.

2018, cc. 295, 446.

**§ 15.2-968. Regulation of parking of vehicles within boundaries of state-supported institutions.**

Any county or city may, upon request of the governing body of any state-supported institution lying wholly or partially within the county or city, regulate the parking of motor vehicles and all other

vehicles on the roads, streets, alleys, grounds and other areas within such portions of the boundaries of such institution as lie within the county or city.

Any city adopting an ordinance pursuant to this section may provide in the ordinance that regulations made pursuant to this section shall be enforced by persons appointed under § 19.2-13. No penalty for the violation of any such ordinance shall exceed a fine of twenty dollars. Any request from the governing body of any such institution to the governing body of the county or city shall be in writing and signed by the presiding officers of the institution's governing body and shall be accompanied by a certified copy of a resolution of such governing body authorizing the request to be made.

The circuit court for any county or city which has adopted an ordinance pursuant to this section shall have jurisdiction to try cases arising under such ordinance to the same extent as criminal cases arising in the county or city. The provisions of this section shall not affect the application of §§ 46.2-1231 through 46.2-1234.

Code 1950, § 15-6.1; 1952, c. 472; 1962, c. 623, § 15.1-516; 1964, c. 245; 1997, c. 587.

**§ 15.2-968.01. Parking in certain residential areas.**

Notwithstanding any other provision of general law, localities may by ordinance permit the parking of vehicles within residential areas in a public right-of-way that constitutes a part of the state highway system so long as the vehicle does not obstruct the right-of-way.

2015, c. 233.

**§ 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.**

A. The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than one intersection for every 10,000 residents within each county, city, or town at any one time, provided, however, that within planning District 8, each such locality may install and operate traffic light signal photo-monitoring systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other

recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed $50, nor shall it include court costs. Any finding in a district court that an operator has violated an ordinance adopted as provided in this section shall be appealable to the circuit court in a civil proceeding.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to

this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system in connection with the violation.

H. Information collected by a traffic light signal violation monitoring system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic light signal violation monitoring system may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to comply with a traffic light signal. Information provided to the operator of a traffic light signal violation monitoring system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system, and used only for enforcement against individuals who violate the provisions of this section. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If a locality does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days. Any locality operating a traffic light signal violation monitoring system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private entity.

I. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by a locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for compensation based on the number of violations or monetary penalties imposed.

J. When selecting potential intersections for a traffic light signal violation monitoring system, a locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violation. Localities may consider the risk to pedestrians as a factor, if applicable.

K. Before the implementation of a traffic light signal violation monitoring system at an intersection, the locality shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based on the recommended methodology of the Institute of Transportation Engineers. No traffic light signal violation monitoring system shall be implemented or utilized for a traffic signal having a yellow signal phase length of less than three seconds. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

N. Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system, a locality shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic light signal violation monitoring system.

O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then the county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

2007, cc. 836, 903; 2010, c. 175; 2012, cc. 805, 836; 2014, c. 163; 2015, c. 714.

**§ 15.2-969. Ordinances prohibiting resale of tickets to certain public events; penalty.**

Any locality may provide, by ordinance, that it is unlawful for any person, firm or corporation to resell for profit any ticket for admission to any sporting event, theatrical production, lecture, motion picture or any other event open to the public for which tickets are ordinarily sold, except in the case of religious, charitable, or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such ticket is authorized by the sponsor of the event and

the manager or owner of the facility in which the event is being held. Such ordinance may provide that violators thereof are guilty of a Class 3 misdemeanor.

This section shall not apply to any resale of a ticket that occurs on the Internet.

1970, c. 530, § 15.1-29.3; 1982, c. 279; 1995, c. 339; 1997, c. 587; 2009, cc. 321, 376.

**§ 15.2-970. Construction of dams, levees, seawalls, etc.; certain proceedings prohibited.**

A. Any locality may construct a dam, levee, seawall or other structure or device, or perform dredging operations hereinafter referred to as "works," the purpose of which is to prevent the tidal erosion, flooding or inundation of such locality, or part thereof. The design, construction, performance, maintenance and operation of any of such works is hereby declared to be a proper governmental function for a public purpose.

B. No person, association or political subdivision shall bring any action at law or suit in equity against any locality because of, or arising out of, the design, maintenance, performance, operation or existence of such works but nothing herein shall prevent any such action or suit based upon a written contract. This provision shall not be construed to authorize the taking of private property without just compensation therefor and provided further that the tidal erosion, flooding or inundation of any lands of any other person by the construction of a dam or levee to impound or control fresh water shall be a taking of such land within the meaning of the foregoing provision.

Code 1950, § 15-20.6; 1960, c. 516; 1962, c. 623, § 15.1-31; 1966, c. 270; 1968, c. 793; 1980, c. 460; 1997, c. 587.

**§ 15.2-971. Armories and markets; assistance to National Guard.**

A. A locality may provide and operate armories and markets, or may contract with others for supplying such facilities.

B. Any locality may appropriate out of the general levy, except the school fund, and expend annually such sums of money as their judgment may warrant to aid and assist in the erection and maintenance of suitable armories for companies of the Virginia National Guard, or otherwise contribute towards the assistance and maintenance of such companies.

Code 1950, §§ 15-77.44, 15-694; 1958, c. 328; 1962, c. 623, §§ 15.1-268, 15.1-880; 1970, c. 225; 1997, c. 587.

**§ 15.2-972. Appropriations for the upkeep of certain cemeteries.**

Any locality may make appropriations in such sums and at such times as the governing body of the locality deems proper, for the care and upkeep of any cemetery in the locality in which free burial space is provided.

Code 1950, § 15-17; 1962, c. 623, § 15.1-511; 1997, c. 587.

**§ 15.2-973. Ordinances imposing license taxes on owners of certain motor vehicles.**

Any locality may adopt an ordinance imposing a license tax, in an amount not exceeding $100 annually, upon the owners of motor vehicles that do not display current license plates and that are not

exempted from the requirements of displaying such license plates under the provisions of Article 6 (§ 46.2-662 et seq.) of Chapter 6 of Title 46.2, §§ 46.2-1554 and 46.2-1555, are not in a public dump, in an "automobile graveyard" as defined in § 33.2-804, or in the possession of a licensed junk dealer or licensed motor vehicle dealer. Nothing in this section shall be applicable to any vehicle being held or stored by or at the direction of any governmental authority, to any vehicle owned by a member of the armed forces on active duty or to any vehicle regularly stored within a structure. Nothing in this section shall be applicable to motor vehicles that are stored on private property for the purpose of restoration or repair or for removing parts for the repair of another vehicle.

1970, c. 380, § 15.1-27.1; 1977, c. 557; 1982, c. 216; 1988, c. 484; 1997, c. 587; 2013, c. 347.

**§ 15.2-974. Permits for display of fireworks; use and exhibitions.**

The governing bodies of the several counties, cities and towns shall have the power to provide for the issuance of permits for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under the minimum terms and conditions set forth in the Virginia Statewide Fire Prevention Code (§ 27-94 et seq.) and any additional terms and conditions as may be prescribed by the locality. Any association, organization, or group that has been issued a permit may purchase and make use of fireworks under the terms and conditions of such permit.

2002, c. 856.

**§ 15.2-975. Use of cash proffers.**

Localities which are authorized to accept voluntary cash proffers may also issue bonds under the provisions of the Public Finance Act and other applicable law including local charters, to finance improvements contained in the construction improvement program, to the extent that the costs of such improvements have been pledged by landowners as voluntary cash proffers. Authorized localities may pledge the proceeds of such proffers as a specific undertaking from which revenue is derived pursuant to Article VII, Section 10 (a) (3) of the Constitution of Virginia. The use of pledged cash proffers to finance improvements shall be limited to the improvements or class of improvements for which the proffer was originally pledged, and all or any part of the total amount pledged through the conditional zoning process may be further pledged by the locality to support repayment of any such debt.

2004, c. 927.

**§ 15.2-976. Notification of changes to the Federal Emergency Management Agency Special Flood Hazard Area map.**

Any locality receiving notification from the United States Federal Emergency Management Agency (FEMA) that a change in the FEMA Special Flood Hazard Area map concerns or relates to real property within such locality shall provide to each owner of any such property (i) written notification that such change has occurred within that locality and (ii) written notification of the website, address, and telephone number for the National Flood Insurance Program to aid the property owner in determining if there has been a change to the flood risk of the property. Notice sent by bulk or first class mail to the last known address of such owner as shown on the current real estate tax assessment books or

current real estate tax assessment records shall be deemed adequate compliance with this requirement.

2007, c. 211.

### § 15.2-977. Green Roof Incentive Programs.

A. For purposes of this section, "green roof" means a roof or partially covered roof consisting of plants, soil, or another lightweight growing medium that is installed on top of a waterproof membrane and designed in accordance with the Virginia Stormwater Management Program's standards and specifications for green roofs, as set forth in the Virginia BMP Clearinghouse.

B. Any locality may establish a rate incentive program designed to encourage the use of green roofs in the construction and remodeling of residential and commercial buildings. If established, the incentives shall be based on the percentage of stormwater runoff reduction the green roof provides.

2009, c. 402.

### § 15.2-978. Registration by locality of cemeteries, graveyards, or other places of burial on private property.

Any locality may adopt an ordinance setting forth a register of identified cemeteries, graveyards, or other places of burial located on private property not belonging to any memorial or monumental association. The official local register may include an official map.

2009, c. 718.

### § 15.2-979. Notice of sale under deed of trust.

A. Notice shall be given to the chief administrative officer or designee of a locality and, if the property is located in a common interest community as defined in § 54.1-2345, to the common interest community association, when residential property located within that locality or common interest community becomes subject to a sale under a deed of trust.

B. The notice required by this section shall:

1. Be made by the trustee or any substitute trustee authorized to conduct the sale under the deed of trust;

2. Be given no later than 60 days after the sale of the residential property under the deed of trust;

3. Include (i) the street address of the residential property, (ii) the name of all property owners whose ownership was subject to the deed of trust, (iii) the name and contact information, including telephone number, of the person filing the notice, and (iv) the name and address of all owners holding the property as a result of the sale.

C. For residential properties described in subsection A, if the mortgage loan secured by the deed of trust has been registered with a national mortgage loan electronic registration system to which the locality has access and which registry includes a unique mortgage identification number specific to the loan and which number is tied to the name of the borrower, the street address of the property, and

contact information consisting of the name, telephone number, and electronic address, if any, of the current mortgage lender or mortgage loan service provider and of the current property preservation contact, then the person authorized to conduct the sale under the deed of trust shall not have to give the locality the notice described in this section and shall be deemed to have complied with any such ordinance.

D. For purposes of this section, "residential property" means single-family detached dwellings, single-family attached dwellings, individual residential condominium units, and individual residential lots located in a development subject to the Property Owners' Association Act (§ 55.1-1800 et seq.).

2009, c. 803; 2013, c. 749; 2015, cc. 93, 410.

**§ 15.2-980. Civil penalties for violations of noise ordinances.**

Any locality may, by ordinance, adopt a uniform schedule of civil penalties for violations of that locality's noise ordinance. This provision shall not apply to noise generated in connection with the business being performed on industrial property. Civil fines will not exceed $250 for the first offense and $500 for each subsequent offense. The locality may authorize the chief law-enforcement officer to enforce any civil penalties adopted pursuant to the provisions of this section. The provisions of this section shall not apply to railroads. No ordinance of any locality shall apply to sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

2010, cc. 501, 788; 2017, c. 649.

**§ 15.2-981. Authority to sell dogs trained for police work.**

A locality may sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by the locality to be appropriate. Such sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

2010, c. 714.

**§ 15.2-982. Designation of tourism activity zones.**

Any locality may designate one or more tourism activity zones as areas that may be used for special events, including parades, events requiring temporary street closures, and indoor and outdoor entertainment activities. The locality shall include any designated tourism activity zone as an amendment to the locality's zoning map.

2013, c. 246.

**§ 15.2-983. Creation of registry for short-term rental of property.**

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed $500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

2017, c. 741.

### § 15.2-984. Adoption of flood plain ordinances.

Any locality may by ordinance regulate the activity on, use of, or development of a flood plain in a manner consistent with any state or federal flood plain management programs and requirements. Nothing in this section shall be construed to limit a locality's authority to regulate a flood plain pursuant to § 15.2-2283 or any other provision of law.

2020, c. 166.

### § 15.2-985. Disposition of abandoned shopping carts; unauthorized possession; penalties.

A. The governing body of any locality with a County Manager Plan or Urban County Executive Form may, by ordinance, provide that it shall be unlawful for any person to place, leave, or abandon on any real property in the locality, or within specified districts within the locality, any shopping cart as defined in § 18.2-102.1. The ordinance shall provide that any such shopping cart that remains on real property outside of the premises defined in § 18.2-102.1 at least 15 days after a notice of violation is given to the owner of such shopping cart shall be presumed to be abandoned and subject to removal from the real property by the locality or its agents without further notice.

B. A notice of violation sent by registered or certified mail to the last known address of the shopping cart's owner or its registered agent reflected in state or locality public records shall satisfy the notice requirement of this section. In the event that any such shopping cart is so removed, the cost of removal, including the cost of disposal, but not to exceed $300 per cart, shall be charged to the owner of the shopping cart. Any such charge that is not paid within 30 days of the date on which it is billed to the owner shall constitute a lien upon the shopping cart and may be collected in any manner provided by law for the collection of taxes.

C. In addition to any other remedy provided herein, the locality or its designee may institute legal action to enjoin the continuing violating of this section.

D. An ordinance adopted pursuant to subsection A may provide that it shall be unlawful for any person, except the owner or his agent, to possess outside of the premises any shopping cart, when the owner has posted notice on the property that removal is unlawful. The locality may provide that a person who violates the ordinance is subject to a civil penalty of not more than $500. However, such penalty shall not apply when such person has been found guilty of a violation of § 18.2-102.1 for the removal of such shopping cart from a store premises.

2020, c. 1174, § 15.2-984.

## Chapter 11 - POWERS OF CITIES AND TOWNS

## Article 1 - UNIFORM CHARTER POWERS

### § 15.2-1100. Powers conferred; exercised by council.

A municipal corporation shall have and may exercise any or all powers set forth in this article, regardless of whether such powers are set out or incorporated by reference in a municipal charter. All powers vested in a municipal corporation by this chapter shall be exercised by its governing body.

Code 1950, § 15-77.2; 1958, c. 328; 1962, c. 623, § 15.1-838; 1979, c. 297; 1997, c. 587.

**§ 15.2-1101. Exercise of powers outside boundaries.**

If a municipal corporation seeks to exercise the powers set forth in this article outside its boundaries, such powers shall, except as to existing nonconforming use, be subject to the zoning regulations of the locality in which the power is sought to be exercised, provided that, except as to existing nonconforming uses, such locality also observes the zoning regulations of the municipality as to any of such locality's property located within the corporate limits.

Code 1950, § 15-77.2; 1958, c. 328; 1962, c. 623, § 15.1-838; 1979, c. 297; 1997, c. 587.

**§ 15.2-1102. General grant of power; enumeration of powers not exclusive; limitations on exercise of power.**

A municipal corporation shall have and may exercise all powers which it now has or which may hereafter be conferred upon or delegated to it under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of the affairs and functions of the municipal government, the exercise of which is not expressly prohibited by the Constitution and the general laws of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the inhabitants of the municipality and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce and industry of the municipality and the inhabitants thereof, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the municipality, unless otherwise conferred in the applicable sections of the Constitution and general laws, as amended, of the Commonwealth.

Code 1950, § 15-77.3; 1958, c. 328; 1962, c. 623, § 15.1-839; 1979, c. 297; 1997, c. 587.

**§ 15.2-1103. Charter provisions not affected; conflict between chapter and charter.**

A municipal corporation, in addition to the powers granted by § 15.2-1102, shall have all the powers granted to it in its charter; and nothing contained in this article shall be construed to in anywise repeal, amend, impair or affect any provision of any existing charter or of any charter hereafter granted to a municipal corporation or any provision of any other applicable law, unless such amendment or repeal so provides. Whenever there appears to be a conflict between any provision of this article, or any amendment hereof, and that of any charter of a municipal corporation, the provisions of the charter shall be construed and held to take precedence over such conflicting or apparently conflicting provisions of this article or of any amendment hereof.

Code 1950, § 15-77.4; 1958, c. 328; 1962, c. 623, § 15.1-840; 1997, c. 587.

**§ 15.2-1104. Taxes and assessments.**

A municipal corporation may raise annually by taxes and assessments on property, persons, and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the municipal corporation are necessary to pay the debts, defray the expenses, accomplish the purposes, and perform the functions of the municipal corporation, in such manner as the municipal corporation deems necessary or expedient. A municipal corporation may also establish by ordinance a discount for the early payment of any such taxes or assessments. For purposes of this section, "early payment" may include payment of real property taxes in full on or before the due date of such tax.

Code 1950, § 15-77.5; 1958, c. 328; 1962, c. 623, § 15.1-841; 1997, c. 587; 2003, c. 216; 2012, c. 585.

**§ 15.2-1104.1. Tax on admissions to charitable events.**

A municipal corporation that generally levies an admissions tax may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.

1999, c. 986; 2003, cc. 757, 758.

**§ 15.2-1105. Borrowing money and issuing evidence of indebtedness.**

A municipal corporation may, in the name of and for the use of the municipal corporation, borrow money and issue evidence of indebtedness therefor, subject to such limitations as may be imposed by law.

Code 1950, § 15-77.7; 1958, c. 328; 1962, c. 623, § 15.1-843; 1997, c. 587.

**§ 15.2-1106. Control and management of affairs; books, records, accounts, etc., of agencies.**

A municipal corporation shall provide for the control and management of the affairs of the municipality, and may prescribe and require the adoption and keeping of such books, records, accounts and systems of accounting by the departments, boards, commissions, courts or other agencies of the local government as may be necessary to give full and true accounts of the affairs, resources and revenues of the municipal corporation and the handling, use and disposal thereof.

Code 1950, § 15-77.8; 1958, c. 328; 1962, c. 623, § 15.1-844; 1997, c. 587.

**§ 15.2-1107. Departments, offices, boards, etc.**

A municipal corporation may provide for the organization, conduct and operation of all departments, offices, boards, commissions and agencies of the municipal corporation, subject to such limitations as may be imposed by its charter or otherwise by law. A municipal corporation may establish, consolidate, abolish or change departments, offices, boards, commissions and agencies of the municipal corporation and prescribe the powers, duties and functions thereof, except where such departments, offices, boards, commissions and agencies or the powers, duties and functions thereof are specifically established or prescribed by its charter or otherwise by law.

Code 1950, § 15-77.9; 1958, c. 328; 1962, c. 623, § 15.1-845; 1997, c. 587.

**§ 15.2-1108. Gifts, donations, bequests or grants.**

A municipal corporation may accept or refuse gifts, donations, bequests or grants from any source, which are related to the powers, duties and functions of the municipal corporation.

Code 1950, § 15-77.12; 1958, c. 328; 1962, c. 623, § 15.1-848; 1997, c. 587.

**§ 15.2-1109. Milk, food and food products.**

A municipal corporation may regulate and inspect the production, preparation, storage, distribution and sale of milk and milk products, and other beverages, and food and food products, and the sanitation of establishments in which the same are produced, prepared, processed, handled, distributed, sold or offered for sale, and facilities, equipment and vehicles used for such purposes; provided such regulations are not inconsistent with the provisions of Chapters 52 (§ 3.2-5200 et seq.) and 54 (§ 3.2-5400 et seq.) of Title 3.2; and may condemn, seize and dispose of any adulterated, impure or dangerous milk, milk product, beverage, food or food product, without liability to the owner thereof.

Code 1950, § 15-77.17; 1958, c. 328; 1962, c. 623, § 15.1-853; 1997, c. 587.

**§ 15.2-1110. Swimming pools, lakes and other waters.**

A municipal corporation may regulate and inspect the operation, maintenance, and use of public swimming pools, lakes and other natural or artificial waters and private pools and lakes operated by clubs and associations; and without liability to the owner thereof, may prevent the use thereof when such waters are found to be polluted, adulterated, impure or dangerous or contribute or are likely to contribute to the contraction or spread of infectious, contagious or dangerous diseases.

Code 1950, § 15-77.22; 1958, c. 328; 1962, c. 623, § 15.1-858; 1997, c. 587.

**§ 15.2-1111. Regulation of cemeteries and burials.**

A municipal corporation may regulate and inspect cemeteries and burials therein, prescribe records to be kept by the owners thereof, and prohibit burials except in public cemeteries.

Code 1950, § 15-77.24; 1958, c. 328; 1962, c. 623, § 15.1-860; 1997, c. 587.

**§ 15.2-1112. Aid to military units.**

A municipal corporation may grant financial aid to military units organized in the municipal corporation pursuant to the laws of the Commonwealth.

Code 1950, § 15-77.26; 1958, c. 328; 1962, c. 623, § 15.1-862; 1970, c. 225; 1997, c. 587.

**§ 15.2-1113. Dangerous, etc., business or employment; transportation of offensive substances; explosive or inflammable substances; fireworks.**

A municipal corporation may regulate or prohibit the conduct of any dangerous, offensive or unhealthful business, trade or employment; the transportation of any offensive substance; the manufacture, storage, transportation, possession and use of any explosive or inflammable substance; and the use and exhibition of fireworks and the discharge of firearms. A municipal corporation may also require the maintenance of safety devices on storage equipment for such substances or items.

Any municipal corporation that regulates or prohibits the discharge of firearms shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption shall apply on land of at least five acres that is zoned for agricultural use.

Code 1950, § 15-77.29; 1958, c. 328; 1962, c. 623, § 15.1-865; 1982, c. 17; 1992, c. 600; 1997, c. 587; 2000, c. 229.

**§ 15.2-1113.1. Prohibiting hunting in certain areas.**

Any municipal corporation may by ordinance prohibit all hunting with firearms or other weapons in, or within one-half mile of, any subdivision or other area of such municipal corporation which, in the opinion of the governing body, is so heavily populated as to make such hunting dangerous to the inhabitants thereof. Any such ordinance shall clearly describe each area in which hunting is prohibited and shall further provide that appropriate signs shall be erected designating the boundaries of such area.

2000, c. 289.

**§ 15.2-1114. Auctions; pawnshops; secondhand dealers; peddling; fraud and deceit in sales; weights and measures.**

A municipal corporation may regulate the sale of property at auction; may regulate the conduct of and prescribe the number of pawnshops and dealers in secondhand goods, wares and merchandise; may regulate or prohibit peddling; may prevent fraud or deceit in the sale of property; may require weighing, measuring, gauging and inspection of goods, wares and merchandise offered for sale; and may provide for the sealing of weights and measures and the inspection and testing thereof.

Code 1950, § 15-77.30; 1958, c. 328; 1962, c. 623, § 15.1-866; 1997, c. 587.

**§ 15.2-1115. Abatement or removal of nuisances.**

A. A municipal corporation may compel the abatement or removal of all nuisances, including but not limited to the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level, fencing or protection by other means, of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

B. Every charge authorized by this section in excess of $200 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as liens for other unpaid local real estate taxes and shall be

enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Code 1950, § 15-77.31; 1958, c. 328; 1962, c. 623, § 15.1-867; 1997, c. 587; 2004, cc. 533, 968; 2017, cc. 118, 610.

**§ 15.2-1116. Smoke; fuel-burning equipment.**

A municipal corporation may regulate the emission of smoke, the construction, installation and maintenance of fuel-burning equipment, and the methods of firing and stoking furnaces and boilers.

Code 1950, § 15-77.32; 1958, c. 328; 1962, c. 623, § 15.1-868; 1997, c. 587.

**§ 15.2-1117. Light, ventilation, sanitation and use and occupancy of buildings.**

A municipal corporation may regulate the light, ventilation, sanitation and use and occupancy of buildings heretofore or hereafter constructed, altered, remodeled or improved, and the sanitation of premises surrounding the building.

Code 1950, § 15-77.33; 1958, c. 328; 1962, c. 623, § 15.1-869; 1997, c. 587.

**§ 15.2-1118. Repealed.**

Repealed by Acts 2007, c. 256, cl. 2.

**§ 15.2-1119. Hospitals, sanatoria, homes, clinics, etc.**

A municipal corporation may provide and operate, within or outside the municipal corporation, hospitals, sanatoria, homes, clinics, institutions and facilities for the care, treatment and maintenance of the sick, of children, the aged, destitute and indigent; may contract with others for supplying such services; and may charge and collect compensation for such care, treatment and maintenance.

Code 1950, § 15-77.45; 1958, c. 328; 1962, c. 623, § 15.1-881; 1997, c. 587.

**§ 15.2-1120. Detentive, correctional and penal institutions.**

A municipal corporation may provide and operate, within or outside the municipal corporation, detentive, correctional and penal institutions; or may contract with others for supplying the services and facilities provided at such institutions.

Code 1950, § 15-77.46; 1958, c. 328; 1962, c. 623, § 15.1-882; 1997, c. 587.

**§ 15.2-1121. Cemeteries.**

A municipal corporation may provide and operate, within or outside the municipal corporation, cemeteries; may contract for the perpetual care of lots and burial spaces therein; and may charge compensation for lots and burial spaces and services in connection with interments and the maintenance and operation of such cemeteries.

Code 1950, § 15-77.47; 1958, c. 328; 1962, c. 623, § 15.1-883; 1997, c. 587.

### § 15.2-1122. Parking or storage of vehicles.

A municipal corporation may provide and operate places for, and limited to, the parking or storage of vehicles by the public, which shall include but shall not be limited to parking lots, garages, buildings and other land, structures, equipment and facilities; provide for their management and operation by an agency of the municipality; contract with others for the operation and management thereof upon such terms and conditions as shall be prescribed by the municipal corporation; and charge or authorize the charging of compensation for the parking or storage of vehicles.

Code 1950, § 15-77.48; 1958, c. 328; 1962, c. 623, § 15.1-884; 1997, c. 587.

### § 15.2-1123. Airports and facilities.

A. A municipal corporation may provide and operate within or outside the municipal corporation airports and lands, structures, equipment and facilities appurtenant thereto; provide for their management and operation by an agency of the municipality; contract with others for the operation and management thereof upon such terms and conditions as shall be prescribed by the municipal corporation; and charge or authorize the charging of compensation for the use of the airport or any of its appurtenances or facilities.

B. A municipal corporation located in Planning District 11 or a political subdivision located in Planning District 6 or 7 may apply any deicing agent containing urea for the purpose of deicing an airport that is classified by the Virginia Air Transportation System Plan as a Commercial Service airport or General Aviation Regional airport, provided the application does not exceed Virginia Pollutant Discharge Elimination System stormwater permit requirements.

Code 1950, § 15-77.49; 1958, c. 328; 1962, c. 623, § 15.1-885; 1997, c. 587; 2013, c. 758.

### § 15.2-1123.1. Lynchburg Regional Airport police department.

The City of Lynchburg may by ordinance establish an airport police department at the Lynchburg Regional Airport. The authority of the airport police department shall be limited to real property owned, leased, or controlled by the Airport. Such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office, including as provided in §§ 15.2-1609 and 15.2-1704. The airport police department and airport police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Criminal Justice Services Board that the Department of Criminal Justice Services designates as applicable to private police departments. Any person employed as an airport police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1. An airport police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth. The airport police department may use the word "police" to describe

its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2.

2015, c. 213.

**§ 15.2-1124. Police jurisdiction over lands, buildings and structures; jurisdiction of offenses; appeals; jurisdiction in certain public buildings with magistrate's offices.**

A. Lands, buildings or structures provided and operated by a municipality for any purpose defined in this article shall be under the police jurisdiction of the municipal corporation for the enforcement of its regulations respecting the use or occupancy thereof. All police officers of the municipal corporation shall have jurisdiction to make arrests on such land and in such buildings or structures for violations of such regulations. Such criminal case shall be prosecuted in the locality in which the offense was committed.

B. In any public building that is located in Henry County adjoining a municipal corporation and that contains a magistrate's office which serves the municipal corporation, the sheriff, any deputy sheriff, and any police officer of the municipal corporation shall have the same powers which such sheriff, deputy sheriff or police officer would have in the municipal corporation itself. The courts of the municipal corporation and the locality in which such public building is located shall have concurrent jurisdiction of any offense committed against or any escape from any such sheriff, deputy sheriff, or police officer in such public building, provided that the sheriff, deputy sheriff, or police officer was present in the public building while in the performance of his official duties. Such police powers and concurrent jurisdiction shall also apply during travel between the municipal corporation and the public building by such sheriff, deputy sheriffs, and police officers while in the performance of their official duties. For purposes of this subsection, a "public building" shall include the surrounding grounds of such building.

Code 1950, § 15-77.51; 1958, c. 328; 1962, c. 623, § 15.1-887; 1997, cc. 587, 739; 2007, c. 813; 2014, c. 543.

**§ 15.2-1125. Licenses and permits; fees; bonds or insurance.**

Whenever in the judgment of the municipal corporation it is advisable in the exercise of any of its powers or in the enforcement of any ordinance or regulation, it may provide for the issuance of licenses or permits in connection therewith; fix a fee to be charged the licensee or permittee and require from the licensee or permittee a bond or insurance contract of such character and in such amount and upon such terms and conditions as the municipal corporation may determine.

Code 1950, § 15-77.69; 1958, c. 328; 1962, c. 623, § 15.1-906; 1997, c. 587.

**§ 15.2-1126. Posting of bond not prerequisite to exercise of right by municipality.**

Whenever the law requires the posting of a bond, with or without surety, as a condition precedent to the exercise of any right, a municipal corporation, without giving such bond, may exercise such right, provided all other conditions precedent are complied with, and no action shall be delayed or refused because the municipal corporation has not filed or executed the bond that might otherwise be

required, and the municipal corporation shall be bound to the same extent that it would have been bound had the bond been given.

Code 1950, § 15-77.70; 1958, c. 328; 1962, c. 623, § 15.1-907; 1997, c. 587.

## Article 2 - Additional Powers of Cities and Towns

### § 15.2-1127. Vacant building registration; civil penalty.

The Town of Clifton Forge, the Town of Pulaski, in a conservation and rehabilitation district of the town, the Town of Timberville, and any city, by ordinance, may require the owner or owners of buildings that have been vacant for a continuous period of 12 months or more, and which meet the definition of "derelict building" under § 15.2-907.1, to register such buildings on an annual basis and may impose an annual registration fee not to exceed $100 to defray the cost of processing such registration. The registration of buildings shall be on forms designated by the locality and filed with the agency designated by the locality. Failure to register shall be a $200 civil penalty; however, failure to register in conservation and rehabilitation districts designated by the governing body, or in other areas designated as blighted pursuant to § 36-49.1:1, shall be punishable by a civil penalty not exceeding $400. Notice shall be mailed to the owner or owners, at the address to which property tax notices are sent, at least 30 days prior to the assessment of the civil penalty.

1993, c. 829, § 15.1-29.24; 1997, c. 587; 1999, c. 250; 2006, c. 299; 2013, cc. 253, 355, 405; 2020, c. 145.

### § 15.2-1128. City of Norfolk authorized to exchange information regarding criminal history.

Applicants for employment as paramedics or emergency medical technicians making application to the personnel office of the City of Norfolk shall be required to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant; however, such applicants may be required, if required by local ordinance, to pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the City of Norfolk. If an applicant is denied employment because of information appearing in his criminal history record, the City of Norfolk shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant. The information shall not be disseminated except as provided in this section.

1995, c. 328, § 15.1-29.25; 1997, c. 587; 2019, c. 632.

### § 15.2-1129. Encouragement of use of city facilities in certain cities.

Any city having a population of more than 75,000 and owning a city auditorium, civic center, coliseum, convention hall, stadium, theater, exhibition hall or combination thereof or other place of public assembly, may, in order to further the best interest of the public and lead to greater use of any such

facilities, do all things necessary and proper to encourage the use thereof by arranging or engaging shows, plays, exhibitions, performances and all other entertainments of whatsoever nature, except motion pictures produced expressly for commercial exhibition, exclusively of a motion picture shown as a part of and related to a live program or a show, or a motion picture which has been generally removed from commercial exhibition in motion picture theaters, or a motion picture which is not shown or exhibited in such place more than twice and then only on one day, and exclusive of travelogues, educational or trade show films which are exhibited by educational, civic, trade, or religious organizations, to view which no admission fee is charged or the net proceeds of any admission fee charged are fully utilized for educational, religious or charitable purposes. Such encouragement may, without limitations as to other permissible activities, include the expenditure of city funds to promote such activities and to bring notice to the public of entertainments at such public facilities, engaging persons to bring entertainments thereto from which the city may derive income, and the payment of funds to such persons in advance or out of proceeds derived therefrom for payment therewith; and may include entering into agreements with such other persons guaranteeing minimum sums to be payable to such persons for future performances provided that at no time shall the aggregate amount of all outstanding guarantees be more than such sums as may be fixed by the governing body of such city. Notwithstanding any provision of any city charter, the council of any such city may appropriate funds to a special or revolving account in order to engage, advertise and promote any such entertainment and to operate any of the foregoing facilities, and when such fund is created such person or persons as may be designated by ordinance of such governing body, after providing fidelity bond with corporate surety payable to the city in a penalty not less than the authorized amount of such special or revolving fund, may sign checks against said fund and expend cash therefrom for any of the foregoing purposes.

1964, c. 508, § 15.1-37.2; 1970, c. 505; 1997, c. 587.

### § 15.2-1129.1. Repealed.

Repealed by Acts 2018, c. 396, cl. 2.

### § 15.2-1129.2. Creation of local economic revitalization zones.

A. Any city or town may establish by ordinance one or more economic revitalization zones for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. Each city or town establishing an economic revitalization zone may grant incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire city or town, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. The incentives may include, but not be limited to: (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the economic revitalization zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in an economic revitalization zone may include (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2.

F. This section shall not authorize any local government powers that are not expressly granted herein.

G. Prior to adopting or amending any ordinance pursuant to this section, a locality shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

2007, c. 262; 2013, cc. 756, 793; 2019, c. 721.

**§ 15.2-1130. Liability for failure to provide adequate security or crowd control.**

The Cities of Chesapeake and Portsmouth may provide by ordinance that any person who has negligently failed to provide adequate security or crowd control at a sporting event, restaurant, night club, or other business or commercial activity that draws large crowds of people may be liable in a separate civil action for the cost associated with any emergency response by the law-enforcement agency or emergency medical services personnel of such city caused by the sponsor, owner, or tenant of any sporting event, restaurant, night club, or other business or commercial establishment who negligently failed to provide adequate security or crowd control. Such person shall be liable to the city in an amount not to exceed $1,000.

1995, cc. 291, 408, § 15.1-132.2; 1997, c. 587; 2000, cc. 829, 840; 2019, c. 632.

**§ 15.2-1131. Establishment of personnel system for city administrative officials and employees.**

Notwithstanding any contrary provisions of law, general or special, in the Cities of Norfolk, Richmond, or Virginia Beach, the city council, upon receiving any recommendations submitted to it by the city manager, may establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation, marital status, sexual orientation, or gender identity. The personnel system shall consist of rules and regulations that provide for the general administration of personnel matters, a classification plan for employees, a uniform pay plan, and a procedure for resolving grievances of employees as provided by general law for either local government or state government employees.

1997, c. 211, § 15.1-37.10; 2007, c. 813; 2020, c. 1137.

**§ 15.2-1132. Volunteer property maintenance and zoning inspectors in certain cities.**
The Cities of Chesapeake, Hampton, Newport News, Portsmouth, Richmond, and Virginia Beach may provide that the agency charged with the enforcement of local ordinances adopted pursuant to §§ 15.2-901, 15.2-903, 15.2-904, 15.2-905, and 15.2-908 or city charter relating to the external maintenance of property or local zoning ordinances relating to motor vehicles or trailers as defined in § 46.2-100 may utilize supervised, trained, and qualified volunteers to issue notices of noncompliance with such ordinances. Such volunteers shall have any and all immunity provided to an employee of the locality doing an identical job.

Acts 2000, c. 673; 2002, cc. 31, 451; 2005, cc. 265, 318; 2010, c. 202; 2018, c. 542.

**§ 15.2-1133. Purchase of electric power and energy; duration of contracts; source of payments.**
A. For purposes of this section:

"Other party" means any other entity, including but not limited to (i) another municipality or public institution of higher education or any political subdivision, public authority, agency, or instrumentality of the Commonwealth, another state, or the United States of America or (ii) a partnership, limited liability company, not-for-profit corporation, electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise organized and existing under the laws of the Commonwealth or another state or the United States of America.

"Project" means any system or facilities for the generation, transmission, transformation, or supply of electrical power and energy by any means whatsoever, including but not limited to fuel, fuel transportation, and fuel supply resources and other related facilities, any one or more electric generating units situated at a particular site, in the continental United States of America, or any interest in the foregoing, whether an undivided interest as a tenant in common or otherwise, or any right to output, capacity or services thereof.

B. Any municipal corporation in the Commonwealth that on January 1, 2006, owned and operated an electric utility system may contract with any other party to buy power and energy required for its present or future requirements. Such contracts may provide that the source of such power and energy is limited to a specified project or may include provision for replacement power and energy. Any such contract may provide that the municipal corporation so contracting shall be obligated to make payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance by any other party. Such contracts, with respect to any project, may also provide, in the event of default by any municipal corporation or other party that is a party to any such contract for such project in the performance of its obligations thereunder, for any municipal corporation or other party to any such contract for such project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise, as may be agreed upon in such contracts. Such contracts may provide that the other party is not obligated to provide power and energy in the

event that the project specified to be the source of power and energy to be purchased and sold under such contracts is inoperable or in the case of the suspension, interference, reduction or curtailment of the output of such project or in events of force majeure.

Notwithstanding the provisions of any other law or charter provision to the contrary, any such contract, with respect to the sale or purchase of capacity, output, power, or energy from a project, may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the Commonwealth or any agency, commission, instrumentality, or political subdivision thereof except as specifically required by law.

Any such contract shall provide that payments by a municipal corporation under any such contract be made solely from and may be secured by a pledge of and lien upon the revenues derived by such municipal corporation from the ownership and operation of the electric system of such municipal corporation, and such payments shall constitute an operating expense of such electric system. No obligation under such contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipal corporation or upon any of its income, receipts, or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the municipal corporation are, or may be, pledged for the payment of any obligation under any such contract. A municipal corporation shall be obligated to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold, furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on bonds of such municipal corporation heretofore or hereafter issued for purposes related to its electric system. Any pledge made by a municipal corporation pursuant to this paragraph shall be governed by the laws of the Commonwealth.

2007, cc. 612, 670.

## Chapter 12 - GENERAL POWERS AND PROCEDURES OF COUNTIES

## Article 1 - MISCELLANEOUS POWERS

### § 15.2-1200. General powers of counties.

Any county may adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants which are not inconsistent with the general laws of the Commonwealth. Such power shall include, but shall not be limited to, the adoption of quarantine regulations affecting both persons and animals, the adoption of necessary regulations to prevent the spread of contagious diseases among persons or animals and the adoption of regulations for the prevention of the pollution of water which is dangerous to the health or lives of persons residing in the county.

Code 1950, § 15-8; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, c. 279; 1960, c. 606; 1962, c. 623, § 15.1-510; 1997, c. 587.

**§ 15.2-1201. County boards of supervisors vested with powers and authority of councils of cities and towns; exceptions.**

The boards of supervisors of counties are hereby vested with the same powers and authority as the councils of cities and towns by virtue of the Constitution of the Commonwealth of Virginia or the acts of the General Assembly passed in pursuance thereof. However, with the exception of ordinances expressly authorized under Chapter 13 of Title 46.2, no ordinance shall be enacted under authority of this section regulating the equipment, operation, lighting or speed of motor-propelled vehicles operated on the public highways of a county unless it is uniform with the general laws of the Commonwealth regulating such equipment, operation, lighting or speed and with the regulations of the Commonwealth Transportation Board adopted pursuant to such laws. Nothing in this section shall be construed to give the boards of supervisors any power to control or exercise supervision over signs, signals, marking or traffic lights on any roads constructed and maintained by the Commonwealth Transportation Board. No powers or authority conferred upon the boards of supervisors of counties solely by this section shall be exercised within the corporate limits of any incorporated town except by agreement with the town council.

In the County of Fairfax an ordinance may be adopted by the board of supervisors under this section after a descriptive notice of intention to propose the same for passage has been published once a week for two successive weeks in a newspaper having a general circulation in the county. After the enactment of such ordinance by the board of supervisors, no publication of the ordinance shall be required and such ordinance shall become effective upon adoption or upon a date fixed by the board of supervisors.

Code 1950, § 15-10; 1950, p. 113; 1958, c. 190; 1962, c. 623, § 15.1-522; 1966, cc. 405, 495; 1975, c. 575; 1997, c. 587.

**§ 15.2-1201.1. Discharging employee for service on board prohibited; civil penalty.**

A board member in Buchanan County shall not be discharged from employment as a result of his absence from employment due to attendance at regular board meetings upon giving reasonable notice to his employer of such absence. Any employer violating the provisions of this section shall be subject to a civil penalty of up to $2,500.

1997, c. 613, § 15.1-539.1; 2019, c. 632.

**§ 15.2-1201.2. Discount for early payment of taxes.**

Counties may by ordinance establish a discount for the early payment of any tax or assessment imposed by the county. For purposes of this section, "early payment" may include payment of real property taxes in full on or before the due date of such tax.

2003, c. 216; 2012, c. 585.

**§ 15.2-1202. Appropriation of money to incorporated towns.**

The governing body of any county may appropriate such sums as it desires to any incorporated town or towns within the boundaries of the county.

Code 1950, § 15-249; 1962, c. 623, § 15.1-544; 1966, c. 495; 1997, c. 587.

**§ 15.2-1203. Governing body may require treasurer to pay claims.**

The governing body of any county may require the treasurer of the county to pay all claims or other obligations for which the governing body has appropriated funds. The treasurer of the county shall, before paying any funds as authorized by this section, first comply with § 58.1-3132.

Code 1950, § 15-551.7; 1950, p. 415; 1962, c. 623, § 15.1-121; 1964, c. 413; 1997, c. 587.

**§ 15.2-1204. Appropriations for advertising resources, etc., by counties.**

The governing body of any county may appropriate funds for advertising and giving publicity to the resources and advantages of their county, and in securing and promoting economic development of the county. For the purposes set out in this section the county governing body may make such appropriation to chambers of commerce or similar organizations within such county, or to employ suitable persons to secure and promote economic development of the county.

Code 1950, § 15-12; 1962, c. 580, § 15.1-10.1; 1981, c. 77; 1994, c. 594; 1997, c. 587.

**§ 15.2-1205. Allocation of county funds or property to authorities created by county.**

The governing body of any county may give, lend or advance in any manner that it deems proper funds or other county property, not otherwise specifically allocated or obligated, to any authority created by such governing body pursuant to law.

1966, c. 132, § 15.1-511.1; 1997, c. 587.

**§ 15.2-1206. Repealed.**

Repealed by Acts 2010, c. 495, cl. 2.

**§ 15.2-1207. Pistols and revolvers; reports of sales.**

The power of any governing body of any county to require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and caliber of the weapon sold is hereby repealed. The clerk shall destroy every record of the reports previously received.

Code 1950, § 59-142; 1968, c. 439, § 15.1-524; 1997, c. 587; 2010, c. 495.

**§ 15.2-1208. Same; in certain counties.**

Chapter 297 of the Acts of Assembly of 1944, approved March 29, 1944, requiring permits to sell or purchase pistols or revolvers in any county having a density of population of more than 1,000 a square mile, is repealed. Any records or copies thereof that were created pursuant to this section that are in the custody of any county shall be destroyed no later than July 31, 2004. Upon destroying the records, the county shall certify to the circuit court that such destruction has been completed.

Code 1950, § 59-144; 1968, c. 439, § 15.1-525; 1997, c. 587; 2004, cc. 62, 393.

### § 15.2-1209. Prohibiting outdoor shooting of firearms or arrows from bows or arrowguns in certain areas.

Any county may prohibit the outdoor shooting of firearms or arrows from bows or arrowguns in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

For purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

Any county that prohibits the outdoor shooting of firearms or arrows from bows or arrowguns shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption for the shooting of firearms or arrowguns shall apply on land of at least five acres that is zoned for agricultural use. Such exemption for the shooting of arrows from bows shall apply on land of at least two acres that is zoned for agricultural use.

Code 1950, § 15-20.3; 1954, c. 223; 1962, c. 623, § 15.1-518; 1968, c. 294; 1992, c. 600; 1993, c. 367; 1995, c. 284; 1997, c. 587; 2000, c. 229; 2004, c. 930; 2005, c. 564; 2017, c. 530; 2018, cc. 557, 558.

### § 15.2-1209.1. Counties may regulate carrying of loaded firearms on public highways.

The governing body of any county is hereby empowered to adopt ordinances making it unlawful for any person to carry or have in his possession, for the purpose of hunting, while on any part of a public highway within such county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking; and to provide a penalty for violation of such ordinance not to exceed a fine of $100. The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles or for purposes other than hunting, or to persons acting at the time in defense of persons or property.

Code 1950, § 18.1-272; 1975, cc. 14, 15, § 18.2-287; 2004, c. 462; 2007, c. 203.

### § 15.2-1210. Prohibiting hunting in certain areas.

Any county may by ordinance prohibit all hunting with firearms or other weapons in, or within one-half mile of, any subdivision or other area of such county which, in the opinion of the governing body, is so heavily populated as to make such hunting dangerous to the inhabitants thereof. Any such ordinance shall clearly describe each area in which hunting is prohibited, and shall further provide that appropriate signs shall be erected designating the boundaries of such area.

Code 1950, § 15-20.3:1; 1962, c. 163, § 15.1-518.1; 1997, c. 587.

### § 15.2-1211. Boundaries of magisterial and election districts.

A. County magisterial district boundary lines and names shall be as the governing bodies may establish. Subject to the provisions of § 24.2-304.1, whenever the boundaries of a county have been altered, the governing body shall, as may be necessary, redistrict the county into magisterial districts,

change the boundaries of existing districts, change the name of any district, or increase or diminish the number of districts.

B. Whenever redistricting of magisterial or election districts is required as a result of annexation, the governing body of such county shall, within a reasonable time from the effective date of such annexation, not to exceed ninety days, commence the redistricting process which shall be completed within a reasonable time thereafter, not to exceed twelve months.

C. A county may by ordinance provide that the magisterial districts of the county shall remain the same, but that representation on the governing body shall be by election districts, in which event all sections of this Code providing for election or appointment on the basis of magisterial districts shall be construed to provide for election or appointment on the basis of election districts, including appointment to a school board as prescribed by §§ 22.1-36 and 22.1-44.

1971, Ex. Sess., c. 200, § 15.1-571.1; 1976, c. 398; 1979, c. 288; 1980, c. 559; 1995, c. 249; 1997, c. 587.

**§ 15.2-1212. Frederick County; resolution of board of supervisors; referendum; election.**

A. Upon resolution passed by the board of supervisors of Frederick County and filed with the circuit court asking for a referendum on the question of Frederick County being governed by a board of supervisors, one or more elected from each magisterial district and a chairman elected from the county at large, the court shall by order entered of record, require the regular election officials at the November 1974 regular election to open a poll and take the sense of the qualified voters of the county on the question submitted as herein provided. The clerk of the county shall cause a notice of such election to be published in a newspaper published in or having a general circulation in the county, once a week for three consecutive weeks, and shall post a copy of such notice at the door of the courthouse of the county.

B. The regular election officers of the county at the time designated in the order authorizing the vote shall open the polls at the various voting places in the county and conduct the election in such manner as is provided by law for other elections, insofar as the same is applicable. The election shall be by ballot, and the ballots shall be prepared by the electoral board and distributed to the various election precincts as in other elections. The ballots used shall be printed to read as follows:

"Do you approve the adoption of the county's board of supervisors being elected by magisterial districts and the chairman elected from the county at large?

[ ] Yes

[ ] No"

The squares to be printed in such ballots shall not be less than one quarter nor more than one-half inch in size.

Any person voting at such election shall place a () or a cross (X) or (+) mark or a line (-) in the square before the appropriate word indicating how he desires to vote on the question submitted.

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the commissioners of election to the circuit court, and the circuit court, or the judge thereof in vacation, shall enter of record the results of the election. If it appears by the report of the commissioners of election that a majority of the qualified voters of the county voting approve the adoption of the county's board of supervisors being elected from magisterial districts and the chairman being elected from the county at large, the circuit court of the county, or the judge thereof in vacation, shall enter of record such fact.

C. At the next succeeding election, following approval of the plan provided for herein, at which the county's board of supervisors are to be elected, the form of organization of such county's board of supervisors shall be in accordance with the form provided for herein.

D. All county and district officers of such county, unless otherwise sooner removed, shall continue to hold office until their successors are elected and have qualified.

E. A referendum as described in this section to revert to the former method of electing the chairman and supervisors may be conducted upon a resolution of the board of supervisors as provided in this section. In lieu of such resolution by the board of supervisors, a referendum as described in this section may be conducted upon a petition filed with the circuit court of the county, or the judge thereof in vacation, and signed by 10 percent of the qualified voters of such county requesting such referendum, and the court or the judge shall proceed as in the case of a resolution by the board of supervisors.

1974, c. 398, § 15.1-527.1; 1979, c. 333; 1980, c. 393; 1997, c. 587; 2019, c. 632.

**§ 15.2-1213. Referendum in Loudoun County on election of the county chairman from the county at large.**

A. The board of supervisors of Loudoun County may by resolution petition the circuit court of the county for a referendum on the question of whether there should be a chairman of the county board of supervisors elected at large. Alternatively, a like referendum may be requested by a petition to the circuit court signed by registered voters equal in number to at least 10 percent of the registered voters of the county as of January 1 of the year in which the petition is filed. Upon the filing of either petition, which shall be filed not less than 90 days before a November general election, the circuit court shall order the election officials at the next November general election held in the county to open the polls and take the sense of the voters on the question set forth in this subsection. The clerk of the court shall publish notice of the referendum to be published once a week for four consecutive weeks prior to the referendum in a newspaper having general circulation in the county and shall post a copy of such notice during the same time at the door of the courthouse of the county. The ballot shall be printed as follows:

"Shall the chairman of the county board of supervisors, to be known as the county chairman, be elected by the voters of the county at large?

_Yes

_No"

The election shall be held and the results certified as provided in § 24.2-684.

B. If a majority of the qualified voters voting in such referendum vote in favor of the election of a county chairman of the board of supervisors from the county at large, beginning at the next general election for the board of supervisors, the county chairman shall be elected for a term of the same length and commencing at the same time as that of other members of the county board of supervisors. The county board of supervisors thereafter shall consist of one member elected from each district of such county and a county chairman elected by voters of the county at large. No person may be a candidate for county chairman at the same time he is a candidate for membership on the county board from any district in the county.

The county chairman shall be the chairman of the county board of supervisors and preside at the meetings thereof. The chairman shall represent the county at official functions and ceremonial events. The chairman shall have all voting and other rights, privileges, and duties of other members of the board and such additional rights, privileges, and duties not in conflict with general law or this article as the board may prescribe. The chairman also shall have the power to set the agenda for board meetings; however, any such agenda may be modified by an affirmative vote of the board. The duties of the chairman during board meetings include but are not limited to (i) enforcement of time limits, as appropriate; (ii) enforcement of the rules relating to debate and the rules relating to order and decorum within the board; and (iii) response to inquiries from board members relating to parliamentary procedure.

In addition, the chairman shall have the power to (a) call special meetings of the board in accordance with the procedures and restrictions of § 15.2-1418, mutatis mutandis; (b) appoint county representatives to regional boards, authorities, and commissions that are authorized in advance by the board; however, any such appointment shall be subject to revocation by an affirmative vote of a majority of all members elected to the board acting within the 30-day period following that appointment; and (c) create and appoint committees of the board and name presiding members of such committees as authorized by the board. Any such committee or appointment shall be subject to revocation by an affirmative vote of a majority of all members elected to the board. However, the powers of the chairman themselves may only be modified by unanimous vote of all board members. At the first meeting at the beginning of its term and any time thereafter when necessary, the board of supervisors shall elect a vice chairman from its membership, who shall perform the duties of the chairman in his absence.

1990, c. 895, § 15.1-527.3; 1997, c. 587; 2008, c. 778.

**§ 15.2-1213.1. Referendum in Page County on election of the county chairman from the county at large.**

A. On or before August 15, 2004, the circuit court for Page County shall order a referendum to be held on the question of whether the qualified voters of the County shall elect a chairman of the board of supervisors from the county at large to serve as chairman and as an additional member of the board. The referendum shall be held at the time of the 2004 November general election. The question to be placed on the ballot shall be as follows:

"Shall the chairman of the county board of supervisors, to be known as the county chairman, be elected by the voters of the county at large?

_Yes

_No"

The election shall be held and the results certified as provided in §§ 24.2-682 and 24.2-684

B. Following certification of the election results by the electoral board, the court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the board of supervisors of the County and the State Board of Elections. If a majority of the voters voting in the referendum vote in favor of the election of a chairman at large, the first election for a chairman shall be held at the November 2005 general election, and the candidate elected shall serve for a term of four years.

C. The county chairman shall be the chairman of the county board of supervisors and preside at the meetings thereof. The chairman shall represent the County at official functions and ceremonial events. The chairman shall have all voting and other rights, privileges, and duties of other members of the board and additional rights, privileges, and duties not in conflict with general law as the board may prescribe. At the first meeting at the beginning of its term and any time thereafter when necessary, the board of supervisors shall elect a vice chairman from its membership, who shall perform the duties of the chairman in his absence.

2004, cc. 18, 890.

**§ 15.2-1214. County may provide motor vehicle liability insurance to protect operators of motor vehicles owned or leased by county, school board, etc.**

The governing body of any county may provide motor vehicle liability insurance for the purpose of protecting all operators of motor vehicles owned or leased by the county, the county school board, or any sanitary district, authority, or other governmental unit established by the governing body, and may make such appropriations and expenditures from any available funds for the purpose of paying such insurance. All previous expenditures for any such purpose by any county are ratified.

1966, c. 140, § 15.1-19.1; 1997, c. 587.

**§ 15.2-1215. Authority to cut growth of grass or lawn area in counties.**

A. Any county may by ordinance require that the owner of occupied residential real property therein cut the grass or lawn area of less than one-half acre on such property or any part thereof at such time or times as the governing body shall prescribe when growth on such grass or lawn area exceeds 12 inches in height; or may whenever the governing body deems it necessary, after reasonable notice, have such grass or lawn area cut by its agents or employees, in which event, the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected. No such ordinance adopted by the county shall have any

force and effect within the corporate limits of any town. Violation of such ordinance may be punishable by a civil penalty not to exceed $100.

B. No such ordinance shall be applicable to land zoned for or in active farming operation.

1988, c. 625, § 15.1-11.01; 1990, c. 155; 1991, cc. 314, 315; 1997, cc. 587, 614; 1998, cc. 640, 756; 2005, c. 309; 2006, c. 700; 2009, c. 252; 2010, c. 396; 2014, c. 385.

**§ 15.2-1216. Provision of information to prospective buyers in planned development units.**

Any county having an urban county executive or county executive form of government, or any county adjacent to any two or more such counties, may by ordinance require that the sellers of new homes provide to home buyers access to copies of the approved subdivision plat, all development plans approved as part of the zoning for the planned unit development, proffered conditions accepted pursuant to subsection A of § 15.2-2286 as part of the zoning approval for the development, and the comprehensive plan for the area of the county, all of which documents shall include the property for sale and shall be current as of the date access to such documents is provided. The ordinance may require that, prior to execution of an offer to buy:

1. Such documents be located on the site of the property encompassed by the subdivision, plat, or planned unit development in which the property for sale is located, or at an office in its immediate vicinity; and

2. The seller of the new home notify the prospective home buyers of the location of these documents and provide a reasonable opportunity for such prospective buyers to inspect these documents.

Any violation of such an ordinance shall be punishable by a civil fine of not more than $100.

1983, c. 409, § 15.1-29.10; 1997, cc. 547, 587.

**§ 15.2-1217. Regulation of emission of smoke from fuel-burning equipment.**

Any county may regulate the emission of smoke and the methods of firing and stoking furnaces and boilers and may charge such reasonable fees for the issuance of permits and the performing of inspections as the governing body may from time to time fix. However, counties shall not apply or enforce such regulations in incorporated towns which have in force ordinances prescribing equal or greater standards in regulating the construction, maintenance and repair of buildings and other structures, the installation, maintenance, operation and repair of plumbing, electrical, heating, elevator, escalator, boiler, unfired pressure vessel and air conditioning installations in or appurtenant to buildings and structures, the emission of smoke, the construction, installation and maintenance of fuel-burning equipment, and the methods of firing and stoking furnaces and boilers, and the light, ventilation, sanitation and use and occupancy of buildings.

1966, c. 290, §§ 15.1-510.1, 15.1-510.4, 15.1-510.6; 1970, cc. 211, 212; 1983, c. 508; 1997, c. 587.

**§ 15.2-1218. Prevention of trespassing; animals running at large on highways.**

Any county may prevent trespassing by persons and animals and prevent animals from running at large upon the public highways, whether such highways are enclosed by a fence or not.

Code 1950, § 15-8; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, c. 279; 1960, c. 606; 1962, c. 623, § 15.1-512; 1997, c. 587.

**§ 15.2-1219. Prohibiting sale on highways of plants, shrubs or trees.**

Any county may prohibit the sale or the offering for sale of any plants, shrubs or trees or any part or parts thereof upon any public highway or right-of-way of any public highway located within such county. However, nothing in this section shall apply to any business in which real property is owned, leased or occupied in any way adjacent to such highway or right-of-way by such business. No penalty for the violation of any ordinance enacted pursuant to this section shall impose a fine exceeding fifty dollars.

Code 1950, § 15-8.1; 1958, c. 620; 1962, c. 623, § 15.1-513; 1997, c. 587.

**§ 15.2-1220. Regulation by certain counties of persons and vehicles.**

The Counties of Franklin, Pulaski, and York may by ordinance impose reasonable regulations to provide for the comfort, safety and health of the general public and persons assembled, or traveling to assemble, for any outdoor occasion.

Such regulations may cover the following: (i) hours of operation, (ii) sanitary facility requirements, (iii) security personnel requirements, and (iv) maximum noise levels.

1986, c. 98, § 15.1-514.2; 1988, c. 148; 1997, c. 587; 2007, c. 813.

**§ 15.2-1221. Repealed.**

Repealed by Acts 2000, c. 939.

**§ 15.2-1222. Regulation of certain motion pictures shown at drive-in theaters.**

Any county may, by ordinance, regulate the screening of motion pictures, classified by the motion picture industry as being suitable for display to adult audiences only, in drive-in theaters where such motion pictures are visible to the traveling public from a highway, street or other public way for the purpose of protecting the health, safety and welfare of the public.

1979, c. 368, § 15.1-515.2; 1997, c. 587.

**§ 15.2-1223. Regulation of horse riding schools.**

Any county may by ordinance provide for the licensing, inspection and regulation of horse riding schools for the purpose of preventing any violation of § 3.2-6570 or any local ordinance of similar import.

For the purposes of this section, "horse riding school" means any establishment operated for profit in connection with which one or more horses are let for hire to be ridden or driven, either with or without the furnishing of riding or driving instructions.

Code 1950, § 15-20.4; 1956, c. 461; 1960, c. 359; 1962, c. 623, § 15.1-519; 1997, c. 587.

**§ 15.2-1224. Authority to equip and maintain television transmission and relay facilities.**

A. Any county may equip and maintain television transmission and relay facilities in areas which are so remote from regular transmission points of large television stations that television reception is impossible without special equipment and in which adequate, economical and proper television is not available by private sources, if a majority of the voters voting in a referendum held pursuant to subsection B vote in favor thereof.

B. If on or before the fifteenth day of July in any year a petition signed by two hundred or more qualified voters of a county is filed with the circuit court of such county asking that a referendum be held on the question set forth in this subsection, then such court shall, on or before the fifteenth day of August of such year, issue an order requiring the county election officials to open the polls at the regular election to be held in November of each year on the following question:

Shall the governing body be authorized to equip and maintain television transmission and relay facilities?

[ ] Yes

[ ] No

The election shall conform in all respects with the requirements of general law.

1970, c. 139, § 15.1-526.1; 1975, c. 517; 1997, c. 587.

**§ 15.2-1225. Authority to establish hospitals.**

The governing body of any county may establish and operate hospitals in such county.

1979, c. 719, § 15.1-526.3; 1997, c. 587.

**§ 15.2-1226. Authority of certain counties over Smith Mountain Lake.**

A. The board of supervisors of Loudoun County may by resolution petition the circuit court of the county for a referendum on the question of whether there should be a chairman of the county board of supervisors elected at large. Alternatively, a like referendum may be requested by a petition to the circuit court signed by registered voters equal in number to at least 10 percent of the registered voters of the county as of January 1 of the year in which the petition is filed. Upon the filing of either petition, which shall be filed not less than 90 days before a November general election, the circuit court shall order the election officials at the next November general election held in the county to open the polls and take the sense of the voters on the question set forth in this subsection. The clerk of the court shall publish notice of the referendum to be published once a week for four consecutive weeks prior to the referendum in a newspaper having general circulation in the county and shall post a copy of such notice during the same time at the door of the courthouse of the county. The ballot shall be printed as follows:

1. Procedures for approval of construction of such by the governing body or its designated agent; and

2. Penalties for violation of the ordinance.

B. Such governing bodies may act jointly in the enactment, administration, and enforcement of such an ordinance pursuant to § 15.2-1300.

1988, c. 876, § 15.1-12.1; 1997, c. 587.

**§ 15.2-1227. Well covers in Caroline County.**

Caroline County may by ordinance provide that owners of property keep covers on water wells and may after reasonable notice cover uncovered water wells by its own agents or employees, in which event the cost or expense thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes are collected.

1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587.

**§ 15.2-1228. Repair of foundation damage in Chesterfield County.**

Chesterfield County may by ordinance provide that the county may use public funds to repair existing residential dwellings damaged by foundation failures caused by high clay content soil subject to moisture-related shrinking and swelling. Such ordinance may place conditions on the use or expenditure of such public funds. The expenditure of such public funds by the county under this section during a fiscal year shall not exceed two percent of the county's locally derived revenues from that fiscal year.

For purposes of this section, "public funds" includes only general tax revenues from real and personal property and does not include any special fee assessment, or other tax or charge, however denominated.

The county shall keep funds collected for building permit fees and any funds received from any other fees collected under any special act in separate accounts, and separate from other locally derived revenues, and may not use fees collected for building permits or fees collected under any special act, directly or indirectly, for purposes authorized under this section.

1988, c. 862, § 15.1-37.3:9; 1993, c. 791; 1995, c. 393; 1997, c. 587; 2019, c. 632.

**§ 15.2-1229. Petty cash funds.**

Whenever the governing body of any county determines that more efficient administration would be promoted thereby, it may by resolution establish one or more petty cash funds not exceeding $5,000 each for the payment of claims arising from commitments made pursuant to law. Any person into whose hands any such fund is placed may pay such claims therefrom, without necessity of prior receipt and audit of the claims by the governing body and without approval and issuance of the warrant of the governing body or the county treasurer. Such person shall render an account of the same and make a settlement thereof annually in form and manner prescribed by the Auditor of Public Accounts. Such person shall give bond with surety in the amount of $10,000; however, additional bond shall not be required of any person already bonded in the required amount.

Code 1950, § 15-254; 1962, cc. 399, 623, § 15.1-548; 1977, c. 227; 1983, c. 101; 1997, c. 587.

**§ 15.2-1230. Monthly financial reports of officers and offices.**

The governing body of any county may require monthly financial reports from any officer or office of the county or of any district thereof and may investigate bills and receipts of any county or district officer, and for these purposes may subpoena witnesses, administer oaths and require the production of books, papers and other evidence. Any witness who fails or refuses to obey any such lawful order of the governing body shall be guilty of a misdemeanor.

Code 1950, § 15-263; 1962, c. 623, § 15.1-556; 1997, c. 587.

**§ 15.2-1231. Centralized competitive purchasing by chief administrative officer.**

A. The governing body of any county having a chief administrative officer may provide for the centralized competitive purchasing of all supplies, equipment, materials and commodities for all departments, officers and employees of the county, and for the county school board and the local board of social services. For counties not currently engaged in centralized competitive purchasing, the local governing body and the local school board may create a centralized competitive purchasing system only by mutual agreement. Such purchasing shall be done by the chief administrative officer under the supervision of the governing body of the county and shall be accomplished in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

B. Such governing bodies may establish and maintain such systems of bookkeeping, accounting and controls as are necessary to the proper operation of such system of competitive purchasing and to establish such storage facilities as are necessary therefor.

C. Such governing bodies may require all departments to obtain their supplies, equipment, materials and commodities from the chief administrative officer, on requisitions prescribed by the governing body and to charge such departments therefor.

Code 1950, §§ 15-551.12, 15-551.13, 15-551.14; 1950, pp. 444, 445; 1962, c. 623, §§ 15.1-127, 15.1-128, 15.1-129; 1982, c. 647; 1997, c. 587; 2002, cc. 452, 747.

**§ 15.2-1232. Posting of bond not prerequisite to exercise of right by county.**

Whenever the law requires the posting of a bond, with or without surety, as a condition precedent to the exercise of any right, a county, without giving such bond, may exercise such right, provided all other conditions precedent are complied with, and no action shall be delayed or refused because the county has not filed or executed the bond that might otherwise be required, and the county shall be bound to the same extent that it would have been bound had the bond been given.

1980, c. 298, § 15.1-508.1; 1997, c. 587.

**§ 15.2-1232.1. Auctions; pawnshops; secondhand dealers; peddling; fraud and deceit in sales; weights and measures.**

A county may regulate the sale of property at auction; may regulate the conduct of and prescribe the number of pawnshops and dealers in secondhand goods, wares and merchandise; may regulate or prohibit peddling; may prevent fraud or deceit in the sale of property; may require weighing, measuring, gauging and inspection of goods, wares and merchandise offered for sale; and may provide for the sealing of weights and measures and the inspection and testing thereof.

2003, c. 448.

### § 15.2-1232.2. Creation of local economic revitalization zones.

A. Any county may establish by ordinance one or more economic revitalization zones for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. Each county establishing an economic revitalization zone may grant incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire county, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. The incentives may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the economic revitalization zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in an economic revitalization zone may include (i) special zoning for the district; (ii) the use of a special permit process; (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.); and (iv) any other incentives adopted by ordinance, which shall be binding upon the county for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.).

F. This section shall not authorize any local government powers that are not expressly granted herein.

G. Prior to adopting or amending any ordinance pursuant to this section, a county shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

2017, c. 384.

## Article 2 - COUNTY PROCUREMENT BY A COUNTY PURCHASING AGENT

### § 15.2-1233. Article not applicable until agent employed.

The provisions of this article shall not apply to any county until the governing body employs a county purchasing agent or designates someone to perform such duties, as provided in § 15.2-1543.

Code 1950, § 15-549; 1962, c. 623, § 15.1-113; 1997, c. 587.

### § 15.2-1234. Definitions.

As used in this article, "supplies" means any articles or things, including equipment, which are used by or furnished to any department, institution, office, board or other agency of county government.

"Contractual services" means any telephone, telegraph, postal, electric light and power service and other similar services.

Code 1950, § 15-542; 1962, c. 623, § 15.1-106; 1997, c. 587.

**§ 15.2-1235. Rules and regulations to govern county purchases.**

A. Except as otherwise provided in this article, any supplies or contractual services needed by one or more departments or agencies of the county government shall be directly purchased or contracted for by the county purchasing agent, in accordance with rules and regulations adopted pursuant to this section.

B. The county purchasing agent, subject to the approval of the governing body of the county, shall promulgate regulations for the following purposes:

1. Prescribing the manner in which supplies shall be purchased, delivered, stored, and distributed;

2. Prescribing the dates for making requisitions and estimates, the future period which they are to cover, the form in which they shall be submitted, the manner of their authentication, and their revision by the county purchasing agent;

3. Providing for the transfer to or between county departments and agencies of supplies which are surplus with one department or agency but which may be needed by another, and for the disposal by sale, after receipt of competitive bids, of supplies which are obsolete and unusable;

4. Prescribing the amount of deposit or bond to be submitted with a bid on a contract and the amount of deposit or bond to be given for the faithful performance of a contract;

5. Prescribing the manner in which claims for supplies and contractual services delivered to the departments and agencies of the county shall be submitted, examined, approved and paid; and

6. Providing for such other matters as may be necessary to give effect to the foregoing rules and the provisions of this article.

Code 1950, § 15-543; 1962, c. 623, § 15.1-107; 1997, c. 587.

**§ 15.2-1236. Purchases and sales to be based on competition.**

A. All purchases of, and contracts for, supplies and contractual services shall be in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

B. All sales of any personal property which has become obsolete and unusable shall be based wherever feasible on competitive bids. If the amount of the sale is estimated by the county purchasing agent to exceed $5,000, sealed bids shall, unless the governing body provides otherwise, be solicited by public notice published at least once in a newspaper of countywide circulation at least five calendar days before the final date of submitting bids.

Code 1950, § 15-544; 1962, c. 623, § 15.1-108; 1977, c. 217; 1980, c. 16; 1982, c. 647; 1997, c. 587.

### § 15.2-1237. Legal review of contracts; filing.

All contracts shall be approved as to form by the county attorney or other qualified attorney and a copy of each long-term contract shall be filed with the treasurer or other chief financial officer of the county.

Code 1950, § 15-545; 1962, c. 623, § 15.1-109; 1977, c. 584; 1982, c. 647; 1997, c. 587.

### § 15.2-1238. Certification of sufficient funds.

Except in emergency, no order for delivery on a contract or open market order for supplies or contractual services for any county department or agency shall be awarded until the chief financial officer has certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order.

Code 1950, § 15-546; 1962, c. 623, § 15.1-110; 1997, c. 587.

### § 15.2-1239. Orders and contracts in violation of article.

If any department or agency of the county government purchases or contracts for any supplies or contractual services contrary to the provisions of this article or the rules and regulations made thereunder, such order or contract shall be void and the head of such department or agency shall be personally liable for the costs of such order or contract.

Code 1950, § 15-546; 1962, c. 623, § 15.1-110; 1997, c. 587.

### § 15.2-1240. Violation of § 15.2-1238 or § 15.2-1239 a misdemeanor.

Any violation of § 15.2-1238 or § 15.2-1239 shall be a misdemeanor and shall be punishable as provided by § 18.2-12.

Code 1950, § 15-548; 1960, c. 360; 1962, c. 623, § 15.1-112; 1997, c. 587.

## Article 3 - PROCEDURAL REQUIREMENTS

### § 15.2-1241. Signing records when chairman has died, moved, etc., before signing them.

When the chairman of any county governing body who should have signed the records of the proceedings of any meeting of the governing body has died, moved from the county, completed his term of office or for any other reason become incapacitated to perform the duties of his office, without having signed such records, the governing body shall have such records read at a regular meeting and if no error appears shall direct its then chairman to sign such record. The governing body shall thereupon enter on its records the fact of such reading and signing. Such records, when so signed, shall be as valid as if they had been signed by the chairman who presided at the time when such order or orders were made.

Code 1950, § 15-235; 1962, c. 623, § 15.1-530; 1997, c. 587.

### § 15.2-1242. Minutes of meetings and proceedings.

The governing body of every county shall cause to be recorded, in well bound books or by a microphotographic process which complies with standards adopted pursuant to regulations issued under § 42.1-82 for microfilm, microfiche, or such other similar microphotographic process, complete minutes

of all their respective meetings and proceedings. All bids submitted on any building, materials, supplies, work, or project to be let to contract by any governing body may be incorporated by reference in such minutes, and the record of such bids shall be retained in a separate file. Such minutes and records of bids shall be kept open to public inspection at all reasonable times for a period of three years after they have been recorded. The minutes of regularly occurring workshop meetings at which no official action is taken may be recorded by tape or sound recording, which shall be retained and available for public inspection in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and the Virginia Public Records Act (§ 42.1-76 et seq.).

Code 1950, § 15-248; 1962, c. 623, § 15.1-543; 1979, c. 209; 1980, c. 220; 1997, c. 587; 1999, c. 126.

## Article 4 - PAYMENT OF CLAIMS

### § 15.2-1243. Governing body to receive, audit and approve claims; warrants.

A. The governing body of every county shall receive and audit all claims against the county, except those required to be received and audited by the county school board, and shall, by resolution or recorded vote, approve and order warrants issued in settlement of those claims that are found to be valid; provided that a county administrator, county executive or county manager may sign and issue orders or warrants under such conditions as the governing body may prescribe. Every warrant issued pursuant to the provisions of this section shall bear the date on which the governing body orders it to be issued and shall be made payable on demand, signed by the clerk of the governing body or his deputy, countersigned by the chairman or acting chairman of the governing body, and recorded in the form and manner prescribed by the Auditor of Public Accounts. Such warrant may be converted to a negotiable check by the treasurer, or appropriately designated deputy treasurer, by affixing his signature thereto in conformity with the provisions of § 58.1-3162 and by designating thereon the bank by which it is to be paid.

B. Notwithstanding the requirements of subsection A, the governing body of any county may provide, by resolution, for the drawing of special warrants on the county treasurer, payable out of county funds, in payment of compensation, when such compensation has been earned or is due for (i) all employees and officers under written contract, and all officers elected or appointed for a term of office and their deputies and employees, (ii) upon receipt of certified time sheets or other evidence of services performed, the payment of all other employees whose rates of pay have been established by such governing body or its properly designated agent, or (iii) for payment on contracts for construction projects according to the terms of such contracts. All such special warrants so authorized shall be signed by the clerk of such governing body and countersigned by the chairman of such governing body. Any special warrant may be converted into a negotiable check in the manner provided in subsection A. All such payrolls and contracts so paid shall be reviewed and approved by the governing body at its next regular meeting.

C. The governing body of any county may, in its discretion, destroy the papers constituting any or all claims allowed and paid, upon the expiration of five years after audit in accordance with retention regulations established pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

Code 1950, § 15-253; 1952, cc. 16, 304; 1954, c. 183; 1962, c. 623, § 15.1-547; 1968, c. 269; 1979, c. 206; 1982, c. 493; 1997, c. 587.

**§ 15.2-1244. Limitations on issuance of warrants.**

No county governing body shall order any warrant issued for any purpose other than the payment of a claim received, audited and approved as required by § 15.2-1243. No clerk, deputy clerk, chairman or acting chairman of any county governing body shall sign or countersign any warrant not ordered issued by the governing body pursuant to § 15.2-1243. No county governing body shall expend in any year for any purpose an amount greater than the amount available for such purpose during the year or order issued against any fund at any time any warrant in excess of the amount available in such fund and in the treasurer's possession at the time such warrant is issued, taking into account all previously issued and outstanding warrants payable from such fund. No interest shall be paid on any county warrant. Any clerk, deputy clerk or member of any county governing body who violates any of the provisions of this section shall be guilty of a misdemeanor, and in addition shall be guilty of malfeasance in office.

Code 1950, § 15-256; 1962, c. 623, § 15.1-549; 1997, c. 587.

**§ 15.2-1245. Procedure for allowance of claims.**

A. No account shall be allowed by the governing body of the county unless made out in separate items with the nature of each item specifically stated. When no specific fees are allowed by law, the time actually and necessarily devoted to the performance of any service charged in such account shall be verified by affidavit, which shall be filed with the account. The attorney for the Commonwealth, or the county attorney if there is one, shall represent the county before the board and advise the board of any claim which in his opinion is illegal or not before the board in proper form or upon proper proof, or which for any other reason ought not to be allowed. No such claim shall be denied unless the attorney representing the county has, by certified mail, served written notice on the claimant or his agent of the date that the governing body will consider the claim.

B. If any claim has been allowed by the governing body against the county which in the opinion of such attorney is improper as to form or proof or illegal, the attorney shall seek the advice of the Attorney General as to legality or the State Auditor of Public Accounts as to matters of accounting. If any claim has been allowed by the governing body against the county which, in the opinion of any six owners of land within the county is improper as to form or proof or illegal, such landowners may appeal the decision of the governing body to the circuit court for the county. If either the Attorney General or the State Auditor of Public Accounts is of the opinion the claim is illegal or in improper form, the attorney for the Commonwealth shall appeal from the decision of the governing body to the circuit court for the county. In the event of any such appeal, the moving party shall serve a written notice of the appeal on the clerk of the governing body and the party in whose favor the claim is allowed within 30 days after

the making of such decision. If the court finds and states in its order that the claim was improperly allowed but that the consideration received or to be received by the county for payments made or to be made was or will be for value, it shall dismiss the appeal. If the court finds otherwise, it shall remand the claim to the governing body for appropriate action.

C. Whenever any claim allowed by a county governing body is declared illegal by a court of competent jurisdiction, the attorney for the Commonwealth, or the county attorney if there is one, in the name of the county, shall institute proper proceedings in the circuit court of his county within two years from the entry of the order declaring the claim illegal, if such amount has already been paid. Such attorney shall be available to the governing body and give his legal opinion when requested.

D. Nothing in this section shall prevent any county governing body from disallowing any account, in whole or in part, when rendered and verified consistent with subsection A, or requiring any other evidence of the truth and propriety of any account as it thinks proper.

Code 1950, §§ 15-257, 15-258; 1962, c. 623, §§ 15.1-550, 15.1-551; 1968, c. 450; 1980, c. 58; 1982, c. 173; 1984, c. 617; 1997, c. 587; 2010, c. 668.

**§ 15.2-1246. Appeal from disallowance of claim.**

When a claim of any person against a county is disallowed in whole or in part by the governing body, if such person is present, he may appeal from the decision of the governing body within 30 days from the date of the decision. If the claimant is not present, the clerk of the governing body shall serve a written notice of the disallowance on him or his agent, and he may appeal from the decision within 30 days after service of such notice. In no case shall the appeal be taken after the lapse of six months from the date of the decision. The appeal shall be filed with the circuit court for the county. No appeal shall be allowed unless the amount disallowed exceeds $10. The disallowance may be appealed by serving written notice on the clerk of the governing body and executing a cash or surety bond or irrevocable letter of credit to the county in the amount of $250, with condition for the faithful prosecution of such appeal, and the payment of all costs imposed on the appellant by the court.

Code 1950, § 15-259; 1962, c. 623, § 15.1-552; 1983, c. 114; 1997, c. 587; 2000, c. 300; 2010, c. 668.

**§ 15.2-1247. When disallowance of claim final; exception; when no execution to be issued.**

The determination of the governing body of any county disallowing a claim, in whole or in part, shall be a bar to any action in any court founded on such claim, unless (i) the decision of the governing body disallowing the claim is appealed; (ii) the governing body consents to the institution of an action by the claimant against the county; or (iii) the governing body fails to act upon any claim within 90 days of the date the claim is received by the governing body or its clerk, provided that such time may be extended by mutual agreement of the claimant and the county. No execution shall be issued upon any judgment recovered against a county, board of supervisors, or against any officer of the county, when the judgment should be paid by the county. Any judgment against the county shall be provided for by the governing body in the next county levy and paid by the treasurer as other county charges.

Code 1950, § 15-260; 1962, c. 623, § 15.1-553; 1997, c. 587; 2010, c. 668.

**§ 15.2-1248. No action against county until claim presented to governing body.**
No action shall be maintained by any person against a county upon any claim or demand until such person has presented his claim to the governing body of the county, unless the governing body has entered into a binding arbitration agreement or there is a provision in a written contract with the county to submit to arbitration any controversy thereafter arising. When there exists such a provision in a contract or there is a written agreement to arbitrate, the provisions of the Uniform Arbitration Act, Article 2 (§ 8.01-581.01 et seq.) of Chapter 21 of Title 8.01, shall apply.

Code 1950, § 15-261; 1962, c. 623, § 15.1-554; 1987, c. 483; 1997, c. 587.

**§ 15.2-1249. Amounts allowed endorsed on claim; copies of record and accounts to be furnished.**
The clerk shall endorse upon every account on which any sum shall be audited and allowed by the governing body the amount so audited and allowed and the charges for which the same was allowed; every such endorsement, if found to be in order, shall be subscribed by the chairman or acting chairman of the governing body; and the clerk shall deliver to any person who may demand it a certified copy of any record in his office, or of any account therein, on receiving from such person the fees allowed to the clerk of the circuit court for similar services.

Code 1950, § 15-262; 1962, c. 623, § 15.1-555; 1997, c. 587.

## Chapter 13 - Joint Actions by Localities

## Article 1 - JOINT EXERCISE OF POWERS

**§ 15.2-1300. Joint exercise of powers by political subdivisions.**
A. Any power, privilege or authority exercised or capable of exercise by any political subdivision of this Commonwealth may be exercised and enjoyed jointly with any other political subdivision of this Commonwealth having a similar power, privilege or authority except where an express statutory procedure is otherwise provided for the joint exercise.

B. Any two or more political subdivisions may enter into agreements with one another for joint action pursuant to the provisions of this section. The participating political subdivisions shall approve such agreement before the agreement may enter into force. Localities shall approve such agreements by ordinance. Other political subdivisions shall approve such agreements by resolution.

C. The agreement shall specify the following:

1. Its duration.

2. Its purpose or purposes.

3. The manner of financing the joint undertaking and of establishing and maintaining a budget therefor.

4. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

5. All other necessary and proper matters.

D. The agreement, in addition to the items enumerated in subsection C hereof, may contain the following:

1. Provision for an administrator or a joint board responsible for administering the undertaking. The precise organization, composition, term, powers and duties of any administrator or joint board shall be specified.

2. The manner of acquiring, holding (including how title to such property shall be held) and disposing of real and personal property used in the undertaking.

3. How issues of liability will be dealt with and the types, amounts and coverages of insurance.

E. No agreement made pursuant to this section shall relieve any political subdivision of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by an administrator or joint board created by an agreement made hereunder, such performance may be offered in satisfaction of the obligation or responsibility.

F. Any political subdivision entering into an agreement pursuant to this section may appropriate funds and may sell, lease, give, or otherwise supply the administrator or joint board created to operate the undertaking with such property, personnel or services therefor as may be within its legal power to furnish.

G. Any power, privilege or authority exercised or capable of exercise by any political subdivision of this Commonwealth may be exercised and enjoyed jointly with any political subdivision of any other state or the District of Columbia subject to the provisions of subsections A, B, C, D, E and F above, which shall apply mutatis mutandis.

Code 1950, § 15-13.2; 1958, c. 191; 1962, c. 623, § 15.1-21; 1976, c. 583; 1991, c. 28; 1992, c. 370; 1997, c. 587.

**§ 15.2-1300.1. Joint aid agreements by localities.**

A locality may, by ordinance or resolution, authorize its chief administrative officer to arrange for provision of aid to other localities or receipt of aid from other localities in situations where a locality does not declare a local emergency, including approval by the chief administrator of agreements with other localities, subject to availability of resources. In situations where localities declare a local emergency, the provision or receipt of aid may occur pursuant to § 44-146.20. The ordinance or resolution may include terms and conditions deemed necessary by the governing body for participation in such aid and shall set forth the scope of the chief administrator's authority, including the type of aid that may be provided or received, or may generally authorize participation in provision or receipt of any type of aid including personnel, equipment, or other resources for public purposes. Prior to providing or receiving aid, the chief administrator shall conduct an assessment of available resources and shall consider establishing terms for the supervision of personnel, the term of deployment, payment or reimbursement of costs, and verification of insurance coverage.

The ordinance or resolution may allow for the participation of volunteers and, with approval of the constitutional officer, constitutional officers and their staffs. Deployed personnel acting pursuant to the ordinance or resolution of the governing body shall have the same authority and immunity in other localities as in the locality where they are employed or volunteer.

2011, c. 267.

**§ 15.2-1301. Voluntary economic growth-sharing agreements.**

A. Any county, city or town, or combination thereof, may enter voluntarily into an agreement with any other county, city or town, or combination thereof, whereby the locality may agree for any purpose otherwise permitted, including the provision on a multi-jurisdictional basis of one or more public services or facilities or any type of economic development project, to enter into binding fiscal arrangements for fixed time periods, to exceed one year, to share in the benefits of the economic growth of their localities. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). All such agreements, including those that address any issue provided for in Chapter 32, 33, 36, 38, 39, or 41, shall require, at least annually, a report from each locality that is a recipient of funds pursuant to the agreement to each of the other governing bodies of the participating localities that includes (i) the amount of money transferred among the localities pursuant to the agreement and (ii) the uses of such funds by the localities. The parties to any such agreement that has been in effect for at least 10 years as of July 1, 2018, and pursuant to which annual payments exceed $5 million, shall (a) comply with the reporting requirements of this subsection, notwithstanding whether such requirements are contained in the existing agreement and (b) convene an annual meeting to discuss anticipated future plans for economic growth in the localities.

B. The terms and conditions of the revenue, tax base or economic growth-sharing agreement as provided in subsection A shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing which shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality. However, the public hearing shall not take place until the Commission on Local Government has issued its findings in accordance with subsection D. For purposes of this section, "revenue, tax base, and economic growth-sharing agreements" means any agreement authorized by subsection A which obligates any locality to pay another locality all or any portion of designated taxes or other revenues received by that political subdivision, but shall not include any interlocal service agreement.

C. Any revenue, tax base or economic growth-sharing agreement entered into under the provisions of this section that creates a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, shall require the board of supervisors to hold a special election on the question as provided in § 15.2-3401.

D. Revenue, tax base, and economic growth-sharing agreements drafted under the provisions of this chapter shall be submitted to the Commission on Local Government for review as provided in subdivision 4 of § 15.2-2903. However, no such review shall be required for two or more localities entering into an economic growth-sharing agreement pursuant to this section in order to facilitate the reception of grants for qualified companies in such locality pursuant to the Port of Virginia Economic and Infrastructure Development Grant Fund and Program established pursuant to § 62.1-132.3:2.

1996, cc. 713, 725, 743, § 15.1-21.2; 1997, c. 587; 2013, cc. 578, 612; 2014, c. 470; 2018, c. 728.

**§ 15.2-1302. Certain Commonwealth distributions to localities.**

Any state funds that were distributed to a locality, including a local school board, in support of a governmental program or function prior to a consolidation of such program or function or the governmental consolidation of the entities providing such programs or functions, shall continue to be distributed to the entity or entities carrying out the program or function after consolidation in accordance with the following schedule:

1. If the consolidation results in the governmental consolidation of the entities into a single locality, the state funds shall not be reduced below the amounts that would have been received by each entity from the Commonwealth for the governmental program or function computed on the premise that no consolidation occurred for a period of twenty fiscal years following the consolidation.

2. If the consolidation results in the consolidation of constitutional officers of the entities and the consolidation of school divisions and local school boards of the entities, the state funds shall not be reduced below the amounts that would have been received by each entity from the Commonwealth for the governmental program or function computed on the premise that no consolidation occurred for a period of fifteen fiscal years following the consolidation.

3. In all other consolidations, the state funds shall not be reduced below the amounts that would have been received by each entity from the Commonwealth for the governmental program or function computed on the premise that no consolidation occurred for a period of five fiscal years following the consolidation.

This section shall not prohibit the Commonwealth from terminating or modifying any program or function under which distribution to a locality, including a local school board, has been made, and if so terminated or modified all obligations hereunder shall cease or be reduced in proportion with such modifications, as the case may be.

If any such consolidations terminate prior to the end of the applicable period set forth above, the Commonwealth's obligation under this section shall cease.

For the purposes of this section, "consolidation" includes the transition of a city to town status.

The provisions of this section shall also apply to consolidations of a governmental program or function and governmental consolidations of entities, providing such consolidations take place after January 1, 1995.

1991, c. 189, § 15.1-21.1; 1994, c. 437; 1995, c. 728; 1997, c. 587; 2000, c. 708; 2001, c. 14.

## Article 2 - LOCAL GOVERNMENT ASSOCIATIONS

**§ 15.2-1303. Associations to promote welfare of political subdivisions.**
The governing bodies of two or more of the political subdivisions of the Commonwealth may, in their discretion, and in addition to powers prescribed in § 15.2-940, form and maintain associations for the purpose of promoting, through investigation, discussion and cooperative effort, the interest and welfare of the several political subdivisions of the Commonwealth, and to promote a closer relation between the several political subdivisions of the Commonwealth. Any such association so formed shall be an instrumentality of the political subdivisions which are members thereof.

The provisions of this section shall be applicable to any such associations created prior to and in existence on June 29, 1956.

Code 1950, § 15-13.1; 1956, c. 246; 1962, c. 623, § 15.1-20; 1997, c. 587.

**§ 15.2-1304. Appropriating funds or supplying goods and services to certain regional organizations.**
A. The governing body of any locality which is a member, or hereafter becomes a member, of any organization or association including an organization or association having members outside of the Commonwealth which has as its principal objective one or more of the purposes set forth in subsection B hereof, is authorized to appropriate funds to such organization or to provide goods and services to such organization, all for the purpose of advancing the welfare and economic interests of such locality and the citizens thereof.

B. Funds may be appropriated or goods and services may be provided, only to an organization which has as its objective one or more of the following purposes: identification of problems hindering the growth, development and economic functioning of the region in which such locality is located; development of comprehensive plans for the growth and development of the region as a whole and the promotion of interjurisdictional cooperation; development of appropriate policies and cooperative mechanisms among the participating localities for improving the administration of public services; development of concerted action among participating localities for the benefit thereof and for the benefit of the region as a whole; defense and strengthening of local government; and taking of such other action in connection with the foregoing as will advance the best interests of the entire region and of the participating localities; however, all funds for the development of plans or planning in Virginia shall be expended through commissions created under Article 2 (§ 15.2-2210 et seq.) of Chapter 22 of Title 15.2, and other related or existing agencies authorized by the Commonwealth, to the extent that such commissions or other agencies are authorized by law to develop such plans or planning. Provided further, that no locality shall appropriate funds, unless specifically authorized by the General Assembly, to any organization or association having members outside of the Commonwealth (i) when such association or organization possesses the power of taxation or the right of condemnation and (ii) unless the locality has the right to withdraw from such association or organization at any time.

1964, c. 30, § 15.1-20.1; 1997, c. 587.

### § 15.2-1305. Review of appropriations to certain agencies; providing goods and services to such agencies in lieu of funds.

The governing body of any locality may from time to time require of any board, commission or authority, hereinafter referred to as recipient agency, to which it has power to appropriate public funds and has appropriated such funds in the past or has received a request for appropriations, such information books and records of the recipient agency as the governing body deems necessary in order that it may be assured that an appropriation or proposed appropriation will not result in the dissipation of public funds and in order that it may determine the use of past and the proposed use of future appropriations, the method of management, control and organization of the recipient agency and its present and proposed programs. If the governing body determines that a particular administrative function or activity of the recipient organization duplicates the services provided by the governing body and that public funds may be conserved by combining, consolidating or coordinating the activities of the recipient agency with those of the locality, it may, in lieu of an appropriation of funds for that function or activity, provide the recipient agency with the necessary goods and services. The governing body may assign officers and employees to coordinate the functions and activities of the governing body and those of the various recipient agencies.

1968, c. 554, § 15.1-20.2; 1997, c. 587.

## Article 3 - REGIONAL COMPETITIVENESS ACT

### § 15.2-1306. Policy of General Assembly.

It shall be the policy of the General Assembly to encourage Virginia's counties, cities and towns to exercise the options provided by law to work together for their mutual benefit and the benefit of the Commonwealth.

1996, cc. 1045, 1055, § 15.1-1227.1; 1997, c. 587.

### § 15.2-1307. Definitions.

As used in this article, unless a different meaning clearly appears from the context:

"Joint activity" means a governmental function which is carried out by, performed on behalf of, or contracted for two or more localities within a region and includes present and future activities.

"Locality" means all counties, cities and towns within a regional partnership.

"Region" means a planning district; however, by agreement of the localities of the planning district, localities which are not part of a planning district may be added to the region if the locality's governing body by vote agrees to become part of the region. In addition, localities may establish, with the approval of the Department of Housing and Community Development, a different regional configuration, provided that at least one of the localities is a city, if a city exists within the planning district, unless the city voluntarily agrees not to participate.

"Regional partnership" means an organization composed of government, business, education and civic leaders approved by the local governing bodies of the region to carry out the provisions of this

chapter. The organization may be an existing or newly established regional planning or economic development organization serving the region.

1996, cc. 1045, 1055, § 15.1-1227.2; 1997, c. 587.

**§ 15.2-1308. Incentives for certain joint activities by local governments.**

A. The General Assembly may establish a fund to be used to encourage regional strategic planning and cooperation. Specifically, the incentive fund shall be used to encourage and reward regional strategic economic development planning and joint activities as described in § 15.2-1309.

B. The fund shall be administered by the Department of Housing and Community Development and distributed to the qualifying localities in installments under the terms and conditions of applicable statutes and by procedures adopted by the Department.

C. All departments, agencies, institutions, and local governments of the Commonwealth shall make available such information and assistance as the Department may request in the performance of its responsibilities set forth in this section.

1996, cc. 1045, 1055, § 15.1-1227.3; 1997, c. 587; 2003, cc. 55, 77.

**§ 15.2-1309. Eligibility criteria for incentive payments.**

The Department of Housing and Community Development, in setting the criteria for eligibility for incentive payments under § 15.2-1308, shall require that:

1. A regional partnership shall exist and effectively function in the applicant region, and membership shall include as broad a representation as is practical of local government, elementary and secondary education, higher education, the business community, and civic groups. The partnership should include as many of the following as is practical: the mayor or chair and the chief administrative officer of each member locality, president of each institution of higher education, corporate leaders of the region, and leaders of local civic associations. The Department shall issue guidelines on the structure and organization of the regional partnership.

2. Each regional partnership shall develop a regional strategic economic development plan which identifies critical issues of economic competitiveness for the region. The plan shall contain, at a minimum, a comparison of the following criteria for the region, and the primary competitor regions in the southeast United States:

a. Median family income;

b. Job creation; and

c. Differences in median family income levels among the localities in the region.

3. Each regional partnership shall issue an annual report, including, at a minimum, the region's progress towards improvement according to the criteria identified in subdivision 2 and its progress in addressing the critical issues of economic competitiveness identified in the regional strategic economic development plan.

4. Each regional partnership shall identify the existing and proposed joint activities within the region, and the joint activities shall have a combined point total of at least twenty points, based on the values established in § 15.2-1310, in order for the region to qualify for any incentive payments.

5. Subject to the provisions of § 15.2-1308, once a region becomes eligible for the annual incentive payments, it shall receive such payments for at least five years, so long as regional partnerships continue to exist and effectively function. The region may reapply before or at the end of the five-year period for requalification to continue to receive annual incentive payments.

6. Joint activities existing prior to the enactment of this section or prior to requalification may be considered by the Department of Housing and Community Development for an award up to the full value established in § 15.2-1310. Existing joint activities which are expanded in scope or number of localities may be considered a new joint activity but shall not receive the full value of points as established in § 15.2-1310. Points for existing activities (those initiated prior to July 1 of the year in which the initial qualification or the requalification is sought) may not constitute more than fifty percent of the total points assigned.

7. The year for incentive payments shall be the Commonwealth's fiscal year following the calendar year in which the region qualifies, with payments made annually by the Comptroller upon certification by the Department of Housing and Community Development. Eligible regions shall receive incentive funds in an amount equal to the percentage of the funds appropriated for incentive payments for such fiscal year that represents the region's percentage of the total population of all eligible regions. Within eligible regions, the incentive funds shall be distributed to the localities on the basis of a formula mutually agreed to by all of the localities of the region.

1996, cc. 1045, 1055, § 15.1-1227.4; 1997, c. 587; 2000, c. 749.

**§ 15.2-1310. Assignment of weights for functional activities.**

In determining the eligibility of the region, the Department of Housing and Community Development may assign weights for each joint activity up to the number in parentheses below:

1. Job Creation or Economic Development(10)

2. Regional Revenue Sharing or Growth Sharing Agreements(10)

3. Education(10)

4. Human Services(8)

5. Local Land Use(8)

6. Housing(8)

7. Transportation(5)

8. Law Enforcement(5)

9. Solid Waste(4)

10. Water and Sewer Services(4)

11. Corrections(3)

12. Fire Services and Emergency Medical Services(3)

13. Libraries(2)

14. Parks and Recreation(2)

The assignment of values by the Department to any joint activity may be based upon the significance of the joint activity as measured by the fiscal resources committed to it, the number of regional localities participating, the significance of the activity as measured by the regional effort involved in developing joint activities, the complexity of the activity, the general impact on relations between the affected jurisdictions, or other factors deemed to be appropriate by the Department. A region may petition the Department to adjust the weights of the above criteria to reflect the relative importance of that criteria on the economic competitiveness of the region. Upon receipt of such petition, the Department may adjust the weight of any criteria; however, the weight of any one criteria shall not exceed ten. In addition to the weights listed in § 15.2-1310, the Department of Housing and Community Development may add up to a total of five points for regions that have taken successful actions to make governmental services or functions more efficient or successful actions in reducing the local property tax burden throughout the region.

1996, cc. 1045, 1055, § 15.1-1227.5; 1997, c. 587.

## Chapter 14 - GOVERNING BODIES OF LOCALITIES

## Article 1 - GENERAL PROVISIONS

### § 15.2-1400. Governing bodies.

A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term and other details of the election shall be as specified by law, general or special. Qualification for office is provided in § 15.2-1522 et seq.

B. The governing body of every locality shall be composed of not fewer than three nor more than eleven members.

C. Chairmen, mayors, supervisors and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.

D. A governing body may punish or fine a member of the governing body for disorderly behavior.

1971, Ex. Sess., c. 199, § 15.1-37.4; 1982, c. 297; 1983, c. 595; 1995, c. 249; 1997, c. 587.

### § 15.2-1401. Powers granted localities vested in their governing bodies.

Unless otherwise clearly indicated by the context in which the provisions relating thereto are set forth, all powers granted to localities shall be vested in their respective governing bodies.

1962, c. 623, § 15.1-7; 1997, c. 587.

### § 15.2-1402. Declared to be body politic of Commonwealth; seal.

Every locality of this Commonwealth is hereby declared to be a body politic of the Commonwealth and may have a seal and alter the same at its pleasure.

1997, c. 587.

**§ 15.2-1403. Governing body to be continuing body.**

Every governing body of a locality shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office or removal of any or all members of the governing body.

1997, c. 587.

**§ 15.2-1404. How localities may sue or be sued; arbitration.**

Every locality may sue or be sued in its own name in relation to all matters connected with its duties. The process instituting suit against a locality shall be served as provided in § 8.01-300.

The governing body of any locality may enter into a written agreement to submit any existing controversy to arbitration and may execute a contract which contains a provision to submit to arbitration any controversy thereafter arising.

Code 1950, § 15-3; 1962, c. 623, § 15.1-508; 1968, c. 422; 1985, c. 416; 1987, c. 483; 1997, c. 587.

**§ 15.2-1405. Immunity of members of local governmental entities; exception.**

The members of the governing bodies of any locality or political subdivision and the members of boards, commissions, agencies and authorities thereof and other governing bodies of any local governmental entity, whether compensated or not, shall be immune from suit arising from the exercise or failure to exercise their discretionary or governmental authority as members of the governing body, board, commission, agency or authority which does not involve the unauthorized appropriation or misappropriation of funds. However, the immunity granted by this section shall not apply to conduct constituting intentional or willful misconduct or gross negligence.

1987, cc. 261, 290, § 15.1-7.01; 1997, c. 587.

**§ 15.2-1406. Compensation of governing bodies.**

The compensation of governing bodies and their chairmen, vice-chairmen, mayors and vice-mayors shall be determined as provided in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2.

1997, c. 587.

**§ 15.2-1407. Administrative leave for certain members of governing bodies.**

Any duly elected member of a governing body who is an employee of that locality may receive administrative leave each year in addition to his annual and sick leave.

Code 1950, § 15-5; 1962, c. 623, § 15.1-13; 1987, c. 432; 1997, c. 587.

**§ 15.2-1408. Restrictions on activities of former officers and employees by certain counties and cities.**

A. The term "officer or employee," as used in this section, includes members of local governing bodies, county or city officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the local governing body.

B. In the Counties of Bedford, Fauquier, James City, Pittsylvania, and Stafford and the Cities of Charlottesville and Virginia Beach, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment ceased, from providing personal and substantial assistance for remuneration of any kind to any party, in connection with any proceeding, application, case, contract, or other particular matter involving the county or city or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as a county or city officer or employee through decision, approval, or recommendation.

C. In the City of Richmond, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment has ceased, from representing a client or acting in a representative capacity on behalf of any person or group, for compensation, on matters related to ordinances, contracts, proceedings, applications, cases, or other matters of any nature involving any agency, department, or office of local government in which the former officer or employee served or was employed during the one-year period immediately prior to the termination of employment or service. This prohibition shall be in addition to any other prohibition that may be provided by law.

1991, c. 582, § 15.1-29.22; 1997, c. 587; 2003, c. 945; 2005, cc. 257, 289; 2019, cc. 111, 472.

**§ 15.2-1409. Investigations by governing bodies.**

The governing body of any locality may make such investigations relating to its government affairs as it deems necessary, may employ financial, legal and other personnel it deems necessary to assist in such investigations, may order the attendance of witnesses and the production of books and papers and may administer oaths. Such governing bodies may apply to the circuit court for their locality for a subpoena or subpoena duces tecum against any person refusing to appear and testify or refusing to produce books, papers or records as ordered by such governing bodies and the judge of such court shall, upon good cause shown, cause the subpoenas to be issued. Any person failing to comply with any such subpoena shall be subject to punishment for contempt by the court issuing the subpoena.

Code 1950, § 15-394; 1962, c. 623, § 15.1-801; 1980, c. 335; 1997, c. 587.

**§ 15.2-1410. Chairman and mayor may administer oaths.**

Every chairman and mayor shall have power to administer an oath to any person concerning any matter submitted to the board or council or connected with their powers or duties.

Code 1950, § 15-234; 1962, c. 623, § 15.1-529; 1997, c. 587.

**§ 15.2-1411. Appointment of advisory boards, committees and commissions; compensation and reimbursement of expenses.**

The governing body of any locality may appoint such advisory boards, committees, and commissions as it deems necessary to advise the governing body with regard to any matter of concern to the locality. Members shall be appointed to serve at the pleasure of the governing body.

The governing body may provide for (i) reimbursement of the actual expenses incurred by members while serving on such advisory boards, committees, and commissions and (ii) compensation to members for their services for attendance at regularly scheduled meetings, and for training in an amount determined appropriate by the governing body from available funds.

1981, c. 254, § 15.1-33.2; 1993, c. 894; 1994, c. 165; 1997, c. 587; 2002, c. 27; 2005, cc. 740, 879.

**§ 15.2-1412. Reproductions of records and documents and legal status thereof; destruction of originals.**

Any locality may provide for the photographing or microphotographing, or the recording by any other process which accurately reproduces or forms a durable medium for reproducing the original of all or any part of the papers, records, documents or other material kept by or in the charge of any department, agency or institution of such locality in accordance with such standards and retention schedules as may be issued in pursuance of § 42.1-82.

A reproduction thereof if substantially the same size as the original, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

Whenever photographs or microphotographs have been made and put in conveniently accessible files, and provision has been made for preserving, examining and using the same, the locality may notify the Librarian of Virginia that it intends to destroy the records and papers so photographed or microphotographed, or any part thereof. If within sixty days the Librarian of Virginia has not notified the locality that such records or papers should be retained, the locality may destroy them. A locality may also, in its discretion, consult with the locality's librarian with reference to the advisability of destroying any such records, papers, documents or other material because of any historical significance or value.

Code 1950, § 15-5.1; 1952, c. 289; 1958, c. 9; 1962, c. 623, § 15.1-8; 1966, c. 303; 1970, c. 225; 1979, c. 155; 1983, c. 419; 1997, c. 587; 1998, c. 427; 2012, c. 802.

**§ 15.2-1413. Governing bodies of localities may provide for continuity of government in case of enemy attack, etc.**

Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster. Such ordinance shall be limited in its effect to a period not exceeding six months after any such attack or disaster and shall provide for a method for the resumption of normal governmental authority by the end of the six-month period.

1964, c. 307, § 15.1-13.1; 1997, c. 587.

### § 15.2-1414. Governing bodies may have a legal enumeration of the population.

Any locality wishing to have a legal enumeration of the population of the locality, or part thereof, may make application therefor to the circuit court for the locality. When the application is made, the judge shall forthwith divide the locality, or part thereof, into such districts, with well-defined boundaries, as may appear advisable and shall appoint for each of the districts one enumerator. Before entering on their duties, such appointees shall take an oath before a notary public or other officer qualified to administer oaths under the laws of this Commonwealth, for the faithful discharge of their duties. The enumerators shall at once proceed to enumerate the actual bona fide inhabitants of their respective districts. They shall report to the judge the result of their enumeration and a list of the persons enumerated by them within a reasonable time after their appointment, and a copy of the list of persons so enumerated by them shall be furnished by the enumerators to the clerk of the court, who shall receive the list and keep it open to public inspection. Upon evidence produced before him, the judge may add to the list the name of any person improperly omitted and may strike from the list the name of any person improperly listed. If it appears advisable to the judge, he may order that the enumeration for any or all of the districts be retaken under all the provisions of this section by other enumerators, who shall be forthwith appointed by him. The judge shall cause to be tabulated and consolidated the lists and return to the governing body the results thereof, in accordance with the application of the governing body. The judge shall allow each enumerator a reasonable fee for each day actually employed by him in making the enumeration. He shall certify the allowance and costs to the governing body for payment out of the local treasury, and the allowance shall be a legal charge upon the governmental unit requesting the enumeration.

Code 1950, § 15-19; 1962, c. 623, § 15.1-17; 1997, c. 587.

## Article 1.1 - SALARIES

### § 15.2-1414.1. Each member to be paid annual salary.

Each member of the board of supervisors of each county shall be allowed and paid out of the county levy an annual salary, to be fixed as herein provided, for his services in attending the meetings of the board and in discharging the duties imposed by law upon him.

Code 1950, § 14-55; 1964, c. 386, § 14.1-45; 1998, c. 872.

### § 15.2-1414.2. Salaries to be fixed by board; limits; reimbursement in addition to salary.

The annual compensation to be allowed each member of the board of supervisors of a county shall be determined by the board of supervisors of such county but such compensation shall not be more than a maximum determined in the following manner. Prior to July 1 of the year in which members of the board of supervisors are to be elected or, if the board is elected for staggered terms, of any year in which at least forty percent of the members of the board are to be elected, the current board, by a recorded vote of a majority present, shall set a maximum annual compensation which will become effective as of January 1 of the next year.

Until the board is able to set a maximum compensation as provided above, the maximum compensations for the several counties shall be as authorized on July 1, 1981.

Any board of supervisors may fix a higher salary for the chairman, or the vice-chairman, or both, than for the other members of the board without respect to the limits herein set forth.

A member of the board of supervisors of any county may accept in lieu of salary, reimbursement for actual expenses incurred in maintaining an office and secretarial assistance necessary for the proper performance of his duties. Such reimbursement shall be subtracted from the amount of the salary due such official and the remaining sum shall be paid to him at his option; however, such expense shall not exceed the salary. In addition to the salary, members of each governing body may receive the same fringe benefits which are given to county employees generally, and all prior grants of such benefits are validated.

A county may provide a member of its board of supervisors in addition to salary, reimbursement for actual expenses incurred in purchasing, operating, maintaining and using a telephone, including a car telephone or other portable telephone, provided the expenses are attributable directly to the proper performance of the member's official duties.

No increase in the salary of a member of the board of supervisors shall take effect during the incumbent supervisor's term in office; however, this restriction shall not apply to boards of supervisors when the supervisors are elected for staggered terms nor to corrections to the above listed compensation.

1976, c. 590, § 14.1-46.01; 1977, cc. 391, 416; 1978, cc. 319, 435, 572; 1979, c. 256; 1980, cc. 3, 450; 1981, cc. 13, 623; 1982, c. 376; 1990, c. 518; 1996, c. 371; 1998, c. 872; 2000, c. 299.

**§ 15.2-1414.3. Alternative procedure for establishing salaries of boards of supervisors; limits; fringe benefits.**

In lieu of other provisions of law, the boards of supervisors of the several counties may establish annually, by ordinance, and pay in monthly installments each of their members an annual salary pursuant to the following procedure and schedule:

1. On a date determined by the board of supervisors, not earlier than May 1 nor later than June 30 each year, the board, after public hearing pursuant to notice in the manner and form provided in §§ 15.2-1426 and 15.2-1427, shall establish by ordinance the salary of its members for the ensuing fiscal year not to exceed the maximums herein set out.

2. Counties within the following population brackets shall be allowed to set salaries for board members not to exceed the following amounts:

| Population | Annual Salary |
|---|---:|
| 200,000 and over | $15,000 |
| 105,000 to 199,999 | 13,000 |
| 80,000 to 104,999 | 11,000 |
| 50,000 to 79,999 | 9,000 |

| | |
|---|---|
| 25,000 to 49,999 | 7,000 |
| 15,000 to 24,999 | 5,500 |
| 14,999 and under | 4,000 |

The maximum annual salaries herein provided may be adjusted in any year or years, by ordinance as above provided, by an inflation factor not to exceed five percent.

3. Any board of supervisors may fix, by ordinance as above provided, annually an additional sum to be paid as hereinabove provided to the chairman and vice-chairman of the board not to exceed $1,800 and $1,200, respectively, without regard to the maximum salary limits.

4. In addition to and without regard for the salary limits herein set out, any board of supervisors by resolution may grant to its members any or all of the fringe benefits in the manner and form as such benefits are provided for county employees or any of them.

1984, c. 221, § 14.1-46.01:1; 1990, cc. 63, 854; 1998, c. 872.

**§ 15.2-1414.4. Repealed.**

Repealed by Acts 2006, c. 126, cl. 2.

**§ 15.2-1414.5. Each councilman to be paid annual salary; effect of charter.**

Each member of the council of each city shall be allowed and paid out of the city levy an annual salary in equal monthly installments, or in accordance with the payroll cycle of city employees, to be fixed as herein provided, for his services in attending the meetings of the council and in discharging the duties imposed by law upon him. Any city, however, whose charter imposes no limitation on salaries, may continue to pay its councilmen and mayor pursuant to such charter.

1981, c. 358, § 14.1-47.1; 1998, c. 872; 2004, c. 570.

**§ 15.2-1414.6. Permitted salaries; salary increases; reimbursement for expenses.**

Subject to the exception provided for in § 15.2-1414.5, the annual salary of each member of the council of any city shall be set by its members by ordinance notwithstanding any contrary provision of law, general or special. The setting of such salaries by members of council shall include the salary of the mayor or president of the council whether such official is a member of council or not.

Cities within the following population brackets shall be allowed to set salaries for mayors, which include presidents of council, and council members not to exceed the following:

| Population | Annual Salary |
|---|---|
| 260,000 and over | |
| Mayor | $30,000 |
| Council | 28,000 |
| 175,000 to 259,999 | |
| Mayor | 27,000 |
| Council | 25,000 |
| 75,000 to 174,999 | |

| | |
|---|---|
| Mayor | 25,000 |
| Council | 23,000 |
| 35,000 to 74,999 | |
| Mayor | 20,000 |
| Council | 18,000 |
| 20,000 to 34,999 | |
| Mayor | 13,000 |
| Council | 12,000 |
| 15,000 to 19,999 | |
| Mayor | 12,000 |
| Council | 11,500 |
| 14,999 and under | |
| Mayor | 11,500 |
| Council | 11,000 |

No increase in the salary of a member of council shall take effect until July 1 after the next regularly scheduled general election of council members.

Every proposed increase in the salary of a member of council shall be adopted at least four months prior to the date of the next municipal election except in the case of a newly created consolidated city when the proposed increase shall be adopted at least two months prior to the date of its first municipal election.

Any member of council shall be eligible to be reimbursed for any personal expenses incurred by him for official business. However, all claims for reimbursement shall be for reasonable expenses to the extent permitted by law incurred in the conduct of official city business and shall be itemized and documented by stamped paid receipts to the extent feasible.

In addition to salary, each member of the council of any city may be compensated with such benefits as are provided city employees by the city.

1981, c. 358, § 14.1-47.2; 1982, c. 125; 1985, c. 111; 1986, cc. 111, 312; 1988, c. 213; 1996, c. 263; 1997, c. 592; 1998, c. 872.

**§ 15.2-1414.7. Salaries of town council members and mayors.**

Notwithstanding any provision of a charter of a town or any other law, a town council may establish the compensation to be paid to council members and the mayor. No increase in salary of a council member or mayor shall take effect during the incumbent council member's or mayor's term in office; however, this restriction shall not apply to councils or mayors when the council members are elected for staggered terms. In addition to salary, each member of the council and the mayor of any town may be compensated with such benefits as are provided town employees by the town.

1975, c. 253, § 15.1-827.1; 1985, c. 63; 1997, c. 587, § 14.1-47.3; 1998, c. 872; 2001, cc. 9, 254.

## Article 2 - MEETINGS OF GOVERNING BODIES

### § 15.2-1415. At what meetings governing body may act.

Unless otherwise specially provided, a governing body may exercise any of the powers conferred upon it at any meeting of the governing body, regular, special or adjourned at which a quorum is present. A majority of the governing body shall constitute a quorum except as may be otherwise provided in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Meetings of governing bodies shall be subject to the applicable provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Code 1950, § 15-247; 1962, c. 623, § 15.1-542; 1997, c. 587; 2007, c. 613.

### § 15.2-1416. Regular meetings.

A. The governing body shall assemble at a public place as the governing body may prescribe, in regular session in January for counties and in July for cities and towns. Future meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year.

B. The days, times and places of regular meetings to be held during the ensuing months shall be established at the first meeting which meeting may be referred to as the annual or organizational meeting; however, if the governing body subsequently prescribes any public place other than the initial public meeting place, or any day or time other than that initially established, as a meeting day, place or time, the governing body shall pass a resolution as to such future meeting day, place or time. The governing body shall cause a copy of such resolution to be posted on the door of the courthouse or the initial public meeting place and inserted in a newspaper having general circulation in the county or municipality at least seven days prior to the first such meeting at such other day, place or time. Should the day established by the governing body as the regular meeting day fall on any legal holiday, the meeting shall be held on the next following regular business day, without action of any kind by the governing body.

At its annual meeting the governing body may fix the day or days to which a regular meeting shall be continued if the chairman or mayor, or vice-chairman or vice-mayor if the chairman or mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

C. Regular meetings may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the governing body is completed. Notice of any regular meeting continued under this section shall be reasonable under the circumstances and be given as provided in subsection D of § 2.2-3707.

D. The governing body shall provide members of the general public with the opportunity for public comment during a regular meeting at least quarterly.

E. Notwithstanding the provisions of this section, any city or town that holds an organizational meeting in compliance with its charter or code shall be deemed to be in compliance with this section.

Code 1950, § 15-241; 1950, p. 8; 1954, c. 286; 1958, c. 291; 1960, c. 33; 1962, cc. 218, 623, § 15.1-536; 1964, c. 403; 1980, c. 420; 1994, cc. 371, 591; 1997, c. 587; 2004, c. 549; 2017, c. 616; 2020, c. 1144.

**§ 15.2-1416.1. Actions prior to convening of meeting.**

During the time prior to the governing body's actual call to order or convening of business, any expressions by members of the governing body or members of the public shall be held consistent with the individual's First Amendment right of freedom of speech.

2005, c. 592.

**§ 15.2-1417. Special meetings.**

The governing body may also hold such special meetings, as it deems necessary, at such times and places as it finds convenient. It may adjourn such special meetings from time to time as it finds convenient and necessary.

Code 1950, § 15-242; 1962, c. 623, § 15.1-537; 1997, c. 587.

**§ 15.2-1418. Same; how called.**

A special meeting of the governing body shall be held when called by the chairman or mayor or requested by two or more of the members of the board of supervisors or council. The call or request shall be made to the clerk, and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the clerk of the governing body, after consultation with the chairman or mayor, shall immediately notify each member of the governing body and the attorney for the Commonwealth or the county or municipal attorney, as appropriate in writing delivered in person or to his place of residence or business or, if so requested by the member of the governing body, by electronic mail or facsimile to attend such meeting at the time and place stated in the notice. Such notice shall specify the matters to be considered at the meeting. No matter not specified in the notice shall be considered at such meeting, unless all members are present. The notice may be waived if all members of the governing body attend the special meeting or sign a waiver.

Code 1950, § 15-243; 1954, c. 181; 1960, c. 412; 1962, c. 623, § 15.1-538; 1964, c. 249; 1966, c. 33; 1975, c. 575; 1979, c. 210; 1983, c. 403; 1994, c. 87; 1997, c. 587; 2011, c. 180.

**§ 15.2-1419. Meeting times of certain authorities, boards and commissions.**

Notwithstanding any contrary provision of law, general or special, the governing body of any locality may establish the regular meeting times (day and hour) of its authorities, boards and commissions so as to prevent conflict with other meetings.

1995, cc. 198, 240, § 15.1-37.3:14; 1997, c. 587.

**§ 15.2-1420. How questions determined; tie breaker.**

All questions submitted to the governing body for decision shall be determined by a majority of the members voting on any such question unless another method of determination is required by the Constitution of Virginia or general law.

In counties which have designated a tie breaker pursuant to § 15.2-1421, in any case in which there is a tie vote of the board upon any question when all the members are not present, the question shall be passed by till the next meeting when it shall again be voted upon even though all members are not present; in any case in which there is a tie vote on any question after complying with the herein above procedure, the clerk shall record the vote and immediately notify the tie breaker elected by the voters as provided in § 15.2-1421, to give the casting vote in case of a tie, if that is practicable, and request his presence at the present meeting of the board; but if that is not practicable then the board may adjourn to a day fixed in the minutes of the board, or in case of a failure to agree on a day, to a day fixed by the clerk and entered by him on the minutes. At the present meeting or on the day named in the minutes the tie breaker shall attend. He shall be entitled to be fully advised as to the matter upon which he is to vote, and if not prepared to cast his vote at the time he may require the clerk to enter an order adjourning the meeting to some future day to be named in the minutes not to exceed thirty days and from time to time he shall have continuances entered until he is ready to vote, not to exceed thirty days. When he casts his vote the clerk shall record his vote and the tie shall be broken, and the question shall be decided as he casts his vote. If a meeting for any reason is not held on the day named in the minutes, the clerk shall enter on the minute book a day within ten days as a substitute day and duly notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie breaker shall be considered a member of the board for the purpose of counting a quorum for the sole purpose of breaking the tie. Final votes on any ordinance or resolution shall be in accordance with the procedure provided for in Article VII, Sections 7 and 9 of the Constitution of Virginia.

Code 1950, § 15-245; 1962, c. 623, § 15.1-540; 1972, cc. 734, 790; 1974, c. 550; 1980, c. 172; 1994, c. 550; 1997, c. 587; 2007, c. 833.

**§ 15.2-1421. Tie breakers.**

The governing body of each county may designate a tie breaker, whose duty it shall be to cast the deciding vote in case of tie, as set forth in § 15.2-1420. The designation of the tie breaker shall be by election by the voters of the county from the county at large. Every tie breaker shall serve for a period of four years from the date of his election and every tie breaker so elected shall serve the same term as a member of the governing body. No person shall be elected or serve as tie breaker who is not a resident of the county; who is not qualified to hold office as supervisor or who is an employee or officer of the county. Tie breakers heretofore appointed or elected shall continue in office until the expiration of the respective terms. Vacancies in the position of tie breaker shall be filled in the same manner as vacancies in the governing body.

Code 1950, § 15-240; 1952, c. 159; 1952, Ex. Sess., c. 10; 1954, c. 91; 1962, cc. 595, 623, § 15.1-535; 1966, c. 280; 1972, c. 593; 1974, c. 550; 1981, c. 261; 1994, c. 550; 1997, c. 587; 2007, c. 833.

## Article 3 - Presiding Officers and Vacancies in Certain Offices

### § 15.2-1422. Electing a chairman and vice-chairman or a mayor and vice-mayor.

Unless the presiding officer is elected by popular vote, every governing body, at its first meeting after taking office, shall elect one of its number as presiding officer. Such officer shall be called "chairman," "chairwoman," "chair," "chairperson," or "chair-at-large," in the presiding officer's discretion, if a member of a board of supervisors and "mayor" if a member of a city or town council. Such member, if present, shall preside at the first meeting and all other meetings during the term for which so elected. The governing body also shall elect a vice-chairman or vice-mayor, as the case may be, who shall preside at meetings in the absence of the chairman or mayor and may discharge any duty of the chairman or mayor during his absence or disability. Chairmen and vice-chairmen and mayors and vice-mayors may be so elected to serve for terms corresponding with their terms as supervisors or councilmen or may be elected for such other period as determined by the governing body. Whenever any board or council at the time of such election, fails to designate the specific term of office for which a chairman or vice-chairman or a mayor or vice-mayor is elected, it shall be presumed that such officers were elected for a term of one year and shall serve until their successors have been elected and qualify. Chairmen and vice-chairmen and mayors and vice-mayors may succeed themselves in office. In the case of the absence from any meeting of the chairman and vice-chairman or mayor and vice-mayor, the members present shall choose one of their number as temporary presiding officer.

1997, c. 587; 2020, c. 133.

### § 15.2-1423. Powers of chairman or mayor.

In addition to being presiding officer, the chairman or mayor, as the case may be, shall be the head of the local government for all official functions and ceremonial purposes. He shall have a vote but no veto.

In the event that there is no chief administrative officer, it shall be the duty of the chairman or mayor, as the case may be, to see that the functions set forth in § 15.2-1541 are carried out if the governing body has not acted otherwise.

1997, c. 587.

### § 15.2-1424. Vacancies in office.

Vacancies in the office of board of supervisors or of council or an elected chairman or mayor, for whatever reason, shall be filled as provided for in Title 24.2. A member of the board or council may be elected or appointed to fill a vacancy in the office of chairman or mayor.

The person appointed or elected to fill the vacancy shall possess the same legal qualifications for the office as did the person whose position he is filling.

In the event of a vacancy in the office of chairman or mayor, the duties of the office of chairman or mayor shall be performed by the vice-chairman or vice-mayor until a chairman or mayor is appointed or elected and qualifies.

Vacancies in the office of vice-chairman or vice-mayor shall be filled by appointment by the remaining members of the appropriate governing body from its membership.

1997, c. 587.

## Article 4 - ORDINANCES AND OTHER ACTIONS BY THE LOCAL GOVERNING BODY

### § 15.2-1425. Actions by localities.

The governing body of every locality in the performance of its duties, obligations and functions may adopt, as appropriate, ordinances, resolutions and motions.

1997, c. 587.

### § 15.2-1426. Form of ordinances.

The object of every ordinance, except an ordinance approving a budget, an annual appropriation ordinance or an ordinance which codifies ordinances, shall be clearly expressed in its title. All ordinances which repeal or amend existing ordinances shall identify by title the section to be repealed or amended.

Code 1950, §§ 15-8, 15-10; 1950, p. 113; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, cc. 190, 279; 1960, c. 606; 1962, c. 623, § 15.1-504; 1966, cc. 405, 612; 1968, c. 625; 1970, c. 581; 1972, cc. 41, 837; 1973, c. 380; 1978, c. 235; 1983, c. 11; 1997, c. 587.

### § 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances.

A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

B. On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.

C. All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.

D. An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.

E. An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.

F. In counties, except as otherwise authorized by law, no ordinance shall be passed until after descriptive notice of an intention to propose the ordinance for passage has been published once a week for two successive weeks prior to its passage in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement either that the publication contains the full text of the ordinance or that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county or in the office of the county administrator; or in the case of any county organized under the form of government set out in Chapter 5, 7 or 8 of this title, a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the county board. Even if the publication contains the full text of the ordinance, a complete copy shall be available for public inspection in the offices named herein.

In counties, emergency ordinances may be adopted without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of this Code.

G. In towns, no tax shall be imposed except by a two-thirds vote of the council members.

Code 1950, §§ 15-8, 15-10; 1950, p. 113; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, cc. 190, 279; 1960, c. 606; 1962, c. 623, § 15.1-504; 1966, cc. 405, 612; 1968, c. 625; 1970, c. 581; 1972, cc. 41, 837; 1973, c. 380; 1978, c. 235; 1983, c. 11; 1997, c. 587; 1998, c. 823; 2000, c. 895.

### § 15.2-1428. Procedures for certain acts.

No ordinance or resolution appropriating money exceeding the sum of $500, imposing taxes, or authorizing the borrowing of money shall be passed except by a recorded affirmative vote of a majority of all members elected to the governing body. In case of the veto of such an ordinance or resolution, where the power of veto exists, it shall require for passage thereafter a recorded affirmative vote of two-thirds of all members elected to the governing body.

Code 1950, § 15-412; 1962, c. 623, § 15.1-819; 1971, Ex. Sess., c. 35; 1991, c. 668; 1997, c. 587.

### § 15.2-1429. Penalties for violation of ordinances.

Any locality may prescribe fines and other punishments for violations of ordinances, which shall be enforced by proceedings as if such violations were misdemeanors. However, no fine or term of confinement for the violation of ordinances shall exceed the penalties provided by general law for the violation of a Class 1 misdemeanor, and such penalties shall not exceed those penalties prescribed by general law for like offenses.

Code 1950, §§ 15-8, 15-77.64; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, cc. 279, 328; 1960, c. 606; 1962, c. 623, § 15.1-505, 15.1-901; 1974, c. 598; 1976, c. 582; 1978, c. 150; 1991, cc. 25, 609, 710; 1997, c. 587.

### § 15.2-1430. Bonds of persons convicted.

Upon conviction for the violation of any ordinance, the court trying the case may require bond of the person so convicted with proper security in the penalty of not more than $5,000, conditioned not to

violate the ordinance for the breach of which he has been convicted for the period of not more than one year.

Code 1950, § 15-77.65; 1958, c. 328; 1962, c. 623, § 15.1-902; 1997, c. 587.

### § 15.2-1431. Appeals; nonpayment of fine.

An appeal from any fine or imprisonment shall be as in misdemeanor cases. Whenever any fine is imposed but not paid, the court trying the case shall proceed in accordance with Article 4 (§ 19.2-354 et seq.) of Chapter 21 of Title 19.2.

Code 1950, § 15-77.66; 1958, c. 328; 1962, c. 623, § 15.1-903; 1973, c. 342; 1997, c. 587.

### § 15.2-1432. Injunctive relief against continuing violation of ordinance.

A court of competent jurisdiction, in addition to the penalty imposed for the violation of any ordinance, may enjoin the continuing violation thereof by proceedings for an injunction brought in any court for the county or municipal corporation having jurisdiction to grant injunctive relief.

Code 1950, § 15-77.68; 1958, c. 328; 1962, c. 623, § 15.1-905; 1997, c. 587.

### § 15.2-1433. Codification and recodification of ordinances.

Any locality may codify or recodify any or all of its ordinances, in permanently bound or loose-leaf form. Such ordinances may be changed, altered or amended by the governing body, and ordinances or portions thereof may be deleted and new material may be added by the governing body. Such changes, alterations, amendments or deletions and such new material shall become effective on the effective date of the codification or recodification.

Ordinances relating to zoning and the subdivision of land may be included in any codification or recodification of ordinances; however, no change, alteration, amendment, deletion or addition of a substantive nature shall be made and no new material of a substantive nature shall be added to such ordinances unless, prior to the date of adoption of such codification or recodification, notice of such proposed changes, alterations, amendments, deletions or additions shall be published as required by the Code of Virginia and public hearings held thereon as provided by the Code of Virginia for adoption and amendment of zoning and subdivision ordinances. Renumbering or rearranging of sections, articles or other divisions of any such ordinance shall not be deemed to be a change, alteration or amendment of a substantive nature.

Any such codification or recodification may be adopted by reference by a single ordinance, without further publication of such codification or recodification or any portions thereof. The ordinance adopting such codification or recodification shall comply with all laws of the Commonwealth and any provision of any city or town charter requiring posting or publication of ordinances or notice of intent to adopt ordinances. At least one copy of such codification or recodification or a complete set of printer's proofs of the text thereof shall be made available for public inspection in the office of the clerk of the governing body in which such codification or recodification is proposed to be adopted.

No ordinance levying or increasing taxes shall be enacted as new material in any such codification or recodification or amended in substance therein unless advertised in accordance with general law.

Supplements for such codifications or recodifications may be prepared from time to time at the direction of the governing body of the locality, either as units or on a replacement page basis; however, where replacement pages are prepared, a distinguishing mark or notation shall be placed on each replacement page to distinguish it from original pages and pages of other supplements. No further adoption procedure shall be required for supplements or replacement pages in which no substantive change is made in ordinances previously and validly adopted by the governing body of the locality. If changes, alterations, amendments, deletions or additions of a substantive nature are made in any such supplement, then such supplement shall be adopted by the governing body in the same manner provided by general or special law.

At least one copy of any codification or recodification adopted hereunder and at least one copy of every supplement thereto shall be kept in the office of the clerk of the governing body and shall there be available for public inspection during normal business hours.

Any codification or recodification adopted hereunder shall be admitted in evidence in all courts without further proof.

1966, c. 269, § 15.1-37.3; 1997, c. 587; 2003, c. 200.

## Chapter 15 - Local Government Personnel, Qualification for Office, Bonds, Dual Office Holding and Certain Local Government Officers

## Article 1 - GENERAL PROVISIONS FOR CERTAIN OFFICERS AND EMPLOYEES

### § 15.2-1500. Organization of local government.

A. Every locality shall provide for all the governmental functions of the locality, including, without limitation, the organization of all departments, offices, boards, commissions and agencies of government, and the organizational structure thereof, which are necessary and the employment of the officers and other employees needed to carry out the functions of government.

B. Except as provided in § 15.2-2160 or Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, no locality shall establish any department, office, board, commission, agency or other governmental division or entity which has authority to offer telecommunications equipment, infrastructure, other than pole or tower attachments including antennas or conduit occupancy, or services, other than intragovernmental radio dispatch or paging systems shared by adjoining localities, for sale or lease to any person or entity other than (i) such locality's departments, offices, boards, commissions, agencies or other governmental divisions or entities or (ii) an adjoining locality's departments, offices, boards, commissions, agencies or other governmental divisions or entities, so long as any charges for such telecommunications equipment, infrastructure and services do not exceed the cost to the providing locality of providing such equipment, infrastructure or services. However, any town which is located adjacent

to Exit 17 on Interstate 81 and which offered telecommunications services to the public on January 1, 1998, is hereby authorized to continue to offer such telecommunications services, but shall not acquire by eminent domain the facilities or other property of any telephone company or cable operator. Any locality may sell any telecommunications infrastructure, including related equipment, which such locality has constructed, and such locality may receive from the purchaser or purchasers, as full or partial consideration for the sale of such infrastructure, communications services to be used solely for internal use of the locality. The locality shall not be involved in any way in the promotion or marketing of services provided by any purchaser.

C. A locality, electric commission or board, industrial development authority, or economic development authority, may lease dark fiber. For purposes of this section, "dark fiber" means fiber optic cable that is not lighted by lasers or other electronic equipment. The locality, electric commission or board, industrial development authority, or economic development authority, shall not be involved in the promotion or marketing of the lessee as the provider of the services.

1997, c. 587; 1998, c. 906; 1999, c. 916; 2002, cc. 479, 489.

**§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.**

A. As used in this section, "age" means being an individual who is at least 40 years of age.

B. No department, office, board, commission, agency, or instrumentality of local government shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

2020, cc. 1137, 1140.

**§ 15.2-1501. Designation of officers to perform certain duties.**

Whenever it is not designated by general law or special act which officer or employee of the locality shall exercise any power or perform any duty conferred upon or required of the locality, then any such power shall be exercised or duty performed by the officer or employee of the locality so designated by the governing body. The governing body also may authorize the chief administrative officer to designate officers and employees to perform administrative duties and to exercise administrative powers.

1997, c. 587.

**§ 15.2-1502. Employment of certain deputies and assistants; delegation of powers and duties.**

A. Local government officers may employ, when duly authorized by the governing body, deputies and assistants to aid them in carrying out their powers and duties. The provisions of this section and § 15.2-1503 shall not be applicable to the constitutional offices of treasurer, commissioner of the revenue, sheriff, attorney for the Commonwealth and clerk of the circuit court.

B. "Deputy" means a person who is appointed to act as a substitute for his principal, in the name of the principal and in his behalf, in matters in which the principal himself may act; such person shall be a public officer. Members of governing bodies may not have or appoint deputies for themselves.

C. "Assistant" means a person who is not a public officer or deputy but who aids or helps a public officer.

D. Subject to the limitations and requirements of the preceding subsections, an officer of a locality may delegate, to a person reporting to him, his powers and duties unless it is some power or duty the exercise of which by another person is expressly forbidden by law or requires the exercise of judgment for the public welfare. However, such delegation shall not act to relieve the officer making such delegation of his legal obligations for the exercise of powers and performance of duties of his office.

Persons employed by virtue of this subsection shall be designated either deputy or assistant and shall take such oath and post such bond as may be required by ordinance.

1978, c. 264, §§ 15.1-19.4, 15.1-19.5; 1997, c. 587.

**§ 15.2-1503. Tenure of officers and employees; suspension or removal.**

A. All appointments of officers and hiring of other employees by a locality shall be without definite term, unless for temporary services not to exceed one year or except as otherwise provided by general law or special act.

B. Any officer or employee of a locality employed pursuant to subsection A of this section may be suspended or removed from office or employment in accordance with the provisions of §§ 24.2-230 through 24.2-238, if such sections are applicable. Otherwise, any such employee may be suspended or removed in accordance with procedure established by special act or by the governing body, if any.

C. In case of the absence or disability of any officer or employee, the governing body or other appointing power may designate some responsible person to temporarily perform the duties of the office.

1997, c. 587.

**§ 15.2-1503.1. Background checks required for certain employees and licensees.**

Any locality having a local ordinance adopted in accordance with § 19.2-389 (i) shall require any applicant who is offered or accepts employment with the locality, (ii) shall require any prospective licensee for any categories of license designated by ordinance, or (iii) may require any individual who is offered or accepts employment with a contractor or public service corporation that provides public transit services to the locality to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's or licensee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant or licensee. The locality may require such applicant or licensee to pay the cost of the fingerprinting or a criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's or licensee's record or notification that no record exists, shall make a report to the county, city or town manager, or chief law-

enforcement officer or his designee, who must belong to a governmental entity. If an applicant is denied employment or a licensee is denied a license because of the information appearing in his criminal history record, the locality shall notify the applicant or licensee that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2003, c. 742; 2004, c. 160; 2010, cc. 189, 563.

**§ 15.2-1504. Use of tobacco products by government employees.**

No employee of or applicant for employment with a locality or any political subdivision of the Commonwealth shall be required, as a condition of employment, to smoke or use tobacco products on the job, or to abstain from smoking or using tobacco products outside the course of his employment, provided that this section shall not apply to those classes of employees to which § 27-40.1 or § 51.1-813 are applicable.

1989, c. 511, § 15.1-29.18; 1997, c. 587.

**§ 15.2-1505. Employment based on residency prohibited for certain employees.**

Notwithstanding any contrary provision of general or special law, no locality, or any agency thereof, including school boards, or any local housing or redevelopment authority created pursuant to § 36-4, that receives any funds from the Commonwealth, shall condition employment or any feature of employment, including promotion, on the basis of residency in a particular locality.

This section shall not apply to (i) appointees of elected groups or individuals, (ii) officials and employees who by charter or other law serve at the will or pleasure of an appointing authority, (iii) deputies and executive assistants to the chief administrative officer of a locality, or (iv) agency heads, department heads or their equivalents or chief executive officers of government operations.

1993, c. 789, § 15.1-29.23; 1997, c. 587; 1999, c. 375; 2000, c. 276; 2002, c. 37.

**§ 15.2-1505.1. Applicant preemployment information.**

A locality may by ordinance, and in accordance with § 19.2-389, require applicants upon offer of employment with the locality to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicants shall, if required by ordinance, pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the chief administrative officer of the locality or his designee, who must belong to a governmental entity. In determining whether a criminal conviction directly relates to a position, the locality shall consider the following criteria: (i) the nature and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the position applied for; (iii) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved; (iv) the relationship of the crime to the

ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

If an applicant is denied employment because of information appearing in his criminal history record, the locality shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2003, c. 739.

**§ 15.2-1505.2. Personnel policies related to the use of public property.**

Every locality, with the exception of towns having a population of less than 3,500 that do not have a personnel policy, shall establish personnel policies covering the use of public property by officers and employees of the locality. Such policies shall address the use of telephones, computers, and related devices and peripheral equipment that are the property of the locality for (i) personal use, to the extent that such use interferes with the employees' productivity or work performance, or (ii) political activities. As used in this section, "political activities" shall have the same meaning as provided in § 15.2-1512.2.

2014, c. 405.

**§ 15.2-1505.3. Localities prohibited from inquiring about arrests, charges, or convictions on employment applications; exceptions.**

A. As used in this section, "conviction" means any adjudication that an individual committed a crime, any finding of guilt after a criminal trial by a court of competent jurisdiction, or any plea of guilty or nolo contendere to a criminal charge.

B. No locality shall request a prospective employee to complete an application for employment that includes a question inquiring whether the prospective employee has ever been arrested for, charged with, or convicted of any crime. This prohibition shall not apply to (i) law-enforcement agency positions or positions related to law-enforcement agencies, (ii) positions for employment by the local school board, (iii) sensitive positions, or (iv) any employment-related applications or questionnaires provided during or after a staff interview. For purposes of this subsection, "sensitive positions" shall include those positions:

1. Responsible for the health, safety, and welfare of citizens or the protection of critical infrastructure;

2. That have access to sensitive information, including access to federal tax information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and

3. That are otherwise required by state or federal law to be designated as sensitive.

C. No locality shall inquire whether a prospective employee has ever been arrested for, or charged with, or convicted of any crime unless the inquiry takes place during or after a staff interview of the prospective employee.

D. Nothing in this section shall prevent a locality from considering information received during or after a staff interview pertaining to a prospective employee having been arrested for, charged with, or convicted of any crime.

2020, c. 422.

**§ 15.2-1506. Establishment of grievance procedure, personnel system and uniform pay plan for employees.**

Notwithstanding any other provision of law to the contrary, general or special, every locality which has more than fifteen employees shall have a grievance procedure for its employees that affords an immediate and fair method for the resolution of disputes which may arise between the public employer and its employees and a personnel system including a classification plan for service and a uniform pay plan for all employees excluding employees and deputies of division superintendents of schools.

Notwithstanding the provisions of any local charter, a locality may establish a personnel system for local administrative officials and employees based on merit and professional ability. Such system shall consist of rules and regulations that provide for the general administration of personnel matters, a classification plan for employees, a uniform pay plan, and a procedure for resolving grievances of employees as provided by general law.

1973, c. 256, § 15.1-7.1; 1974, cc. 260, 449; 1975, c. 176; 1976, c. 93; 1978, c. 845; 1979, c. 734; 1984, c. 746; 1985, c. 515; 1988, c. 290; 1991, c. 661; 1996, cc. 164, 869; 1997, c. 587; 2000, c. 363.

**§ 15.2-1507. Provision of grievance procedure; training programs.**

A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to certify it as provided in this section, the local governing body shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town, or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.

Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in clause (iii) of subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a veteran; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification, or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity that may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means, and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

(1) Appointees of elected groups or individuals;

(2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;

(3) Deputies and executive assistants to the chief administrative officer of a locality;

(4) Agency heads or chief executive officers of government operations;

(5) Employees whose terms of employment are limited by law;

(6) Temporary, limited term and seasonal employees;

(7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii) a grievance procedure established and administered by the department, board or authority that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto. If a department, board or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management, and a final step providing for a panel hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.

a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.

b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time that is allowed for local government response in each comparable situation.

d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.

a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within 30 days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

9. Qualification for panel or administrative hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town, or

county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2) of this subsection, consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules that are promulgated shall include the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section that would result in the reinstatement of any employee of a sheriff's office, who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

1978, c. 845, § 15.1-7.2; 1985, c. 515; 1988, c. 290; 1989, c. 254; 1991, c. 661; 1995, cc. 770, 818; 1996, cc. 164, 440, 579, 869; 1997, c. 587; 2000, cc. 947, 1006; 2001, c. 589; 2005, c. 714; 2009, c. 736; 2012, cc. 803, 835; 2020, cc. 1137, 1140.

**§ 15.2-1507.1. Appointment of standing panel in certain counties.**

Notwithstanding the provisions of § 15.2-1507, in any county with the county manager form of government, the final step of its grievance procedure shall provide for a hearing before an impartial panel

consisting of one member appointed by the grievant, one member appointed by the county manager or his designee, and a third member appointed in a manner determined by the board of supervisors.

2001, c. 601.

**§ 15.2-1508. Bonuses for employees of local governments.**
Notwithstanding any contrary provision of law, general or special, the governing body of any locality may provide for payment of monetary bonuses to its officers and employees. The payment of a bonus shall be authorized by ordinance.

1985, c. 142, § 15.1-7.4; 1997, c. 587; 2003, c. 204.

**§ 15.2-1508.1. Traveling expenses on business of town, city or county.**
Any person traveling on business of any locality except as hereinafter provided, wherein no part of the cost is borne by the Commonwealth may be reimbursed by such locality on a basis established by the governing body of such locality; however, the rate of reimbursement per mile for private transportation shall not exceed the standard rate deductible as a business expense pursuant to the Internal Revenue Code and regulations promulgated thereunder.

Code 1950, § 14-5.2; 1954, c. 709; 1956, c. 214; 1960, c. 198; 1962, c. 441; 1964, c. 386, § 14.1-7; 1977, c. 517; 1996, c. 700; 1998, c. 872.

**§ 15.2-1508.2. Same; where Commonwealth bears portion of expenses.**
Any person traveling on business of any locality wherein the Commonwealth is required to bear a portion of the expenses may be reimbursed by any such locality on a basis not in excess of that provided in § 2.2-2823 but the portion to be borne by the Commonwealth shall be subject to the approval of the State Compensation Board.

Code 1950, § 14-5.3; 1954, c. 709; 1956, c. 214; 1962, c. 501; 1964, c. 386, § 14.1-8; 1998, c. 872.

**§ 15.2-1508.3. Governing bodies of certain cities and counties may supplement salaries and reimburse traveling expenses of employees of state and local health departments.**
The Counties of Arlington, Chesterfield, Clarke, Fairfax, Loudoun and Prince William may, in the discretion of their governing bodies, pay to persons employed by the State Department of Health, within such counties, in addition to the salaries as may be paid to such employees by the State Board of Health, such sum or sums of money as they may deem expedient.

In addition to supplementing the salaries of such employees as provided herein such county may reimburse such employees who travel on business of any such county, who are required to bear a portion of such travel expense in excess of the amount allowed by § 2.2-2823, from the funds of such county, upon such basis and in such manner as its governing body may prescribe.

1964, c. 321, § 14.1-11.1; 1970, c. 142; 1972, c. 314; 1973, c. 415; 1976, c. 688; 1981, c. 206; 1985, c. 80; 1991, c. 27; 1998, c. 872; 2004, c. 157.

**§ 15.2-1508.4. Certain counties and cities may supplement salaries and reimburse traveling expenses of employees of state mental health clinics.**

The Counties of Arlington, Chesterfield, Fairfax, Henrico, Loudoun, or Prince William, or the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, or Roanoke may, in the discretion of its governing body, pay to persons employed in state mental health clinics, within such county, in addition to the salaries as may be paid to such employees by the Commonwealth, such sum or sums of money as it may deem expedient.

In addition to supplementing the salaries of such employees as provided herein, such county may reimburse such employees who travel on business of any such county, who are required to bear a portion of such travel expenses in excess of the amount allowed by § 2.2-2823, from the funds of such county, upon such basis and in such manner as its governing body may prescribe.

1966, c. 95, § 14.1-11.2; 1998, c. 872; 2007, c. 813.

**§ 15.2-1509. Preferences for veterans in local government employment.**

Consistent with the requirements and obligations to protected classes under federal or state law, any locality shall take into consideration or give preference to an individual's status as an honorably discharged veteran of the armed forces of the United States in its employment hiring policies and practices, provided that such veteran meets all of the knowledge, skills and eligibility requirements for the available position. Additional consideration shall also be given to veterans who have a service connected disability rating fixed by the U.S. Department of Veterans Affairs. "Veterans" as used in this section refers to the same class as included in § 2.2-2903 with regard to the state service.

1988, c. 648, § 15.1-7.5; 1997, c. 587; 2005, c. 413.

**§ 15.2-1510. Retirement systems.**

Any locality may establish a system for the retirement of injured or superannuated officers and employees; the members of the local police and fire departments; the public school teachers and other employees of the local school board; and the judges, clerks, deputy clerks and other employees of the judicial system; or any of them; and may establish a fund or funds for the payment of retirement allowances by making appropriations out of the local treasury, by levying a special tax for the benefit of such fund or funds, by requiring contributions payable from time to time from such officers, employees, members of police and fire departments, teachers, judges, clerks, deputy clerks and other employees of the judicial system, or by any combination of such methods, or by any other method not prohibited by law; provided that the total annual payments into such fund or funds shall be sufficient on sound actuarial principles for the payment of such retirement allowances therefrom. The benefits accrued or accruing to any person under such system shall not be subject to execution, levy, attachment, garnishment or any other process whatsoever nor shall any assignment of such benefits be enforceable in any court.

Code 1950, § 15-77.13; 1958, c. 328; 1962, c. 623, § 15.1-849; 1997, c. 587.

**§ 15.2-1510.1. Public announcement of severance packages for certain officials.**

Severance benefits provided to any departing official appointed by a local governing body or school board shall be publicly announced by the local governing body or school board, respectively, prior to such departure.

2006, c. 254; 2007, c. 257.

**§ 15.2-1511. Allowances to injured officials and employees and their dependents.**

The governing body of any locality is authorized in its discretion to make allowances by appropriation of funds, payable in monthly or semimonthly installments, for the relief of any of its officials, employees, police officers, firefighters, sheriffs or deputy sheriffs, town sergeants and town deputy sergeants, or their dependents, who suffer injury or death as defined in Title 65.2, whether such injury was suffered or death occurs before or after June 29, 1948 (which date is the effective date of the section). The allowance shall not exceed the salary or wage being paid such official, employee, police officer, firefighter, sheriff or deputy sheriff, town sergeants and town deputy sergeants, at the time of such injury or death, and the payment of the allowance shall not extend beyond the period of disability resulting from such injury. In case death results from the injury, the allowance may be made for the dependents as defined in Title 65.2. In localities which have established retirement or pension systems for injured, retired or superannuated officials, employees, members of police or fire departments, sheriffs, deputy sheriffs, town sergeants and deputy sergeants, or for the dependents of those killed in line of duty, the agencies provided for the administration of such systems shall determine the existence of such injury or cause of death before any appropriation to pay such allowance is made and shall determine the extent of and period of disability resulting from such injury and the cause in case of death. All sums paid to any such official, employee, police officer, firefighter, sheriff or deputy sheriff, town sergeants and deputy sergeants, as compensation under Title 65.2 and all sums paid to the dependents of such official, employee, police officer, firefighter, sheriff or deputy sheriff, town sergeant and deputy sergeant, if he is killed, and all sums paid under any retirement or pension system shall be deducted from the allowance made under this section in such installments as the agency determines. If the agency determines that any official, employee, police officer, firefighter, sheriff or deputy sheriff, town sergeant and deputy sergeant, who suffered injury in the line of duty is engaged or is able to engage in a gainful occupation, then the allowance shall be reduced by the agency to an amount which, together with the amount earnable by him, equals the allowance. Should the earning capacity of the official, employee, police officer, firefighter, sheriff or deputy sheriff, town sergeant and deputy sergeant, be later changed, such allowance may be further modified, up or down, provided the new allowance shall not exceed the amount of the allowance originally made nor an amount which, when added to the amount earnable by him, exceeds such allowance.

The death of, or any condition or impairment of health of, any member of a local police department, or of a sheriff or deputy sheriff, caused by hypertension or heart disease resulting in total or partial disability shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence; provided that prior to making any claim based upon such presumption for retirement, sickness or other benefits on account of such death or total or partial disability, such member,

sheriff, or deputy sheriff, shall have been found free from hypertension or heart disease, as the case may be, by a physical examination which shall include such appropriate laboratory and other diagnostic studies as such governing body shall prescribe and which shall have been conducted by physicians whose qualifications shall have been prescribed by such governing body. In the case of a claim for disability, that any such member, sheriff, or deputy sheriff, shall, if requested by such governing body or its authorized representative, submit himself to physical examination by any physician designated by such governing body, such examination to include such tests or studies as may reasonably be prescribed by the physician so designated. Such member, sheriff or deputy sheriff, or claimant shall have the right to have present at such examination, at his own expense, any qualified physician he may designate. In the case of a claim for death benefits, any person entitled to make a claim for such benefits, claiming that such person's death was suffered in the line of duty, shall submit the body of the deceased to a postmortem examination to be performed by the medical examiner for the county, city or town appointed under § 32.1-282.

Code 1950, § 15-555; 1950, p. 315; 1954, c. 246; 1960, c. 487; 1962, c. 623, § 15.1-134; 1971, Ex. Sess., c. 155; 1973, c. 499; 1976, c. 769; 1977, c. 326; 1997, c. 587.

**§ 15.2-1511.01. Allowances to injured deputy sheriffs.**

A. In addition to the allowances provided in § 15.2-1511, any deputy sheriff who suffers injury as defined in Title 65.2 and whose allowance as provided in § 15.2-1511 is less than 100 percent of his regular compensation shall be entitled to use any accrued vacation, compensatory, or sick leave to supplement the allowance so as to receive 100 percent of his regular compensation. In no case shall a deputy sheriff use such accrued leave so as to receive more than 100 percent of his regular compensation.

B. The governing body of a locality shall continue to pay the employer's share of the cost of health insurance to the same extent paid for other employees of the locality covered by the health insurance plan for a deputy sheriff who participates in the employer-provided health plan who suffers a compensable injury as defined under Title 65.2 so long as the deputy sheriff remains employed by the locality.

2008, cc. 335, 766.

**§ 15.2-1511.1. Written benefit information to certain employees.**

If a local employee develops a life-threatening health condition, the local employer shall provide such employee written notification of all relevant benefit options and programs available to him, within 10 days of the date that the employer was given notice of the serious health condition by the employee or his agent, unless such information is otherwise provided annually by the local employer. The employer shall provide appropriate forms to the employee so that the employee can communicate any election of benefit options to the employer in writing on the forms.

2007, c. 333.

**§ 15.2-1512. Oath and bond.**

Before entering upon the duties of his office, the person appointed or employed by the governing body, or its delegated representative, (i) shall take the oath of office if required by general law, special act or the governing body, (ii) shall give a bond before the clerk of the circuit court serving such governing body, if required by general law, special act or the governing body, and (iii) shall furnish surety to be approved by such clerk in an amount to be fixed by the governing body, if required by general law, special act or the governing body. The premium for such bond shall be paid by the governing body out of its general fund. The form of oath of office is that prescribed by § 49-1.

1997, c. 587.

**§ 15.2-1512.1. Disposition of property received by subdivisions as result of conversion of mutual insurance company to stock corporation.**

The governing body of each locality that receives cash, shares of stock, or both, as a result of the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield (hereafter referred to as Trigon), from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., by reason of its school division's status as a present or former group policyholder of Trigon shall, by appropriate ordinance or resolution, authorize the treasurer of such locality to create two separate funds upon the books of the locality, as hereinafter described. Upon the enactment or adoption of such ordinance or resolution, the treasurer of the locality shall place all such stock, including any proceeds derived from the sale or other conveyance of any such stock, and cash, into these separate funds. The stock or proceeds and cash shall be divided equally between the two separate funds set forth in subsections A and B of this section; however, (i) the local governing body may place a greater proportion or all of the stock or proceeds and cash in the fund described in subsection A, with the consent of the school board and (ii) if on or before January 1, 1997, a school board has requested and the local governing body has approved the allocation of the proceeds from the sale of its stock for a school construction or renovation project, the remainder of such proceeds shall be used to create a fund to offset health insurance premium increases incurred by the present and future employees of the school board and governing body.

A. The first fund shall be known as the "County/City of _____ Schools Health Insurance Premium Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely to offset health insurance premium expenses incurred by or on behalf of present and future employees of the school division of the locality; however, the governing body of the locality may use a portion of the principal placed into the fund, a portion of the income arising from or attributable to the fund, or both, to compensate present or future retired employees of the school division of the locality for (i) health insurance premium expenses payable by the retired employees, (ii) health insurance premium expenses paid for by such retired employees for periods prior to July 1, 1997, during which the retired employees were insured under a health insurance policy through the school division of the locality as a group policyholder of Trigon, or (iii) both (i) and (ii), in such amounts, if any, as the governing body shall determine appropriate. No disbursement from the

fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

B. The second fund, if any, shall be known as the "County/City of _____ School Construction, Renovation, Maintenance, Capital Outlay, and Debt Service Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely for the purposes of school construction, school renovation, major school maintenance, capital outlay, and debt service in the public schools of the locality. No disbursement from this fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

C. All stock or proceeds and cash placed into separate funds pursuant to the provisions of this act, including all income arising from or attributable to such funds, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including without limitation the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). Income, dividends, distributions and sale proceeds accruing to the separate funds shall be retained in the funds and may be expended only in accordance with the terms of this act.

1997, cc. 803, 888, 891, § 15.1-52.1; 1998, c. 256; 2000, cc. 66, 657; 2013, c. 687.

**§ 15.2-1512.2. Political activities of employees of localities, firefighters, emergency medical services personnel, and law-enforcement officers and certain other officers and employees.**

A. For the purposes of this section:

"Emergency medical services personnel" means any person who is employed within the fire department or public safety department of a locality whose primary responsibility is the provision of emergency medical care to the sick or injured, using either basic or advanced techniques. Emergency medical services personnel may also provide fire protection services and assist in the enforcement of the fire prevention code.

"Firefighter" means any person who is employed within the fire department or public safety department of a locality whose primary responsibility is the prevention or extinguishment of fires, the protection of life and property, or the enforcement of local or state fire prevention codes or laws pertaining to the prevention or control of fires.

"Law-enforcement officer" means any person who is employed within the police department, bureau, or force of any locality, including the sheriff's department of any city or county, and who is authorized by law to make arrests.

"Locality" means counties, cities, towns, authorities, or special districts.

"Political campaign" means activities engaged in for the purpose of promoting a political issue, for influencing the outcome of an election for local or state office, or for influencing the outcome of a referendum or special election.

"Political candidate" means any person who has made known his or her intention to seek, or campaign for, local or state office in a general, primary, or special election.

"Political party" means any party, organization, or group having as its purpose the promotion of political candidates or political campaigns.

B. Notwithstanding any contrary provision of law, general or special, no locality shall prohibit an employee of the locality, including firefighters, emergency medical services personnel, or law-enforcement officers within its employment, or deputies, appointees, and employees of local constitutional officers as defined in § 15.2-1600, from participating in political activities while these employees are off duty, out of uniform and not on the premises of their employment with the locality.

C. For purposes of this section, the term "political activities" includes, but is not limited to, voting; registering to vote; soliciting votes or endorsements on behalf of a political candidate or political campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a political picture, sign, sticker, badge, or button; participating in the activities of, or contributing financially to, a political party, candidate, or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering; initiating, circulating, or signing a political petition; engaging in fund-raising activities for any political party, candidate, or campaign; acting as a recorder, watcher, challenger, or similar officer at the polls on behalf of a political party, candidate, or campaign; or becoming a political candidate.

D. Employees of a locality, including firefighters, emergency medical services personnel, law-enforcement officers, and other employees specified in subsection B are prohibited from using their official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign, or to discriminate against any employee or applicant for employment because of that person's political affiliations or political activities, except as such affiliation or activity may be established by law as disqualification for employment.

E. Employees of a locality, including firefighters, emergency medical services personnel, law-enforcement officers, and other employees specified in subsection B are prohibited from discriminating in the provision of public services, including but not limited to firefighting, emergency medical, and law-enforcement services, or responding to requests for such services, on the basis of the political affiliations or political activities of the person or organization for which such services are provided or requested.

F. Employees of a locality, including firefighters, emergency medical services personnel, law-enforcement officers, and other employees specified in subsection B are prohibited from suggesting or implying that a locality has officially endorsed a political party, candidate, or campaign.

2000, c. 791; 2002, c. 886; 2009, c. 306; 2015, cc. 502, 503.

**§ 15.2-1512.3. Telecommuting by local government employees.**

Each local government is authorized and encouraged to establish and implement a telecommuting policy under which eligible employees of such local government may telecommute to the maximum extent possible without diminished employee performance or service delivery.

2001, c. 405.

### § 15.2-1512.4. Rights of local employees to contact elected officials.

Nothing in this chapter shall be construed to prohibit or otherwise restrict the right of any local employee to express opinions to state or local elected officials on matters of public concern, nor shall a local employee be subject to acts of retaliation because the employee has expressed such opinions.

For the purposes of this section, "matters of public concern" means those matters of interest to the community as a whole, whether for social, political, or other reasons, and shall include discussions that disclose any (i) evidence of corruption, impropriety, or other malfeasance on the part of government officials; (ii) violations of law; or (iii) incidence of fraud, abuse, or gross mismanagement.

2006, c. 597.

### § 15.2-1512.5. Authority of local government employees to issue summonses for misdemeanor violations of certain local ordinances.

Notwithstanding any other provision of law, a locality may appoint and train local government employees to enforce local ordinances within the scope of the employee's employment by issuing summonses for misdemeanor violations of ordinances, except those offenses listed in Title 18.2 or Chapter 8 (§ 46.2-800 et seq.) of Title 46.2 or those violations of local ordinances for offenses that are substantially similar to such offenses. Such employees shall not have the power and authority of constables at common law; their power shall be limited to issuing such summonses in their locality.

2020, c. 144.

## Article 2 - JOINT OFFICERS AND OTHER EMPLOYEES

### § 15.2-1513. Joint local government employees permitted.

Localities may jointly employ or share the services of any person. Persons so employed may include officers as well as other employees.

1991, c. 234, § 15.1-20.3; 1997, c. 587.

### § 15.2-1514. Exercise of powers and duties.

Every person employed under § 15.2-1513 shall exercise in each of such localities all the powers conferred and duties imposed upon such person by law or by contract.

1991, c. 234, § 15.1-20.5; 1997, c. 587.

### § 15.2-1515. Compensation, benefits and liability insurance of such persons.

Every person employed under § 15.2-1513, for purposes of salary, retirement, and other employee benefits, public liability insurance and bonds, when required, shall be considered the employee of one locality. The share of the costs of salary, retirement, and other employee benefits and expenses for the jointly employed person shall be paid to the primary employing locality by the other localities using the services of such person in the manner and amount agreed upon.

Such employment may be pursuant to written or unwritten agreement between or among the employing localities containing such other terms and conditions as agreed upon.

1991, c. 234, § 15.1-20.4; 1997, c. 587.

### § 15.2-1516. Exceptions.

The provisions of §§ 15.2-1513 through 15.2-1515 shall not be applicable to constitutional officers or their employees or other officers elected by the voters.

1991, c. 234, § 15.1-20.6; 1997, c. 587.

## Article 3 - Insurance and Legal Defense

### § 15.2-1517. Insurance for employees and retired employees of localities and other local governmental entities; participation by certain volunteers.

A. Any locality may provide group life, accident, and health insurance programs for its officers and employees; employees of boards, commissions, agencies, or authorities created by or controlled by such locality; or employees of boards, commissions, agencies, or authorities that are political subdivisions of the Commonwealth and work in close cooperation with such locality. In addition, any locality that provides such a health insurance program may allow eligible members of approved volunteer fire or rescue companies, as determined by the locality, to participate in such a health insurance program. Such programs may be through a program of self-insurance, purchased insurance, or partial self-insurance and purchased insurance, whichever is determined to be the most cost effective. The total cost of such policies or protection may be paid entirely by the locality or shared with the employee. The governing body of any locality may provide for its retired officers and retired employees, including retired employees of boards, commissions, agencies, or authorities that are political subdivisions of the Commonwealth and work in close cooperation with such locality, to be eligible for such group life, accident, and health insurance programs. The cost of such insurance for retired officers and retired employees may be paid in whole or in part by the locality. The governing body of any locality may permit members of approved volunteer fire or rescue companies to participate in its group health insurance programs, subject to the eligibility criteria established by the locality. The cost of a volunteer's participation in such a health insurance program shall be paid for in full by the participating volunteer. Any locality may fund the cost of a volunteer's participation in a mental health treatment and counseling program that is offered to individual members of approved volunteer fire or rescue companies and is comparable to an employee assistance program offered to paid employees of the locality.

B. In the event a county or city elects to provide one or more of such programs for its officers and employees, it shall provide such programs to the constitutional officers and their employees on the same basis as provided to other officers and employees, unless the constitutional officers and employees are covered under a state program, and the cost of such local program shall be borne entirely by the locality or shared with the employee.

C. 1. Except as otherwise provided herein, in the event the governing body of any locality elects to provide group accident and health insurance for its officers and employees, including constitutional officers and their employees, such programs shall require that upon retirement, or upon the effective

date of this provision for those who have previously retired, any such individual with (i) at least 15 years of continuous employment with the locality or (ii) less than 15 years of continuous employment who has retired due to line-of-duty injuries may choose to continue his coverage with the insurer at the retiree's expense until such individual attains 65 years of age at the insurer's customary premium rate applicable (a) to such policies, (b) to the class of risk to which the person then belongs, and (c) to his age.

2. The governing body, when providing this coverage, may further provide that the retiree be rated separately from the active employees covered under the group plan offered by such governing body.

3. Any locality that has not offered the opportunity to continue group health coverage provided by the locality as required by subdivision 1 to its retirees who had retired on or before June 30, 1993, and who meet the criteria for such coverage as set forth in subdivision 1, shall do so by July 1, 2000. Any retiree from the service of a locality who had retired on or before June 30, 1993, and who meets the criteria to continue his group health coverage from the locality under subdivision 1 who has not yet elected to continue his group health coverage from the locality shall elect whether to do so by July 1, 2000.

4. Nothing herein shall prohibit a locality from providing group accident and health coverage or benefits for its retirees in addition to the coverage required under this section.

D. Any locality that offers group health plans to its employees and the employees of constitutional officers and its retirees, as provided by this section or otherwise, may provide in the plan providing such coverage that any retiree who is participating in a group health plan provided by the locality who subsequently terminates his participation in such plan may not thereafter rejoin a group health plan provided by the locality.

1981, c. 332, § 15.1-7.3; 1984, c. 712; 1987, cc. 435, 564; 1992, c. 750; 1993, c. 782; 1997, c. 587; 1999, c. 797; 2003, c. 409; 2007, c. 150; 2012, cc. 191, 515; 2016, cc. 207, 417; 2020, cc. 424, 425.

**§ 15.2-1517.1. Formation of not-for-profit benefits consortium.**

A. As used in this section:

"Benefits consortium" means a nonstock corporation formed pursuant to subsection B.

"Benefits plan" means a plan adopted by the board of directors of a benefits consortium to provide health and welfare benefits to employees of localities that are members of the benefits consortium and their dependents.

"Employee welfare benefit plan" has the meaning set forth in § 3(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).

"Locality" means any city or county or the school board with authority over public schools within the boundaries of a city or county.

B. Notwithstanding any provision of law to the contrary, the governing bodies of three or more localities that as of December 31, 2014, comprised the membership of a multiple employer welfare

arrangement may form a not-for-profit benefits consortium for the purpose of establishing a self-funded employee welfare benefits plan by acting as incorporators of a nonstock corporation pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.). In addition to provisions required or permitted by the Virginia Nonstock Corporation Act, the organizational documents of the benefits consortium shall:

1. Limit membership in the benefits consortium to localities;

2. Set forth the name and address of each of the initial members of the corporation;

3. Set forth requirements for the admission of additional localities to the corporation;

4. Set forth the procedure for admission of additional localities to the corporation;

5. Require that each initial member of the corporation and each additional locality admitted to membership agree to remain a member of the benefits consortium for a period of at least five years from the date the consortium begins operations or the date of the additional locality's admission to membership, as the case may be;

6. Provide that the number of directors of the corporation shall be equal to the number of members;

7. Provide that the board of directors shall have exclusive fiscal control over and be responsible for the operation of the benefits plan and shall govern the benefits consortium in accordance with applicable law;

8. Vest in the board of directors the power to make and collect special assessments against members and, if any assessment is not timely paid, to enforce collection of same in the name of the corporation;

9. State the purposes of the benefits consortium, including the types of risks to be shared by its members;

10. Provide that each member shall be contractually liable for its allocated share of the liabilities of the benefits consortium as determined by the board of directors;

11. Require that the benefits consortium purchase and maintain (i) a bond that satisfies the requirements of applicable law, (ii) fiduciary liability insurance, and (iii) a policy or policies of excess insurance with a retention level determined in accordance with sound actuarial principles from an insurer licensed to transact the business of insurance in the Commonwealth;

12. Require that the benefits consortium be audited annually by an independent certified public accountant engaged by the board of directors; and

13. Not include in the name of the corporation the words "insurance," "insurer," "underwriter," "mutual," or any other word or term or combination of words or terms that is uniquely descriptive of an insurance company or insurance business unless the context of the remaining words or terms clearly indicates that the corporation is not an insurance company and is not carrying on the business of insurance.

C. A benefits consortium shall establish and maintain reserves determined in accordance with sound actuarial principles. Capital may be maintained in the form of an irrevocable letter of credit issued to the benefits consortium by a state or national bank authorized to engage in the banking business in the Commonwealth.

D. A benefits consortium may create a self-funded trust through which the members provide for their employees and their dependents any benefit that a member that is a locality is authorized to provide under an accident and health insurance program authorized by § 15.2-1517.

E. Except to the extent specifically provided in this section, a benefits consortium organized under and operated in conformity with this section, so long as it remains in good standing under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and otherwise meets the requirements set forth in this section, shall be exempt from all state taxation, and shall not otherwise be subject to the provisions of Title 38.2, including regulation as a multiple employer welfare arrangement.

2015, c. 136.

**§ 15.2-1518. Liability insurance for officers, employees and volunteers of local government and members of its boards and commissions and constitutional officers.**

Any locality and any political subdivision thereof may provide liability insurance or self-insurance for its fire department operational medical director, police department operational medical director, operational medical director, physician course director for any licensed emergency medical services agency or emergency medical services training program located therein endorsed by the Office of Emergency Medical Services and for its officers, employees and volunteers, including any commission or board, and employees and members thereof, of any authority created or controlled by the local governing body, or any local agency or public service corporation owned, operated or controlled by such local governing body and constitutional officers and their employees.

The insurance or self-insurance may cover the costs and expenses incident to liability, including those for settlement, suit, or satisfaction of judgment arising from the conduct of such operational medical directors, physician course directors, officers, employees, members or volunteers in the discharge of their official duties.

For the purposes of this section, "physician course director" or "PCD" means an EMS physician who is responsible for the clinical aspects of emergency medical care training programs, including the clinical and field actions of enrolled students.

1987, c. 496, § 15.1-7.3:1; 1988, c. 432; 1997, c. 587; 1999, c. 151; 2004, c. 648; 2008, c. 118.

**§ 15.2-1519. Liability insurance for employees of local departments and boards of welfare and social services; legal representation.**

Notwithstanding the provisions of § 15.2-1518, the state Department of Social Services is authorized to obtain liability insurance for officers and employees of local departments and boards of welfare or social services. The attorney for the Commonwealth, city attorney, or county attorney, as appropriate,

shall provide whatever legal services are required for any such officers or employees sued as a result of their conduct in the discharge of their official duties.

1974, c. 658, § 15.1-506.2; 1997, c. 587.

**§ 15.2-1520. Employment of counsel to defend localities and political subdivisions, governing bodies, officers or employees in certain proceedings; costs and expenses of such proceedings.**
Notwithstanding any provision of law to the contrary, general or special, a locality, or political subdivision of such locality may employ the county, city or town attorney, or the attorney for the Commonwealth, if there be no county, city or town attorney, or other counsel approved by the governing body to defend it, or any member thereof, or any officer of the locality, or political subdivision or employee thereof, or any trustee or member of any board or commission appointed by the governing body in any legal proceeding to which the governing body, or any member thereof, or any of the foregoing named persons may be a defendant, when such proceeding is instituted against it, or them by virtue of any actions in furtherance of their duties in serving the locality or political subdivision as its governing body or as members thereof or the duties or service of any officer or employee of the locality or political subdivision or any trustee or any member of any board or commission appointed by the governing body.

All costs and expenses of such proceedings so defended shall be charged against the treasury of the locality, or political subdivision and shall be paid out of funds provided therefor by the governing body thereof. Further, in the event any settlement is agreed upon or judgment is rendered against any of the foregoing persons or governing body, the governing body may, in its discretion, pay such settlement or judgment from public funds or other funds or in connection with all of the foregoing may expend public or other funds for insurance or to establish and maintain a self-insurance program to cover such risks or liability.

1968, c. 23, § 15.1-19.2; 1976, c. 544; 1977, c. 47; 1978, c. 442; 1997, c. 587.

**§ 15.2-1521. Providing legal fees and expenses for officer or employee of county, city or town in certain proceedings.**
If any officer or employee of any locality is investigated, arrested or indicted or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties, and no charges are brought, or the charge is subsequently dismissed, or upon trial he is found not guilty, the governing body of the locality may reimburse the officer or employee for reasonable legal fees and expenses incurred by him in defense of the investigation or charge, the reimbursement to be paid from the treasury of the locality.

1984, c. 394, § 15.1-19.2:1; 1997, c. 587.

## Article 4 - QUALIFICATIONS; ELIGIBILITY, ETC., OF LOCAL ELECTED OFFICERS

**§ 15.2-1522. When and how officers qualify.**

Every elected county, city, town and district officer, unless otherwise provided by law, on or before the day on which his term of office begins, shall qualify by taking the oath prescribed by § 49-1 and give the bond, if any, required by law, before the circuit court for the county or city, having jurisdiction in the county, city, town or district for which he is elected or appointed, or before the clerk of the circuit court for such county, city, town or district. However, members of governing bodies and elected school boards may qualify up to and including the day of the initial meeting of the new governing body or elected school board.

Any such oath of town council members, town mayors or members of Boards of Supervisors may be taken before any officer authorized by law to administer oaths. Such oath shall be returned to the clerk of the council of the town, who shall enter the same record on the minute book of the council, or, for members of the Board of Supervisors, returned to the clerk of the circuit court having jurisdiction in the county for which he is elected or appointed, who shall record the same in the order book, on the law side thereof.

Whenever an officer required to give bond is included in a blanket surety bond authorized by § 2.2-1840, such officer shall furnish confirmation by the Division of Risk Management of the inclusion of the officer on such blanket surety bond and the amount of the coverage, which shall be the equivalent of giving the bond for purposes of qualification.

An appointed officer as used in this article means a person appointed to temporarily fill an elected position. District officer as used in this article means a person elected by the people other than national and statewide officers and members of the General Assembly.

Code 1950, § 15-475; 1962, c. 623, § 15.1-38; 1972, c. 549; 1979, c. 643; 1993, c. 329; 1996, c. 167; 1997, c. 587; 2000, c. 293; 2017, c. 598.

**§ 15.2-1523. Record of qualification.**

When an officer qualifies and gives bond, the judge shall certify the fact and the bond and certificate shall be returned to the clerk of the circuit court, and the certificate shall be entered in the order book of the court on the law side thereof and such bond shall be recorded by the clerk. When the officer qualifies and gives bond before the clerk, the clerk shall enter the fact of such qualification in the order book of the court, on the law side thereof, and record the bond.

Code 1950, § 15-476; 1962, c. 623, § 15.1-39; 1997, c. 587.

**§ 15.2-1524. Failure to qualify vacates office.**

If any such officer fails to qualify and give bond, as required by § 15.2-1523, on or before the day on which his term begins, his office shall be deemed vacant. However, members of local governing bodies and elected school boards may qualify up to and including the day of the initial meeting of the new governing body or elected school board.

Code 1950, § 15-477; 1962, c. 623, § 15.1-40; 1996, c. 167; 1997, c. 587.

**§ 15.2-1525. Where officers shall reside.**

A. Every county officer shall, at the time of his election or appointment, have resided thirty days next preceding his election or appointment, either in the county for which he is elected or appointed, or in the city wherein the courthouse of the county is or in a city wholly within the boundaries of such county. If no practicing lawyer who has resided in the county or in such city for the period aforesaid offers for election or appointment or if there is not more than one practicing lawyer residing in the jurisdiction who would be qualified to offer for election, it shall be lawful to elect or appoint as attorney for the Commonwealth for such county a nonresident, or one who has not resided in the county, or in such city, for the period above mentioned. Every city and town officer except the town attorney shall, at the time of his election or appointment, have resided thirty days next preceding his election or appointment in such city or town unless otherwise specifically provided by charter. Every district officer shall, at the time of his election or appointment, have resided in the district for which he is elected or appointed thirty days next preceding his election or appointment, and residence in any incorporated town within the district shall be regarded as residence in the district.

B. Notwithstanding the foregoing provisions, and except as other provisions of law may require otherwise, nonelected officers of any locality, and nonelected deputies of constitutional officers, shall not be required to reside in the jurisdiction in which they are appointed. However, the sheriff of any county or city may for law-enforcement purposes require that deputy sheriffs live within a reasonable distance of the administrative office of the sheriff's department.

Code 1950, § 15-487; 1952, c. 336; 1954, c. 323; 1962, c. 623, § 15.1-51; 1966, c. 97; 1968, c. 6; 1971, Ex. Sess., c. 155; 1972, cc. 549, 620, 624; 1973, c. 124; 1974, cc. 135, 229, 646; 1975, c. 100; 1976, c. 402; 1977, c. 28; 1978, cc. 106, 113; 1979, c. 362; 1980, cc. 1, 8, 11; 1981, cc. 551, 552, 556, 560, 561; 1982, c. 48; 1983, cc. 51, 76; 1984, cc. 65, 106, 711; 1994, c. 516; 1997, c. 587.

### § 15.2-1526. Removal vacates office.

If any officer, required by § 15.2-1525 to be a resident at the time of his election or appointment of the county, city, town or district for which he is elected or appointed, or of the city wherein the courthouse of such county is or in a city wholly within the boundaries of such county, remove therefrom, except from the county to such city or from such city to the county, or in case a nonresident who has been elected attorney for the Commonwealth remove from the county or county seat of the county in which he resided when elected, except to the county in which he is elected, his office shall be deemed vacant.

Code 1950, § 15-488; 1962, c. 623, § 15.1-52; 1966, c. 97; 1997, c. 587.

## Article 5 - BONDS

### § 15.2-1527. Bonds of officers.

Every treasurer or director of finance, sheriff, clerk of a circuit court, commissioner of the revenue, and other persons in the offices of constitutional officers required to give bond shall, at the time he qualifies, give such bond as is required by § 49-12. Bonds for a treasurer or director of finance, sheriff, clerk of the circuit court and commissioner of the revenue shall be provided through the state

Department of the Treasury, Division of Risk Management pursuant to subsection B of § 2.2-1840. The penalty of the bond of each officer shall be determined by the court or clerk before whom he qualifies, within the limits prescribed in §§ 15.2-1528, 15.2-1529 and 15.2-1530.

Code 1950, § 15-478; 1962, c. 623, § 15.1-41; 1964, c. 278; 1971, Ex. Sess., c. 155; 1972, c. 549; 1997, c. 587; 2000, cc. 618, 632.

**§ 15.2-1528. Penalties of bonds of sheriffs, clerks of the circuit court and commissioners of the revenue.**

The penalty of the bond of a sheriff shall be $30,000. The bond of the clerk of a circuit court shall not be less than $3,000 and the bond of such clerk shall bind him and his sureties, not only for the faithful discharge of his duties as clerk of the court, but also for the faithful discharge of such other duties as may be imposed upon him by law in like manner or by order of the court and with the same effect as if it were so expressed in the conditions of his bond. The bond of the commissioner of the revenue shall not be less than $1,000 nor more than $3,000.

Code 1950, § 15-479; 1962, c. 623, § 15.1-42; 1971, Ex. Sess., c. 155; 1981, c. 120; 1997, c. 587.

**§ 15.2-1529. Amount of bond of treasurer or director of finance of counties.**

Notwithstanding the provisions of §§ 15.2-416, 15.2-541, 15.2-642, 15.2-707 and 15.2-852 requiring the surety bond given by a county treasurer or director of finance to be in an amount of not less than fifteen percent of the amounts to be received annually by such officers, the court or the governing body responsible for fixing the penalty of the bond may in its discretion exclude the amounts to be received for the county from temporary and long-term loans and federal revenue sharing funds when fixing the required minimum bond, and the amount of the bonds to be given shall not exceed the following maximums based on the population of the respective counties unless, for good cause shown, a greater bond is deemed advisable:

1. In counties having a population of not more than 10,000, the bond shall be limited to $300,000.

2. In counties having a population of more than 10,000 but not more than 30,000, the bond shall be limited to $400,000.

3. In counties having a population of more than 30,000 but not more than 50,000, the bond shall be limited to $500,000.

4. In counties having a population of more than 50,000 but not more than 100,000, the bond shall be limited to $750,000.

5. In counties having a population of more than 100,000, the bond shall be limited to one million dollars.

1973, c. 320, § 15.1-43.1; 1997, c. 587.

**§ 15.2-1530. Bonds required of treasurers or directors of finance of cities.**

Notwithstanding any contrary provision of law, general or special, the penalty of the bond for treasurers or directors of finance of cities shall be not less than fifteen percent of the amount of revenue to

be received annually by him but not more than $500,000 for treasurers or directors of finance of cities under 100,000 population nor more than $1,500,000 for treasurers or directors of finance of cities over 100,000.

Code 1950, § 15-481; 1950, p. 411; 1962, c. 623, § 15.1-44; 1973, c. 195; 1997, c. 587.

**§ 15.2-1531. When certain city and county treasurers not required to give additional bond.**
Whenever the treasurer for any city or county is appointed finance officer under any regulation of the State Board of Education relating to the operation of jointly owned schools for cities and counties, and such duties do not substantially increase the amount of the revenue to be received annually by him, then no additional bond shall be required of him.

Code 1950, § 15-481.1; 1962, c. 493, § 15.1-44.1; 1997, c. 587.

**§ 15.2-1532. Payment of premiums on bonds for more than one year in advance.**
Governing bodies are authorized to pay out of their respective treasuries, the premiums on the surety bonds of all local officials who are required to be bonded, for a period of more than one year when a discount for advanced payment of such premiums may be obtained under the rates, rules and regulations promulgated by the State Corporation Commission according to law.

If any such surety bond be cancelled prior to its expiration, the portion of the premiums to be returned shall be calculated on the basis of the regular annual rate of premiums for the duration of the bond as such refunds are prescribed by the rates, rules and regulations promulgated by the State Corporation Commission according to law.

Code 1950, § 15-483; 1962, c. 623, § 15.1-46; 1997, c. 587.

**§ 15.2-1533. Bond plan to be forwarded to clerk and Comptroller.**
The state Department of the Treasury, Division of Risk Management shall forward to the clerk of the circuit court for each county and city and the Comptroller of the Commonwealth a copy of the plan promulgated pursuant to subsection B of § 2.2-1840.

Code 1950, § 15-484; 1962, c. 623, § 15.1-47; 1979, c. 643; 1997, c. 587; 2000, cc. 618, 632.

## Article 6 - PROHIBITION ON DUAL OFFICE HOLDING

**§ 15.2-1534. Certain officers not to hold more than one office.**
A. Pursuant to Article VII, Section 6 of the Constitution of Virginia, no person holding the office of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, commissioner of the revenue, supervisor, councilman, mayor, board chairman, or other member of the governing body of any locality shall hold more than one such office at the same time.

B. Subsection A shall not be construed to prohibit:

1. A commissioner of the revenue of a county from serving as appointed commissioner of the revenue of a town located in the county;

2. A treasurer of a county from serving as appointed treasurer of a town located in the county;

3. A deputy sheriff of a county from serving as appointed town sergeant of a town located in the county;

4. A person from serving simultaneously as an assistant attorney for the Commonwealth in the City of Winchester and Frederick County;

5. A person from serving as attorney for the Commonwealth for Bland County and assistant attorney for the Commonwealth of Wythe County;

6. The election of deputies of constitutional officers to school board membership, consistent with federal law and regulation; or

7. A person from serving simultaneously as a part-time assistant attorney for the Commonwealth in more than one locality with the consent of the respective attorneys for the Commonwealth and the Compensation Board in accordance with procedures adopted by the Compensation Board.

1993, cc. 621, 781, § 15.1-50.4; 1995, c. 290; 1997, c. 587; 2002, c. 294.

**§ 15.2-1535. Members of governing body not to be elected or appointed by governing body to certain offices.**

A. Pursuant to Article VII, Section 6 of the Constitution of Virginia, no member of a governing body of a locality shall be eligible, during the term of office for which he was elected or appointed, to hold any office filled by the governing body by election or appointment, except that a member of a governing body may be named a member of such other boards, commissions, and bodies as may be permitted by general law and except that a member of a governing body may be named to fill a vacancy in the office of mayor or board chairman if permitted by general or special law.

B. Pursuant to Article VII, Section 6 of the Constitution of Virginia, and without limiting any other provision of general law, a governing body member may be named by the governing body to one or more of the following positions:

1. Director of emergency management pursuant to § 44-146.19;

2. Member of a planning district commission pursuant to § 15.2-4203;

3. Member of a transportation district commission pursuant to § 33.2-1907;

4. Member of a behavioral health authority board pursuant to Chapter 6 (§ 37.2-600 et seq.) of Title 37.2;

5. Member of a hospital or health center commission pursuant to Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2;

6. Member of a community services board pursuant to Chapter 5 (§ 37.2-500 et seq.) of Title 37.2;

7. Member of a park authority pursuant to Chapter 57 (§ 15.2-5700 et seq.) of Title 15.2;

8. Member of a detention or other residential care facilities commission pursuant to Article 13 (§ 16.1-315 et seq.) of Chapter 11 of Title 16.1;

9. Member of a board of directors, governing board or advisory council of an area agency on aging pursuant to § 51.5-135;

10. Member of a regional jail or jail farm board, pursuant to § 53.1-106 or of a regional jail authority or jail authority pursuant to Article 3.1 (§ 53.1-95.2 et seq.) of Chapter 3 of Title 53.1;

11. With respect to members of the governing body of a town under 3,500 population, member of an industrial development authority's board of directors pursuant to Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2;

12. Member of the board of directors, governing board, or advisory council or committee of an airport commission or authority;

13. Member of a Board of Directors of a Regional Industrial Facility Authority pursuant to Chapter 64 (§ 15.2-6400 et seq.) of Title 15.2;

14. Member of a local parks and recreation commission;

15. Member of the Board of the Richmond Ambulance Authority;

16. Member of a local convention, visitors, or tourism board, authority, or agency; and

17. Member of the Board of Directors of the Richmond Metropolitan Transportation Authority pursuant to § 33.2-2901.

C. If any governing body member is appointed or elected by the governing body to any office, his qualification in that office shall be void except as provided in subsection B or by other general law.

D. Except as specifically provided in general or special law, no appointed body listed in subsection B shall be comprised of a majority of elected officials as members, nor shall any locality be represented on such appointed body by more than one elected official.

E. For the purposes of this section, "governing body" includes the mayor of a municipality and the county board chairman.

1993, cc. 621, 781, § 15.1-50.5; 1995, cc. 696, 699; 1997, c. 587; 1998, c. 488; 1999, c. 811; 2001, c. 8; 2009, cc. 400, 649; 2011, cc. 41, 51; 2012, cc. 803, 835; 2014, c. 469; 2018, c. 659.

## Article 7 - OTHER OFFICERS OF LOCAL GOVERNMENTS

### § 15.2-1536. Required and discretionary officers.

Every locality shall appoint or designate a clerk for the governing body and in its discretion, a chief administrative officer and an attorney.

1997, c. 587.

### § 15.2-1537. Financial officer.

Every locality, unless otherwise provided for by general law or special act or unless such functions are performed by the constitutional offices of treasurer and commissioner of the revenue, shall appoint an officer to be responsible for its financial affairs. Such person shall work with the above-mentioned

constitutional offices in performing his duties and shall perform such other related duties as may be assigned to him by the governing body.

1997, c. 587.

**§ 15.2-1537.1. Disposition of state funds locally collected.**

All state funds collected by the financial officer shall be paid into the state treasury without deductions on account of their compensation or on account of expenses. The Comptroller shall promptly forward to such officers his warrants on the State Treasurer for the compensation due them and the estimated amount allowed them out of such funds for expenses.

Code 1950, § 14-161; 1964, c. 386, § 14.1-161; 1998, c. 872.

**§ 15.2-1538. Clerk for the governing body.**

The governing body of every locality in this Commonwealth shall appoint a qualified person, who shall not be a member of the governing body, to record the official actions of such governing body. The person so appointed shall be called clerk for the board of supervisors or council, as the case may be.

In localities where the clerk of court also serves as clerk of the governing body such person may receive as compensation for his services as clerk of the governing body a salary in an amount determined by the governing body. Such compensation shall be in lieu of, and in satisfaction of, any compensation allowable under § 33.2-721. Such compensation shall not be considered in determining the maximum total annual compensation of officers as set forth in §§ 17.1-283 and 17.1-287.

Code 1950, § 15-238; 1962, c. 623, § 15.1-533; 1968, c. 328; 1980, c. 257; 1985, c. 108; 1997, c. 587.

**§ 15.2-1539. General duties of clerk.**

It shall be the clerk's general duty to:

1. Record in a book the proceedings of the governing body;

2. Make regular entries of all its ordinances, resolutions and decisions on all questions concerning the raising of money, and within five days after any order for a levy is made, to deliver a copy thereof to the commissioner of revenue of his locality or the person performing such commissioner's duties, as the case may be;

3. Record the vote of each supervisor or council member on any question submitted to the board or council, as required by law or his governing body; and

4. Preserve and file all accounts acted upon by the governing body, with its actions thereon, for a period of five years after audit and thereafter until the governing body shall authorize their destruction in accordance with retention regulations for records established pursuant to the Virginia Public Records Act.

Code 1950, § 15-237; 1956, c. 710; 1960, c. 34; 1962, c. 623, § 15.1-532; 1982, c. 493; 1997, c. 587.

**§ 15.2-1540. Chief administrative officer.**

The governing body of any locality may appoint a chief administrative officer, who shall be designated county, city or town administrator or manager or executive, as the case may be.

1997, c. 587.

**§ 15.2-1541. Administrative head of government.**

Every chief administrative officer shall be the administrative head of the local government in which he is employed. He shall be responsible to the governing body for the proper management of all the affairs of the locality which the governing body has authority to control.

He shall, unless it is otherwise provided by general law, charter or by ordinance or resolution of the governing body:

1. See that all ordinances, resolutions, directives and orders of the governing body and all laws of the Commonwealth required to be enforced through the governing body or officers subject to the control of the governing body are faithfully executed;

2. Make reports to the governing body from time to time as required or deemed advisable upon the affairs of the locality under his control and supervision;

3. Receive reports from, and give directions to, all heads of offices, departments and boards of the locality under his control and supervision;

4. Submit to the governing body a proposed annual budget, in accordance with general law, with his recommendations;

5. Execute the budget as finally adopted by the governing body;

6. Keep the governing body fully advised on the locality's financial condition and its future financial needs;

7. Appoint all officers and employees of the locality, except as he may authorize the head of an office, department and board responsible to him to appoint subordinates in such office, department and board;

8. Perform such other duties as may be prescribed by the governing body.

1997, c. 587.

**§ 15.2-1541.1. Authority of county administrator to maintain centralized system of accounting.**

A county administrator shall maintain a centralized system of accounting for the county, including the county school board and the local board of social services, when such centralized system of accounting is authorized by the governing body under the provisions of § 30-137.

1998, c. 380; 2002, c. 747.

**§ 15.2-1542. Creation of office of county, city or town attorney authorized; appointment, salary and duties.**

A. Every county, city or town, not otherwise authorized to create the office, may create the office of county, city or town attorney. Such attorney shall be appointed by the governing body to serve at the pleasure of the governing body. He shall serve at a salary or at an hourly rate to be fixed by the governing body and shall be allowed to recover his reasonable costs expended. Any such attorney serving at an hourly rate shall provide the locality with an itemized list of fees and expenses. In the event of the appointment of such attorney, the attorney for the Commonwealth for such locality shall be relieved of any duty imposed upon him by law in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of the locality, of drafting or preparing ordinances, of defending or bringing actions in which the local government or any of its boards, departments or agencies, or officials or employees, thereof, shall be a party, and in any other manner advising or representing the local government, its boards, departments, agencies, officials and employees, and all such duties shall be performed by the local government attorney. Nothing herein, however, shall relieve such attorney for the Commonwealth from any of the other duties imposed on him by law including those imposed by § 2.2-3126.

B. The county attorney may prosecute violations of the Uniform Statewide Building Code, the Statewide Fire Prevention Code and all other ordinances as may be agreed upon with the attorney for the Commonwealth. Such attorney shall be accountable to the governing body in the performance of his duties.

C. The county attorney of Montgomery, Fairfax or Prince William Counties may prosecute violations of county ordinances, except those ordinances which regulate, in a manner similar to State statute, the operation of motor vehicles on the highway.

D. City and town attorneys, if so authorized by their local governing bodies, and with the concurrence of the attorney for the Commonwealth for the locality, may prosecute criminal cases charging either the violation of city or town ordinances, or the commission of misdemeanors within the city or town, notwithstanding the provisions of § 15.2-1627.

1968, c. 695, § 15.1-9.1:1; 1974, c. 305; 1977, c. 584; 1979, c. 328, § 15.1-9.1:01; 1981, c. 122; 1982, c. 30; 1994, c. 357; 1995, c. 740, § 15.1-9.1:3; 1997, c. 587; 2002, c. 802.

**§ 15.2-1543. Employment of purchasing agent; duties.**

A. Any county may employ a county purchasing agent or designate some official or employee of the county to perform the duties herein provided, and provide compensation for such service. The person so employed or designated shall serve at the pleasure of the board and shall give bond in such amount as shall be prescribed by the board.

B. The county purchasing agent shall, under the supervision of the board of supervisors, purchase or contract for all supplies, materials, equipment and contractual services required by any department or agency of the county, subject to the provisions set forth in Article 2 (§ 15.2-1233 et seq.) of Chapter 12; shall draw up, subject to the approval of the county board, and enforce standard specifications which shall apply to all supplies, materials and equipment purchased for the use of the county government;

shall have supervision over all central storerooms now operated or hereafter established by the county; and shall transfer to or between county departments and agencies or sell supplies, materials and equipment which are surplus, obsolete, or unused.

Code 1950, §§ 15-539, 15-541; 1962, c. 623, §§ 15.1-103, 15.1-105; 1997, c. 587.

## Article 8 - LOCAL TRUSTS TO FUND POSTEMPLOYMENT BENEFITS OTHER THAN PENSIONS

**§ 15.2-1544. Counties, cities, towns, school divisions, and certain political subdivisions may establish local trusts or equivalent arrangements to fund postemployment benefits other than pensions.** The governing body of any county, city, or town may establish a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund postemployment benefits other than pensions, as defined herein. Deposits to any such trust, trusts, or equivalent arrangements and any earnings on those deposits shall be irrevocable; shall be dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plans or programs providing postemployment benefits other than pensions; and shall be exempt from taxation and execution, attachment, garnishment, or any other process. For the purposes of this article, an equivalent arrangement shall mean any fund or similar arrangement established by the governing body pursuant to this article under which funds are irrevocably allocated, segregated, or otherwise dedicated to providing postemployment benefits other than pension benefits to retirees and their beneficiaries. The governing body of any such county, city, or town also may make appropriations to any such trust, trusts, or equivalent arrangements, and any such governing body may require active and former employees covered by a postemployment benefit plan or program to contribute to such a trust or equivalent arrangement through payments or deductions from their wages, salaries, or pensions. Officers and employees who are subject to inclusion in the retirement plans described in § 51.1-800 also may be included in any such trust, trusts, or equivalent arrangements by the governing body.

The governing body also may authorize the governing body of any other political subdivision that is appointed in whole or in part by the governing body of such county, city, or town, to establish and fund a trust, trusts, or equivalent arrangements for its active and former employees. Any appointed or elected school board may establish and fund such a trust, trusts, or equivalent arrangements for its active and former employees. The governing body of any county, city, or town also may enter into agreements with the appointed or elected school board that provides public schools within its boundaries or with any other political subdivision, which is appointed in whole or in part by the governing body of any such county, city, or town, to permit any such school board or such other political subdivision to participate in any trust, trusts, or equivalent arrangements established by the governing body of any such county, city, or town.

The governing body of any such county, city, or town, the school board of the local school divisions, and the governing body of any other political subdivision that establishes or participates in any such trust, trusts, or equivalent arrangements, shall have the right to revise or discontinue its plans or

programs providing such postemployment benefits other than pensions for its active and former officers and employees as it may deem necessary or transfer any assets held in any trust or equivalent arrangement established pursuant to this article to any other trust, trusts, or equivalent arrangement established pursuant to this article; provided, however, any amendment, suspension, or revocation of any plans or programs providing such postemployment benefits other than pensions or transfer of assets held in a trust or equivalent arrangement shall not have the effect of diverting the assets of any trust, trusts, or equivalent arrangements to purposes other than the exclusive benefit of the active or former employees or their dependents or beneficiaries entitled to such postemployment benefit. If all plans or programs providing such postemployment benefits other than pensions for which a trust or equivalent arrangement is established are repealed or terminated by the governing body that created such trust, trusts or equivalent arrangements, then there shall be no continuing responsibility for that governing body to continue to make appropriations to such trust, trusts or equivalent arrangements, and the assets of any such trust, trusts or equivalent arrangements shall be used to provide any benefits continuing to be due to active or former employees (and their dependents or beneficiaries) under such plans or programs. If there are no active or former employees (or dependents or beneficiaries) due a benefit under any plan or program providing such postemployment benefits other than pensions for which the trust or equivalent arrangement was established, then any remaining assets may revert to the locality.

2007, c. 710.

**§ 15.2-1545. Postemployment benefits other than pensions defined.**

Postemployment benefits other than pensions covered by the trust, trusts, or equivalent arrangement shall be defined by the governing body of the county, city, or town, by the appointed or elected school board, or by the governing body of any other political subdivision that creates any such program or trust. Such benefits may include but are not limited to medical, dental, and life insurance provided to individuals who have terminated their service and to the dependents of such individuals and may be provided by purchasing insurance, by a program of self-insurance, or by a combination of both. Such postemployment benefits other than pensions may be provided to the officers and employees or to their dependents, estates, or designated beneficiaries. Any benefits arising from any postemployment benefits other than pension plans shall be clearly defined and strictly construed.

2007, c. 710.

**§ 15.2-1546. Assets of trusts or equivalent arrangements for postemployment benefits other than pensions.**

The assets of any trust or equivalent arrangement for postemployment benefits other than pensions shall be exempt from state and local taxation, and the assets of any such trust or equivalent arrangement shall not be subject to execution, attachment, garnishment, or any other process.

2007, c. 710.

**§ 15.2-1547. Creation of local finance boards to manage the assets of postemployment benefits trust or equivalent arrangement; composition of such boards; alternatives to such boards; liability; and removal from office.**

Except as otherwise provided herein, the governing body of any county, city, or town that establishes a trust, trusts, or equivalent arrangements for postemployment benefits other than pensions pursuant to this article also shall create a finance board to serve as trustee of such a trust, trusts, or equivalent arrangements and to manage and invest the assets of that trust, trusts, or equivalent arrangements. Such a finance board shall be composed of at least three members who shall include the chief financial officer of the locality, the treasurer of the locality, and at least one other additional person who shall be a citizen of the Commonwealth with proven integrity, business ability, and demonstrated experience in cash management and in investments. If the locality does not have a chief financial officer or a treasurer, then that position may be filled by the chief administrative officer of the locality or by a citizen who meets the qualifications set forth above. The citizen member shall be appointed initially by the governing body of the locality for a term of two years and if more than one citizen is appointed to serve on any such board, then the local governing body may appoint those citizens for staggered terms of one and two years. Subsequent appointments shall be for two-year terms or to fill the balance of any unexpired term. The finance board shall annually elect one of its members as chairman and another as vice-chairman. The finance board shall meet at least four times a year, and a majority of the members shall constitute a quorum.

Any school board of a local school division or the governing body of any other political subdivision that establishes its own postemployment benefits trust, trusts, or equivalent arrangements pursuant to this article shall create a finance board to serve as trustee of such a trust, trusts, or equivalent arrangements and to manage and invest the assets of that trust, trusts, or equivalent arrangements. Such a finance board shall be composed of at least three members consisting of the chief administrative officer of the entity, the chief financial officer of the entity, and at least one additional person who shall be a citizen of the Commonwealth and who meets the qualifications set forth above. The citizen member shall be appointed initially by the governing body of the locality for a term of two years and if more than one citizen is appointed to serve on any such board, then the local governing body may appoint those citizens for staggered terms of one and two years. Subsequent appointments shall be for two-year terms or to fill the balance of any unexpired term. The finance board shall annually elect one of its members as chairman and another as vice-chairman. The finance board shall meet at least four times a year, and a majority of the members shall constitute a quorum.

Alternatively, and in lieu of establishing the finance board as described in this section, the governing body of any county, city, or town, school division or other political subdivision that has established a retirement board or deferred compensation board to manage pension benefits provided to or for its active and former employees may designate that retirement board or deferred compensation board to serve as trustee and to manage the assets of a trust or equivalent arrangement established pursuant

to this article. Any such retirement board or deferred compensation board shall have all the powers and duties of the finance board described in this article, mutatis mutandis.

Except in the case of gross negligence or intentional misconduct, any member of a finance board established pursuant to this section, any director of finance or another appointed official with a similarly named position, or any member of a retirement board, who is acting in accordance with the provisions of this article, shall not incur any liability for investment losses suffered by a trust established pursuant to this article. Members of any such finance board shall be subject to removal from office as set forth in §§ 24.2-230 through 24.2-238.

2007, c. 710.

**§ 15.2-1548. Finance boards or alternatives thereto to manage the assets of trusts or equivalent arrangements to fund postemployment benefits other than pensions and provide annual reports; exemption from Public Procurement Act.**

Except as otherwise provided herein, any finance board or any other person or entity serving as an alternative thereto pursuant to § 15.2-1547 shall retain the services of an investment manager, invest its funds in accordance with § 15.2-1549, maintain records of all of its proceedings, make such records available for inspection by the public, invest the assets of the trust or equivalent arrangement in accordance with the provisions of this article, and provide the governing body that created it an annual report on the fund's performance and financial status. In lieu of any finance board or other person or entity serving as an alternative thereto pursuant to § 15.2-1547 serving as trustee, the investment manager may serve as trustee of the funds. The selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2007, c. 710.

**§ 15.2-1549. Investment of assets of trusts or equivalent arrangement for postemployment benefits other than pensions.**

All funds appropriated to a trust or equivalent arrangement for postemployment benefits other than pensions, as defined in § 15.2-1545, and all funds accrued from the investment of any such funds that are on hand at any time and are not necessary for immediate payment of benefits shall be invested by the finance board, by any person or entity serving as an alternative thereto pursuant to § 15.2-1547, or by an investment manager who is serving as a trustee of the funds. All such funds shall be invested in accordance with the prudent person standard established by § 51.1-803 and such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2.

2007, c. 710.

# Chapter 16 - LOCAL CONSTITUTIONAL OFFICERS, COURTHOUSES AND SUPPLIES

## Article 1 - LOCAL CONSTITUTIONAL OFFICERS, COURTHOUSES AND SUPPLIES

### § 15.2-1600. Counties and cities required to elect certain officers; qualifications of attorney for the Commonwealth; duties and compensation of officers; vacancies, certain counties and cities excepted; officer's powers not to be diminished.

A. The voters of each county and city shall elect a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a commissioner of revenue. To qualify to be elected or hold office, an attorney for the Commonwealth shall be a member of the bar of this Commonwealth. The duties and compensation of such officers shall be prescribed by general law or special act and any vacancy in such office shall be filled, notwithstanding any charter provision to the contrary, by a majority of the circuit judges of the judicial circuit for the county or city pursuant to the provisions of §§ 24.2-226 and 24.2-227. Any county or city not required to have or to elect such officers prior to July 1, 1971, shall not be so required by this section, nor shall the provisions of this section apply to those counties and cities which have heretofore adopted, or may hereafter adopt, a form of government, as provided by law, which does not require such counties or cities to have or elect one or more of such officers.

B. Nothing in this title shall be construed to authorize the governing body or the chief administrative officer of a locality to designate an elected constitutional officer to exercise a power or perform a duty which the officer is not required to perform under applicable state law without the consent of such officer, nor by designation to diminish any such officer's powers or duties as provided by applicable state law including the power to organize their offices and to appoint such deputies, assistants and other individuals as are authorized by law upon the terms and conditions specified by such officers.

1971, Ex. Sess., c. 223, § 15.1-40.1; 1979, c. 522; 1982, c. 637; 1997, c. 587.

### § 15.2-1601. Requirements for officers.

The officers required by § 15.2-1600 are subject to the residency, qualification for office, bonding, dual-office-holding requirements and prohibitions provided for in Chapter 15 of this title.

1997, c. 587.

### § 15.2-1602. Sharing of such officers by two or more units of government.

Two or more units of government may share the officer or officers, or any combination of them, required by § 15.2-1600 if (i) a petition, signed by a number of qualified voters equal to fifteen percent of the number of votes cast in such units of government by voters thereof and counted for candidates in the last gubernatorial election in such units of government, and in no event signed by less than 100 voters of such units of government, is filed with a circuit court having jurisdiction in one or more of such units of government, asking that a referendum be held on the question "May the (names of the

units of government) share the (officer or officers), as the case may be, (naming such officers if less than all) required by Article VII, Section 4 of the Constitution of Virginia ?"; (ii) following the filing of such petition, the court shall by order entered of record, issued in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, require the regular election officials of the units of government to open the polls and take the sense of the voters on such question and (iii) at the election held on the day designated by order of such court, a majority of the voters voting in such election in each such unit of government shall have voted "Yes." The clerk of the circuit court which entered the order shall publish notice of the election in a newspaper of general circulation in such units of government once a week for three consecutive weeks prior to the election.

The regular election officials of the units of government shall open the polls at the various voting places in such units of government on the date specified in the order and conduct the election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral boards of the units of government and on which shall be printed the following:

"May _____ share the officer or officers, as the case may be, (naming such officers if less than all) required by Article VII, Section 4 of the Constitution of Virginia?

[ ] Yes

[ ] No"

In the blank shall be inserted the names of the units of government in which such election is held. The question required by this section may be modified to accommodate the naming of the officer or officers. Any voter desiring to vote "Yes" shall mark a check (✓ ) mark or a cross ( ✗ or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No," unchanged. Any voter desiring to vote "No" shall mark a check (✓ ) mark or cross ( ✗ or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes," unmarked.

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral boards to the court ordering such election. Thereupon, the court shall enter an order proclaiming the results of the election, and a duly certified copy of the order shall be transmitted to the State Board of Elections and to the governing bodies of the units of government affected.

Thereafter, the officer or officers shall be elected by the voters of the units of government desiring to share such officer or officers; however, the provisions of this section shall not reduce the term of any person holding an office at the time the election provided for in this section is held.

1971, Ex. Sess., c. 223, § 15.1-40.2; 1975, c. 517; 1976, c. 301; 1997, c. 587.

**§ 15.2-1603. Appointment of deputies; their powers; how removed.**

The treasurer, the sheriff, the commissioner of the revenue, and the clerk of any circuit court may at the time he qualifies as provided in § 15.2-1522 or thereafter appoint one or more deputies, who may

discharge any of the official duties of their principal during his continuance in office, unless it is some duty the performance of which by a deputy is expressly forbidden by law. The sheriff making an appointment of a deputy under the provisions of this section may review the record of the deputy as furnished by the Federal Bureau of Investigation prior to certification to the appropriate court as provided hereunder.

The sheriff may appoint as deputies medical and rehabilitation employees as are authorized by the State Compensation Board. Deputies appointed pursuant to this paragraph shall not be considered by the State Compensation Board in fixing the number of full-time or part-time deputies which may be appointed by the sheriff pursuant to § 15.2-1609.1.

The officer making any such appointment shall certify the appointment to the court in the clerk's office of which the oath of the principal of such deputy is filed, and a record thereof shall be entered in the order book of such court. Any such deputy at the time his principal qualifies as provided in § 15.2-1522 or thereafter, and before entering upon the duties of his office, shall take and prescribe the oath now provided for in § 49-1. The oath shall be filed with the clerk of the court in whose office the oath of his principal is filed, and such clerk shall properly label and file all such oaths in his office for preservation. Any such deputy may be removed from office by his principal. The deputy may also be removed by the court as provided by § 24.2-230.

Code 1950, § 15-485; 1952, c. 112; 1962, c. 623, § 15.1-48; 1971, Ex. Sess., c. 155; 1972, c. 549; 1976, c. 199; 1979, c. 660; 1997, c. 587.

**§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by certain officers; civil penalty.**

A. It shall be an unlawful employment practice for a constitutional officer:

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or status as a veteran; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or status as a veteran.

B. Nothing in this section shall be construed to make it an unlawful employment practice for a constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular office. The provisions of this section shall not apply to policy-making positions, confidential or personal staff positions, or undercover positions.

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the Division of Human Rights of the Department of Law. The Division shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed $2,000.

1989, c. 718, § 15.1-48.1; 1997, c. 587; 2004, c. 453; 2012, cc. 803, 835; 2020, cc. 1137, 1140.

**§ 15.2-1605. Vacations; sick leave and compensatory time for certain officers and employees.**

A. "Employee," as used in this section, means an employee or deputy of the attorney for the Commonwealth, the treasurer, the commissioner of the revenue, the clerk of the circuit court, and the sheriff and shall also include the officers and employees of all courts whose salaries are paid by the Commonwealth.

B. Every county and city for which such employees work shall annually provide for each employee at least two weeks vacation with pay, at least seven days sick leave with pay, and such legal holidays as are provided for in § 2.2-3300. If any employee or deputy is required to work on any legal holiday, he shall receive, in lieu of the holiday, an equal amount of compensatory time with pay in the same calendar year in which such holiday occurs. The county or city may provide that vacation or sick leave may be accumulated or shall terminate within a given period of time; however, such vacation may not be accumulated in excess of six weeks. The cost of providing such benefits shall be borne in the same manner and on the same basis as the costs of the office are shared or as the excess fees therefrom may be shared. When a county or city has entered into an agreement with a constitutional officer to include his employees under the locality's personnel leave policies, then such employee may

accrue and accumulate leave pursuant to such policies instead of under this section, as long as such local benefits are not less than the amounts as set out in this section.

C. For the purpose of computing the Commonwealth's financial obligations for accumulated vacation time of an employee under this section, the Commonwealth shall pay the lesser, and in any event only its proportional share, of the amount due to an employee for such time when computed (i) under the applicable counties' or cities' personnel policies, regulations and rules, or (ii) by treating the employee as a Commonwealth employee, under its applicable personnel policies, regulations and rules.

1972, c. 562, § 15.1-19.3; 1974, c. 103; 1977, c. 116; 1980, c. 547; 1984, c. 365; 1997, c. 587; 2017, c. 632.

**§ 15.2-1605.1. Supplementing compensation of certain county and city officers and their employees.**

Notwithstanding any other provision of law, the governing body of any county or city, in its discretion, may supplement the compensation of the sheriff, treasurer, commissioner of the revenue, director of finance, clerk of the circuit court, or attorney for the Commonwealth, or any of their deputies or employees, above the salary of any such officer, deputy or employee, in such amounts as it may deem expedient. Such additional compensation shall be wholly payable from the funds of any such county or city.

1970, c. 153, § 14.1-11.4; 1973, c. 437; 1974, c. 423; 1998, c. 872; 1999, c. 283; 2002, c. 832.

**§ 15.2-1605.2. Salary increases for constitutional officers.**

In every locality of this Commonwealth, whenever the Compensation Board shall provide salary increases, including but not limited to cost-of-living increases, whether specifically for constitutional officers and their assistants or deputies or for the general compensation to be paid in the aggregate to a constitutional officer, pursuant to any statutory or other authority, no locality shall use such reimbursement for any purpose other than salary during the fiscal year. A locality shall distribute such salary in appropriate proportions to its constitutional officers and their assistants or deputies.

As used in this section, "constitutional officer" means the treasurer, sheriff, attorney for the Commonwealth, clerk of circuit court, or commissioner of revenue of any locality.

1998, c. 647.

**§ 15.2-1606. Defense of constitutional officers; appointment of counsel.**

In the event that any treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court or commissioner of the revenue, or any deputy or assistant of any of such officers, is made defendant in any civil action arising out of the performance of his official duties and does not have legal defense provided under the insurance coverage of his office, such officer, or deputy or assistant thereto, may make application to the circuit court for the county or city in which he serves to assign counsel for his defense in such action. The court may, upon good cause shown, make such orders respecting the employment of an attorney or attorneys, including the attorney for the Commonwealth, as may be appropriate, and fix his compensation. Reimbursement of any expenses incurred in the defense of

such charge may also be allowed by the court. Such legal fees and expenses shall be paid from the treasury of the county or city, and reimbursement shall be made from the Compensation Board in the proportions set out in § 15.2-1636.14.

1977, c. 554, § 15.1-66.4; 1985, c. 321; 1997, c. 587.

### § 15.2-1607. Providing legal fees and expenses for sheriffs and deputies.

If any sheriff or deputy sheriff is arrested or indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, and such charge is subsequently dismissed or there is rendered a verdict of not guilty, such sheriff or deputy sheriff may submit to the governing body of the locality in which he was elected or appointed a statement of legal fees and expenses incurred in his defense of such charge. The governing body may authorize that such legal fees and expenses, or any portion thereof, be paid from the treasury of such locality. If the affected sheriff or deputy sheriff disagrees with the action of the governing body, the officer may petition the circuit court for the county or city to award the fees and cost. The circuit court, sitting without a jury, shall hold a hearing on the matter. The court for good cause shown may order the governing body to pay all or any appropriate portion of the fees and cost.

1975, c. 30, § 15.1-66.3; 1983, c. 232; 1997, c. 587.

## Article 2 - TREASURER

### § 15.2-1608. Treasurer.

The voters in every county and city shall elect a treasurer unless otherwise provided by general law or special act. The treasurer shall exercise all the powers conferred and perform all the duties imposed upon treasurers by law. He may perform such other duties, not inconsistent with his office, as the governing body may request. The treasurer shall pay from the funds of the local government all properly authorized accounts submitted to him for payment. He shall be elected as provided by general law for a term of four years.

1997, c. 587.

### § 15.2-1608.1. Salaries of city treasurers.

The annual salaries of city treasurers or any officers, whether elected or appointed, who hold the combined office of city treasurer and commissioner of the revenue, shall be as prescribed in the general appropriation act, except as otherwise prescribed in § 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-68, 14-68.1, 14-68.2, 14-68.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any persons holding office on such date.

Code 1950, §§ 14-68 through 14-68.3; 1952, c. 479; 1956, cc. 606, 715; 1958, c. 371; 1960, c. 405; 1964, c. 386, § 14.1-55; 1966, c. 637; 1970, c. 679; 1972, cc. 617, 731; 1974, c. 271; 1976, c. 400; 1977, c. 565; 1979, c. 233; 1980, c. 588; 1983, c. 600; 1998, c. 872.

### § 15.2-1608.2. Salaries of county treasurers.

The annual salaries of county treasurers or any officers, whether elected or appointed, who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, shall be as prescribed in the general appropriation act, except as otherwise provided in § 15.2-1636.12.

Notwithstanding the repeal of §§ 14-68.1, 14-69, 14-69.1, 14-69.2, 14-69.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

Code 1950, §§ 14-69 through 14-69.3; 1952, c. 479; 1956, c. 604; 1960, c. 415; 1964, c. 386, § 14.1-56; 1966, cc. 309, 566, 637; 1970, c. 679; 1972, c. 617; 1974, c. 271; 1976, c. 400; 1977, c. 565; 1979, c. 233; 1980, c. 588; 1983, c. 600; 1998, c. 872.

## Article 3 - SHERIFF

### § 15.2-1609. Sheriff.

The voters in every county and city shall elect a sheriff unless otherwise provided by general law or special act. The sheriff shall exercise all the powers conferred and perform all the duties imposed upon sheriffs by general law. He shall enforce the law or see that it is enforced in the locality from which he is elected; assist in the judicial process as provided by general law; and be charged with the custody, feeding and care of all prisoners confined in the county or city jail. He may perform such other duties, not inconsistent with his office, as may be requested of him by the governing body. The sheriff shall be elected as provided by general law for a term of four years.

1997, c. 587.

### § 15.2-1609.1. Number of deputies.

Except as provided in § 15.2-1603, the respective number of full-time deputies appointed by the sheriff of a county or city shall be fixed by the Compensation Board after receiving such recommendation of the board of supervisors of the county or the council of the city, as the case may be, as the board of supervisors or city council may desire to make. Such recommendation, if any, shall be made to the Compensation Board on or before April 1 of each year. In any county without a police force or any city without a police force that was created by the consolidation of a city and a county subsequent to July 1, 2011, pursuant to the provisions of Chapter 35 (§ 15.2-3500 et seq.), upon the request of the board of supervisors of such county or the council of such city, the number of such law-enforcement deputies shall be fixed at not less than one such deputy for each 1,500 population in such county or city excluding the population served by state educational institution police departments if the sheriff's department does not provide the majority of the law-enforcement activities to such population according to uniform crime reports compiled by the Department of State Police. The Compensation Board shall also consider any agreement the sheriff may have pursuant to § 15.2-1726 and any obligation he may have pursuant to this section to provide law enforcement for towns or townships in fixing the number of deputies. The governing body of any county or city may employ a greater number of law-enforcement

deputies than fixed by the Compensation Board, provided that the county or city shall pay the total compensation and all employer costs for such additional deputies.

Code 1950, § 14-83; 1964, c. 386, § 14.1-70; 1971, Ex. Sess., c. 155; 1973, c. 180; 1979, cc. 236, 660; 1980, c. 146; 1983, c. 382; 1989, c. 293; 1998, cc. 276, 290, 305, 307, 327, 872; 2011, cc. 339, 350.

**§ 15.2-1609.2. Sheriffs' salaries; salaries of certain full-time deputies; maximum limits.**

A. The sheriffs of the counties and the cities of the Commonwealth and their full-time deputies shall be paid salaries for their services and allowances for the necessary expenses incurred in the performance of their duties, to be determined as hereinafter provided.

B. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as prescribed in the general appropriation act, except as otherwise provided in subsection C.

C. Any sheriff whose salary in the year ending June 30, 1980, included an increase under deleted provisions of former § 14.1-74 shall receive the same amount of such increase for the terms in which he continues in office.

D. The annual salary of each full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer shall be determined by the sheriff in whose service he is employed and shall be reported to the Compensation Board by the sheriff at the time he files his report for the allowance of the expenses of his office as provided in § 15.2-1636.7 and at any time thereafter when the sheriff effects a change in the salary or employs a new such deputy sheriff. Such salaries as determined by the respective sheriff shall conform to the requirements set forth in subsection E and shall not in the aggregate exceed the aggregate allowance by the Compensation Board for personal services to the respective sheriffs for such deputy sheriffs.

However, notwithstanding any contrary provisions of this section and of § 15.2-1636.8, the salary of any full-time deputy sheriff who, in addition to having primary duties related to courtroom security, corrections or law enforcement, also supervises other deputy sheriffs, or who is designated an investigator by the sheriff in whose services he is employed, shall be fixed and determined by the Compensation Board. Nothing in this section shall prohibit the Compensation Board from setting salary levels of civil process officers in localities having a population of more than one hundred thousand at a level equal to salary levels of deputy sheriffs who are primarily courtroom security, correctional, or law-enforcement officers.

E. The salary range of any full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer and, if employed on or after July 1, 1974, also has a high school education or the equivalent thereof, shall be no less than that of a correctional officer within the classification and pay system for state employees and shall be administered in accordance with regulations for that system administered by the Department of Human Resource Management. The Governor shall provide the Compensation Board the salary range and regulations within that system as of July 1, 1980, and as of any subsequent date on which changes in the salary ranges and regulations may be adopted.

F. The salary of any deputy sheriff shall not exceed ninety percent of the salary of the sheriff by whom he is employed.

Code 1950, §§ 14-81, 14-86, 14-86.1; 1952, c. 331; 1954, c. 683; 1956, c. 609; 1958, c. 349; 1960, c. 505; 1962, cc. 292, 439, 510, 572; 1964, cc. 386, 656, §§ 14.1-73, 14.1-74; 1966, cc. 16, 364, 704; 1970, c. 678; 1971, Ex. Sess., c. 155; 1972, c. 617; 1973, c. 519; 1974, c. 271; 1976, c. 595; 1978, c. 588; 1980, cc. 587, 588, §§ 14.1-73.1:1, 14.1-73.1:2, 14.1-73.1:3; 1981, cc. 383, 406; 1983, c. 600; 1985, c. 406; 1998, c. 872; 2000, cc. 66, 657.

**§ 15.2-1609.3. Fees and mileage allowances.**

A. Every sheriff, and every sheriff's deputy, shall collect all fees and mileage allowances provided by law for the services of such officer, other than those he is entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter in the circuit courts. However, no fee shall be charged for serving any public orders, for summoning or impaneling grand juries, or for services in elections except as provided under Title 24.2.

B. All fees and mileage allowances accruing in connection with any civil or criminal matter shall be collected by the clerk of the court in which the case is heard and paid by him into the treasury of the county or city in which the case is heard. All fees collected by or for every sheriff and deputy shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the fees are collected. The treasurer of each county and city shall credit such amounts in excess of such fees received in fiscal year 1994 to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

C. In any case in which a sheriff makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit he is not permitted to sell under the levy, the sheriff is not entitled to any commissions, but in addition to his fees for making the levy and return, he shall be entitled to recover from the party for whom the services were performed the expenses incurred for advertisement of the proposed sale of the property.

D. When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the $1 for a bond, if one was taken, a fee of $12. If the fee is more than one-half of what his commission would have amounted to if he had received payment, he shall, whether a bond was taken or not, receive a fee of at least $1 and so much more as is necessary to equal the one-half.

Code 1950, §§ 14-82, 14-100, 14-105, 14-106; 1964, c. 386, §§ 14.1-69, 14.1-89, 14.1-94, 14.1-95; 1971, Ex. Sess., c. 155; 1975, c. 591; 1995, c. 51; 1997, c. 208; 1998, c. 872; 2004, c. 210.

**§ 15.2-1609.4. Records of expenses of sheriffs and full-time deputies.**

Each sheriff and each full-time deputy shall keep a record of all expenses incurred by him including expenses for traveling, telephone, telegraph, clerical assistance, office facilities and supplies, bond

premiums, cook hire, maintenance and repair cost of automobile police radio equipment including radio transmitter system and all accessories thereto, and any other expense incident to his office. Each full-time deputy shall file a monthly report with his principal showing in detail the expenses incurred by him. Each sheriff shall also include in the report the mileage which was incurred for himself and each full-time deputy as a result of patrolling performed at the direction of the sheriff, the mileage to and from the residence of the sheriff or full-time deputy and the place where the sheriff or full-time deputy starts his duty and the mileage shall be an allowable expense of the sheriff's department.

Code 1950, § 14-87, p. 71; 1952, c. 714; 1964, c. 386, § 14.1-75; 1971, Ex. Sess., c. 155; 1978, c. 666; 1983, c. 317; 1998, c. 872.

**§ 15.2-1609.5. Submission of statement of expenses.**

Each sheriff shall submit a monthly statement of all traveling expenses incurred by him, and by each of his full-time deputies, to his county or city. The county or city shall pay the expenses to the person or vendor entitled thereto and submit same to the Compensation Board for reimbursement if within the sheriff's annual budget approved by the Board. Payments due counties and cities under this section shall be paid to the county or city within ninety days following the receipt by the Compensation Board of a completed statement of monthly expenses.

Code 1950, § 14-88; 1964, c. 386, § 14.1-76; 1971, Ex. Sess., c. 155; 1983, c. 382; 1985, c. 271; 1998, c. 872.

**§ 15.2-1609.6. Agreements regarding traveling expenses.**

Notwithstanding the provisions of § 15.2-1609.5, the governing body of any county or city may, with the approval of the Compensation Board, enter into such agreement with the sheriff of such county or city with respect to the traveling expenses, including the use of privately owned vehicles, of such sheriff and his deputies as the governing body may deem proper. With the consent of the Compensation Board, in any county having a regular police force authorized by law and in which the jail of another county or city has been adopted as the jail of such county, the police officers, in place of the sheriff, who transport any persons charged with violation of a state law under order of the judge of the circuit court of such county to the jail so adopted, shall receive the same mileage as the sheriff would have received had he transported such persons. Any such police officer transporting any such person shall make claim for mileage on the same forms the sheriff uses for such claims and in the same manner. When any such mileage is collected by any police officer, he shall pay the same into the county treasury and the payment of such mileage shall be made in the manner provided for the payment of mileage to sheriffs.

Code 1950, § 14-89; 1964, c. 386, § 14.1-77; 1971, Ex. Sess., c. 155; 1998, c. 872.

**§ 15.2-1609.7. Salaries and expense allowances to be paid by Commonwealth.**

The Commonwealth shall pay the salaries and expense allowances of such sheriffs and their full-time deputies, and of the compensation and expense allowances of their part-time deputies, fixed as

provided except that beginning July 1, 1982, such payments to any eligible county or newly formed city under the provisions of Chapter 39 (§ 15.2-3900 et seq.) or Chapter 35 (§ 15.2-3500 et seq.) of this title, which elects to receive state law-enforcement assistance in accordance with the terms of Article 8 (§ 9.1-165) of Chapter 1 of Title 9.1 shall be reduced by an amount equal to the salaries and expense allowances of its law-enforcement deputy sheriffs or the amount of state assistance to be received by the county or newly formed city under the provisions of Chapter 39 (§ 15.2-3900 et seq.) or Chapter 35 (§ 15.2-3500 et seq.) of this title, pursuant to Article 8 (§ 9.1-165) of Chapter 1 of Title 9.1, whichever is the lesser. Such salaries shall be paid in equal monthly installments and the expense allowances shall be paid monthly when the amount thereof is established as hereinabove provided, except that the Board may provide advance payments on a monthly pro rata basis to any county or city and adjust subsequent monthly advances based on actual expenditures incurred in the preceding month. Notwithstanding the provisions of this section, the General Assembly, through the general appropriation act, may allow any locality receiving a 100 percent apportionment of law-enforcement assistance to continue to receive such full apportionments.

Code 1950, § 14-91; 1964, c. 386, § 14.1-79; 1971, Ex. Sess., c. 155; 1972, c. 564; 1979, c. 83; 1981, c. 485; 1983, c. 326; 1986, c. 235; 1998, c. 872.

**§ 15.2-1609.8. Payments to counties having certain optional forms of organization and government.**
The Compensation Board shall, in the manner provided by law, determine the compensation and expense allowances for the sheriff, and his deputies, of each county which has adopted or hereafter adopts any form of county organization and government provided for in Chapter 5 (§ 15.2-500 et seq.), Chapter 6 (§ 15.2-600 et seq.) or Chapter 8 (§ 15.2-800 et seq.) of this title, so long as such county shall continue such form of county organization and government in effect in such county, as if such county had not adopted any such form of government, but the salaries and expense allowances shall be paid into the general fund of the treasury of such county. The actual compensation and expense allowance to be paid the sheriff, and his deputies, of any such county shall be fixed as provided in the form of county organization and government adopted by such county, without regard to the limits provided for in this article, and shall be paid by such county.

The provisions of this section shall also be applicable to any county which adopts and has in effect in such county any other optional form of county organization and government which may be provided by law, if such form of county organization and government shall provide that the entire compensation of the sheriff of such county shall be fixed by authorities of the county and paid by the county.

Code 1950, § 14-93; 1964, c. 386, § 14.1-82; 1971, Ex. Sess., c. 236; 1979, c. 83; 1998, c. 872.

**§ 15.2-1609.9. Compensation of part-time deputies.**
The part-time deputies of sheriffs shall not receive fixed salaries, but shall be entitled to receive reasonable compensation for their services and allowances for their expenses, to be determined and paid as hereinafter provided. Each such part-time deputy shall keep a record of all services performed by him as such, which shall be reported to the sheriff whose deputy he is. The sheriff shall likewise keep a record of all services performed by each part-time deputy. Each sheriff shall file a monthly report with

the board of supervisors or other governing body of the county or city council, as the case may be, on or before the fifth day of the month next succeeding that in which such services are performed, showing in detail all services and hours of service rendered by part-time deputies. The board of supervisors or other governing body or the city council shall recommend to the Compensation Board what in its judgment is a fair compensation to pay each individual part-time deputy of a sheriff on the basis of such reports, except that the limit for compensation per hour of service shall not exceed the hourly equivalent of the minimum annual salary paid a full-time deputy sheriff of like rank and experience who performs like services in the same county or city. In addition, mileage and other expenses for rendering the services shall be paid. If in the judgment of the governing body such limit would work a hardship on a particular part-time deputy sheriff, each sum may be increased with the written approval of the judge of the circuit court of the county or city for which such officer is appointed.

Code 1950, § 14-90; 1964, c. 386, § 14.1-78; 1971, Ex. Sess., c. 155; 1972, c. 225; 1980, c. 550; 1998, c. 872; 2017, c. 337.

**§ 15.2-1609.10. Prohibited practices; collection of data.**

A. No sheriff or deputy sheriff shall engage in bias-based profiling as defined in § 52-30.1 in the performance of his official duties.

B. The sheriff of every locality shall collect data pertaining to motor vehicle or investigative stops pursuant to § 52-30.2 and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database established pursuant to § 52-30.3. The sheriff of the locality shall be responsible for forwarding the data to the Superintendent of State Police.

2020, c. 1165.

**§ 15.2-1610. Standard uniforms and motor vehicle markings to be adopted by sheriffs.**

A. Except as provided in § 15.2-1611, all uniforms used by sheriffs and their deputies and police officers under the direct control of a sheriff while in the performance of their duties shall (i) easily identify local law-enforcement officers to members of the public, (ii) be of a design and style approved by the sheriff of the locality, and (iii) be worn according to the policies established by the sheriff of the locality.

B. All marked motor vehicles used by sheriffs' offices shall conspicuously display on each front side door of such vehicles the words "Sheriff's Office" or "Sheriff" and the name of the county or city.

C. All sheriffs' offices shall be in full compliance with specifications for uniforms and motor vehicle markings, if the sheriff prescribes that uniforms be worn and marked motor vehicles be utilized.

1988, c. 626, § 15.1-90.3; 1997, c. 587; 1998, c. 413; 2005, cc. 337, 452; 2008, c. 284; 2015, c. 132; 2016, cc. 176, 462; 2019, c. 298.

**§ 15.2-1611. Alternate clothing for sheriff and deputies.**

When the duties of a sheriff or deputy sheriff are such that the wearing of the standard sheriff's uniform would adversely limit the effectiveness of the sheriff's or deputy sheriff's ability to perform his

prescribed duties, then clothing appropriate for the duties to be performed may be required by the sheriff.

1984, c. 398, § 15.1-90.2; 1997, c. 587.

**§ 15.2-1612. Wearing of same or similar uniforms by unauthorized persons; penalty.**

Any unauthorized person who wears a uniform identical to or substantially similar to a standard uniform used by an office of sheriff in accordance with § 15.2-1610 with the intent to deceive a casual observer or with the intent to impersonate the office of sheriff is guilty of a Class 1 misdemeanor. A second or subsequent offense is punishable as a Class 6 felony.

For purposes of this section, "substantially similar" means so similar in appearance as to be likely to deceive the casual observer.

1988, c. 626, § 15.1-90.4; 1997, c. 587; 2005, cc. 337, 452; 2013, c. 431.

**§ 15.2-1612.1. Deputy sheriffs to complete course of instruction established by Department of Criminal Justice Services.**

Any full-time deputy sheriff not employed on July 1, 1971, shall successfully complete a course of instruction established by the Department of Criminal Justice Services as provided in clause (i) of subdivision 2 of § 9.1-102.

1972, c. 716, § 14.1-73.2; 1973, c. 216; 1974, c. 571; 1975, c. 387; 1976, c. 705; 1979, c. 419; 1980, c. 587; 1984, c. 779; 1998, c. 872.

**§ 15.2-1613. Operation of sheriff's office.**

Any county or city may appropriate funds for the operation of the sheriff's office.

In addition to those items listed in § 15.2-1615.1, counties and cities shall provide at their expense in accordance with standards set forth in § 15.2-1610 a reasonable number of uniforms and items of personal equipment required by the sheriff to carry out his official duties.

1986, c. 139, § 15.1-137.3; 1990, c. 68; 1997, c. 587.

**§ 15.2-1613.1. Processing fee may be imposed on certain individuals.**

Any county or city may by ordinance authorize a processing fee not to exceed $25 on any individual admitted to a county, city, or regional jail following conviction. The fee shall be ordered as a part of court costs collected by the clerk, deposited into the account of the treasurer of the county or city and shall be used by the local sheriff's office to defray the costs of processing arrested persons into local or regional jails. If processing costs are incurred by a regional jail rather than a local sheriff's office, the fees collected pursuant to such ordinance may be used by the regional jail to defray the costs of processing arrested persons. Where costs are incurred by a sheriff's office and a regional jail the fees collected pursuant to such ordinance may be divided proportionately as determined by the local governing body or bodies, between the sheriff's office and the regional jail. Where costs are incurred by a police department for booking or fingerprinting services, the fees collected pursuant to such ordin-

ance may be divided proportionately as determined by the local governing body or bodies, between the sheriff's office and the police department.

2002, c. 840; 2003, c. 623; 2011, cc. 300, 664.

**§ 15.2-1614. Destruction of receipts.**

Every sheriff shall maintain in his office all official receipt books showing receipt of any funds in his custody or that of the court, all cancelled checks showing payments from any such funds, and all statements of bank accounts in which funds of the sheriff's office are deposited. Such books, checks, receipt books and statements shall be maintained for a period of three years after they are audited by any individual or entity authorized by § 15.2-1615 to inspect them and thereafter may be destroyed in accordance with retention regulations established pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

1976, c. 468, § 15.1-84.1; 1982, c. 493; 1993, c. 334; 1997, c. 587.

**§ 15.2-1614.1. Expense of boarding and lodging jurors.**

Whenever it is necessary for a sheriff or sergeant to pay for the board and lodging of juries, he shall obtain a receipt for the funds so spent and on or before the fifth day of the month next succeeding he shall present such bill to the board of supervisors or other governing body of the county or to the city council, as the case may be, which shall, if it is found correct, reimburse the sheriff or sergeant for the amount so spent by him for such purpose. The county or city shall be reimbursed by the Commonwealth for all sums so expended on account of any criminal trial involving an offense against the Commonwealth.

Code 1950, § 14-94; 1964, c. 386, § 14.1-83; 1998, c. 872.

**§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.**

A. All money received by the sheriff shall be deposited intact and promptly with the county or city treasurer or Director of Finance, except that the sheriff shall maintain an official account for (i) funds collected for or on account of the Commonwealth or any locality or person pursuant to an order of the court and fees as provided by law and (ii) funds held in trust for prisoners held in local correctional facilities, in accordance with procedures established by the State Board of Local and Regional Jails pursuant to § 53.1-68.

The sheriff's official accounts shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

B. The sheriff shall keep the books, papers, receipt books and statements pertaining to the receipts and disbursements of his office at all times ready for inspection by the Auditor of Public Accounts or any other certified public accountant authorized by the governing body. Furthermore, the accounts and books of the sheriff shall be included in the audit of the local government conducted pursuant to § 15.2-2511.

1993, c. 334, § 15.1-83.1; 1997, c. 587; 2020, c. 759.

### § 15.2-1615.1. Manner of payment of certain items in budgets of sheriffs.

A. Whenever a sheriff purchases office furniture, office equipment, stationery, office supplies, telephone or telegraph service, postage, or repairs to office furniture and equipment in conformity and within the limits of allowances duly made and contained in the then current budget of any such sheriff under the provisions of this chapter, the invoices therefor, after examination as to their correctness, shall be paid by the county or city directly to the vendors, and the Commonwealth shall monthly reimburse the county or city the cost of such items on submission by such sheriff to the Compensation Board of duplicate invoices and such other information or evidence as the Compensation Board may deem necessary. This procedure shall also apply to the payment of the premiums on the official bonds of such sheriffs, their deputies and employees, to the premiums on burglary and other insurance, and for any physical examinations required pursuant to § 15.2-1705 for a sheriff and each of his full-time deputies at a rate specified by the Compensation Board.

B. The Compensation Board may allow as an expense allowance to the sheriff of any county or city the cost of operation, maintenance and repair of a closed circuit television system and all accessories thereto or of leasing electronic security equipment or making repairs to the same, which system and equipment are installed in any jail under his control for the surveillance of prisoners.

1964, c. 386, § 14.1-80; 1968, c. 607; 1971, Ex. Sess., c. 155; 1979, c. 83; 1983, c. 382; 1985, c. 271; 1998, c. 872.

### § 15.2-1616. When deputy may act in place of sheriff.

When for any cause it is improper for the sheriff of any county or city to serve any process or notice or to summon a jury, such process may be directed to any deputy of the sheriff, and the process or notice may be served and the jury summoned by any such deputy.

Code 1950, § 15-509; 1962, c. 623, § 15.1-74; 1971, Ex. Sess., c. 155; 1997, c. 587.

### § 15.2-1617. Deputies of deceased sheriffs.

If any sheriff dies during his term of office, his chief deputy shall have the same right to remove any deputy from office and to appoint another, that the sheriff himself, if alive, would have had; or any such deputy may be removed by order of the circuit court for the county or city of which his principal was sheriff; but unless so removed, the deputies of such sheriff, in office at the time of his death, shall continue in office until the qualification of any new sheriff, and execute the office in the name of the deceased, in like manner as if the sheriff had continued alive until such qualification. Any default or misfeasance in office of any such deputy shall be as much a breach of the condition of the bond of the sheriff, and of the bond of such deputy, as if the sheriff had continued alive and in the exercise of his office.

Code 1950, § 15-510; 1962, c. 623, § 15.1-75; 1971, Ex. Sess., c. 155; 1997, c. 587.

### § 15.2-1618. Compensating certain law-enforcement officers disabled in performance of duty.

All counties and cities shall provide for the relief of any sheriff or deputy sheriff who is disabled, totally or partially, by injury or illness as the direct or proximate result of the performance of his duty,

including the presumption under § 51.1-813. Such total disability retirement benefits shall be not less than those provided under the disability retirement provisions of § 51.1-404 of the Virginia Retirement System.

1976, c. 772, § 15.1-75.1; 1997, c. 587.

### § 15.2-1619. When officers not to take obligations.

No officer shall, by color of his office, take any obligation of or for any person in his custody, otherwise than is directed by law.

Code 1950, § 15-513; 1962, c. 623, § 15.1-78; 1997, c. 587.

### § 15.2-1620. Process, etc., sent to officer by mail.

Any sheriff or other officer may transmit by mail to the proper officer, with his return thereon, any order, warrant or process which came to his hands from beyond his locality and proof that any order, warrant or process was put into the post office, duly addressed to any officer, and that the postage thereon was paid, shall be prima facie evidence of the receipt thereof by the officer to whom the same is addressed, by due course of mail, and this prima facie evidence may be furnished by the receipt taken, at the time the order, warrant or process is put into the post office, from the postmaster, or his deputy, and the certificate of a magistrate of the acknowledgment of the receipt before him. However, an officer may protect himself from a forfeiture or fine upon such proof, by making oath that he did not himself receive the order, warrant or process, so addressed to him, and that he verily believes it was not received by any of his deputies.

Code 1950, § 15-518; 1962, c. 623, § 15.1-83; 1997, c. 587.

### § 15.2-1621. Receipts to be given by officers.

Every officer shall deliver to each person who pays him, or from whose property he makes taxes, levies, militia fines or officers' fees, a receipt for all that is so paid or made, with a statement showing how much thereof is for taxes, how much for levies, how much for militia fines and how much for officers' fees, and also the bills for such fees. Any officer failing herein shall forfeit to such person four dollars.

Code 1950, § 15-519; 1962, c. 623, § 15.1-84; 1997, c. 587.

### § 15.2-1622. Judgment against officer for money due from him.

If any officer or his deputy makes a return upon any order, warrant or process by which it appears that he has received any sum of money by virtue of such order, warrant or process or, having received any sum of money by virtue of any warrant, order or process, he fails to make proper return thereof, the person entitled to such sum of money may, by motion to the court to which, or to the clerk's office of which, such order, warrant or process was returnable, recover against such officer and his sureties and against his and their personal representatives the amount so received, with interest thereon at the annual rate of fifteen percent from the time such order, warrant or process was returnable till payment; and, upon such motion, the fact that such order, warrant or process has not been returned, as herein required, shall be prima facie proof that the whole amount required thereby to be made, principal,

interest and costs, has been collected. When such collection or return is made by a deputy, there may also be a like motion and judgment against such deputy and his sureties and against his and their personal representatives.

Code 1950, § 15-520; 1962, c. 623, § 15.1-85; 1997, c. 587.

### § 15.2-1623. Judgment for officer or sureties against deputy, etc., when officer liable for misconduct of deputy.

If any deputy of a sheriff or other officer commits any default or misconduct in office for which his principal or the personal representative of such principal is liable, or for which a judgment or decree shall be recovered against either, the principal or his personal representative may, on motion, obtain a judgment against such deputy and his sureties, and their personal representatives, for the full amount for which such principal or his personal representative may also be so liable or for which such judgment or decree may have been rendered. However, no judgment shall be rendered by virtue of this section for money for which any other judgment or decree has been previously rendered against such deputy or his sureties or their personal representatives.

Code 1950, § 15-521; 1962, c. 623, § 15.1-86; 1971, Ex. Sess., c. 155; 1997, c. 587.

### § 15.2-1624. When judgment against officer or sureties has been obtained and paid.

If any judgment or decree is obtained against a sheriff, or other officer, or his sureties, or their personal representatives, for or on account of the default or misconduct of any such deputy and shall be paid in whole or in part by any defendant therein, he or his personal representative may, on motion, obtain a judgment or decree against such deputy and his sureties and their personal representatives for the amount so paid, with interest thereon from the time of such payment and five percent damages on such amount.

Code 1950, § 15-522; 1962, c. 623, § 15.1-87; 1971, Ex. Sess., c. 155; 1997, c. 587.

### § 15.2-1625. In what court motions may be made.

Any motion under either § 15.2-1623 or § 15.2-1624 may be made in the circuit court for the county or city in which the default or misconduct of the deputy occurred or was committed.

Code 1950, § 15-523; 1962, c. 623, § 15.1-88; 1997, c. 587.

## Article 4 - ATTORNEY FOR THE COMMONWEALTH

### § 15.2-1626. Attorney for the Commonwealth.

The voters in every county and city shall elect an attorney for the Commonwealth unless otherwise provided by general law or special act. The attorney for the Commonwealth shall exercise all the powers conferred and perform all the duties imposed upon such officer by general law. He may perform such other duties, not inconsistent with his office, as the governing body may request. He shall be elected as provided by general law for a term of four years. Every county and city may, with the approval of the Compensation Board, provide for employing compensated assistants to the attorney for the Commonwealth as in the opinion of the Compensation Board may be required. Such assistant

or assistants shall be appointed by the attorney for the Commonwealth for a term coterminous with his own. The compensation for such assistants to the attorneys for the Commonwealth shall be as provided for assistants to attorneys for the Commonwealth under § 15.2-1627.1.

1997, c. 587.

**§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-250.1, 18.2-268.3, 29.1-738.2, or 46.2-341.26:3.

1977, c. 584, § 15.1-8.1; 1978, c. 141; 1988, c. 389; 1997, c. 587; 2011, c. 210; 2017, c. 623; 2020, cc. 1285, 1286.

**§ 15.2-1627.1. Salaries of attorneys for the Commonwealth and assistants.**

A. The annual salaries of attorneys for the Commonwealth shall be as prescribed in the general appropriation act, except as otherwise provided in § 15.2-1636.12.

In cities and counties having a population of more than 35,000 inhabitants, the Compensation Board, in determining the salary for the assistants to the attorney for the Commonwealth, shall consider the provisions of §§ 15.2-1628 and 15.2-1630 requiring that such attorneys serve on a full-time basis, and shall also consider the amount of the salaries paid to the assistants to the city or county attorney of such city or county.

These same factors shall also be considered in determining the salary for assistants to the attorney for the Commonwealth in cities having a population of more than 17,000 inhabitants, and less than 35,000 inhabitants when the council for such city and the Compensation Board shall concur that the attorney for the Commonwealth and all assistant attorneys for the Commonwealth shall devote full time to their duties, and shall not engage in the private practice of law.

Any city served by a full-time attorney for the Commonwealth on January 1, 1993, under the provisions hereof shall continue to be served by a full-time attorney for the Commonwealth in the event the

population of such city shall have fallen below the 17,000 population threshold in the most recent U.S. census and shall be administered in the same manner as cities with populations in excess of 17,000 but of 35,000 or less. In such jurisdictions, the attorney for the Commonwealth and his assistant attorneys and their successors in office shall be subject to the requirements regarding full-time service and part-time private practice as in effect for such positions on January 1, 1993. No further action by the council of the city or the Compensation Board shall be necessary.

B. Each assistant attorney for the Commonwealth authorized by law, if his services shall be deemed necessary by the Compensation Board, shall receive an annual salary which shall not exceed ninety percent of the salary received by the attorney for the Commonwealth of his county or city. However, after January 1, 1980, in cities having a population of more than 35,000 inhabitants, the Compensation Board shall not provide any compensation for any assistant attorney for the Commonwealth when the attorney for the Commonwealth for any such city does not serve on a full-time basis or engages in the practice of law outside of his duties as attorney for the Commonwealth.

Code 1950, § 14-66; 1950, p. 637; 1952, c. 566; 1954, cc. 648, 662; 1956, c. 630; 1964, c. 386, § 14.1-53; 1966, c. 279; 1970, c. 551; 1972, c. 215; 1973, c. 126; 1974, c. 429; 1976, c. 689; 1977, c. 623; 1980, c. 588; 1981, c. 415; 1983, c. 600; 1989, c. 293; 1993, cc. 446, 620; 1998, c. 872.

**§ 15.2-1627.2. Disposition of fees of attorneys for the Commonwealth.**

Every such attorney for the Commonwealth shall, however, continue to collect all fees which he may be entitled to receive by law, other than from the Commonwealth and any political subdivision, and shall dispose of the same as in this section provided. One-half of all fees to which attorneys for the Commonwealth are entitled for the performance of official duties or functions, shall be paid by them or such official as may collect the same, not later than the tenth day of the month following their receipt, into the treasuries of their respective counties and cities, and the remaining one-half of all such fees shall be paid by such official as may collect the same into the state treasury, not later than the tenth day of the month following their receipt.

Code 1950, § 14-67; 1964, c. 386, § 14.1-54; 1998, c. 872.

**§ 15.2-1627.3. Attorneys for the Commonwealth and city attorneys; in criminal cases; when no costs or fees taxed.**

The fees of attorneys for the Commonwealth in all felony and misdemeanor cases in which there is a conviction and sentence not set aside on appeal or a judgment for costs against the prosecutor, and for expenditures made in the discharge of his duties shall be as follows:

For each trial of a single count felony indictment, $40.

For each trial of a multiple count felony indictment, $40 per count.

For each person tried for a misdemeanor in his circuit court, $15, and for each person prosecuted by him before such court of his county or city for a misdemeanor, which he is required by law to prosecute, or upon an indictment found by a grand jury, $15, and in every misdemeanor case so prosecuted the court or judge shall tax in the costs and enter judgment for such misdemeanor fee.

No attorney for the Commonwealth or city attorney shall receive a fee for appearing in misdemeanor cases before a district court notwithstanding any provision of law to the contrary.

No costs or fees shall be taxed for, or in any way allowed to, an attorney for the Commonwealth of any city or county or a city attorney of any city in any case, unless he in person, or by a duly authorized assistant, actually appears and prosecutes the proceedings before the court.

Code 1950, §§ 14-99, 14-130; 1964, c. 386, §§ 14.1-88, 14.1-121; 1975, c. 591; 1983, c. 229; 1998, c. 872; 1999, c. 9; 2010, c. 874; 2011, c. 890.

**§ 15.2-1627.4. Coordination of multidisciplinary response to sexual assault.**

A. The attorney for the Commonwealth in each political subdivision in the Commonwealth shall coordinate the establishment of a multidisciplinary response to criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, and hold a meeting, at least annually, to (i) discuss implementation of protocols and policies for sexual assault response teams consistent with those established by the Department of Criminal Justice Services pursuant to subdivision 37 d of § 9.1-102 and (ii) establish and review guidelines for the community's response, including the collection, preservation, and secure storage of evidence from Physical Evidence Recovery Kit examinations consistent with § 19.2-165.1.

B. The following persons or their designees shall be invited to participate in the annual meeting: the attorney for the Commonwealth; the sheriff; the director of the local sexual assault crisis center providing services in the jurisdiction, if any; the chief of each police department and the chief of each campus police department of any institution of higher education in the jurisdiction, if any; a forensic nurse examiner or other health care provider who performs Physical Evidence Recovery Kit examinations in the jurisdiction, if any; the Title IX coordinator of any institution of higher education in the jurisdiction, if any; representatives from the offices of student affairs, human resources, and counseling services of any institution of higher education in the jurisdiction, if any; a representative of campus security of any institution of higher education in the jurisdiction that has not established a campus police department, if any; and the director of the victim/witness program in the jurisdiction, if any. In addition, the attorney for the Commonwealth shall invite other individuals, or their designees, to participate in the annual meeting, including (i) local health department district directors; (ii) the administrator of each licensed hospital within the jurisdiction; (iii) the director of each health safety net clinic within the jurisdiction, including those clinics created by 42 C.F.R. § 491.1 and the free and charitable clinics; and (iv) as determined by the attorney for the Commonwealth, any other local health care providers.

C. Attorneys for the Commonwealth are authorized to conduct the sexual assault response team annual meetings using other methods to encourage attendance, including electronic communication means as provided in § 2.2-3708.2.

2009, c. 817; 2012, cc. 343, 625; 2016, cc. 235, 550; 2020, cc. 1072, 1073.

**§ 15.2-1627.5. Coordination of multidisciplinary response to child sexual abuse and the abuse, neglect, and exploitation of adults.**

A. The attorney for the Commonwealth in each jurisdiction in the Commonwealth shall establish a multidisciplinary child sexual abuse response team, which may be an existing multidisciplinary team. The multidisciplinary team shall conduct regular reviews of new and ongoing reports of felony sex offenses in the jurisdiction involving a child and the investigations thereof and, at the request of any member of the team, may conduct reviews of any other reports of child abuse and neglect or sex offenses in the jurisdiction involving a child and the investigations thereof. The multidisciplinary team shall meet frequently enough to ensure that no new or ongoing reports go more than 60 days without being reviewed by the team.

B. The following individuals, or their designees, shall participate in review meetings of the multidisciplinary team established pursuant to subsection A: the attorney for the Commonwealth; law-enforcement officials responsible for the investigation of sex offenses involving a child in the jurisdiction; a representative of the local child protective services unit; a representative of a child advocacy center serving the jurisdiction, if one exists; and a representative of an Internet Crimes Against Children task force affiliate agency serving the jurisdiction, if one exists. In addition, the attorney for the Commonwealth may invite other individuals, or their designees, including the school superintendent of the jurisdiction; a representative of any sexual assault crisis center serving the jurisdiction, if one exists; the director of the victim/witness program serving the jurisdiction, if one exists; and a health professional knowledgeable in the treatment and provision of services to children who have been sexually abused.

C. The attorney for the Commonwealth in each jurisdiction may also establish a multidisciplinary adult abuse, neglect, and exploitation response team to review cases of abuse, neglect, and exploitation of adults as defined in § 63.2-1603. The multidisciplinary team may be established separately or in conjunction with any already existing multidisciplinary team.

2014, cc. 780, 801; 2019, cc. 170, 775.

**§ 15.2-1628. Attorneys for the Commonwealth and assistants in certain counties to devote full time to duties; no additional compensation for substituting for or assisting any other attorney for the Commonwealth or assistant.**

A. In counties having a population of more than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, except volunteer assistant attorneys for the Commonwealth appointed by the attorney for the Commonwealth, shall devote full time to their duties, and shall not engage in the private practice of law.

Any attorney for the Commonwealth or assistant attorney for the Commonwealth shall, however, have a reasonable time, not to exceed thirty days, after assuming such office to provide for his disassociation from the private practice of law, if such attorney for the Commonwealth or assistant attorney for the Commonwealth was previously engaged in the private practice of law.

B. The provisions of this section requiring all compensated attorneys for the Commonwealth to devote full time to their duties shall not apply in counties reaching a population of more than 35,000, which

had a population of 35,000 or less immediately prior to the commencement of the term for which the attorney for the Commonwealth sought office.

C. Notwithstanding any other provisions of law, no attorney for the Commonwealth or assistant required to devote full time to his duties shall receive any additional compensation from the Commonwealth or any county or city for substituting for or assisting any other attorney for the Commonwealth or his assistant in any criminal prosecution or investigation.

D. In any county where, on January 1, 1993, attorneys for the Commonwealth were required to devote full time to their duties in accordance with subsection A of this section, they and all assistant attorneys for the Commonwealth and their successors shall continue to devote full time to their duties and shall not engage in the private practice of law.

1977, c. 623, § 15.1-50.1; 1981, c. 296; 1982, c. 474; 1983, c. 361; 1991, c. 270; 1993, c. 858; 1994, cc. 780, 792; 1997, c. 587; 2000, c. 913.

**§ 15.2-1629. Part-time attorneys for the Commonwealth in certain counties may seek full-time status.**

A. Notwithstanding §§ 15.2-1627.1 and 15.2-1628, any attorney for the Commonwealth for a county may, with the consent of the Compensation Board, elect to devote full time to the duties of attorney for the Commonwealth at a salary equal to that for an attorney for the Commonwealth in a county with a population of more than 35,000. Such an election and consent by the Compensation Board shall be binding on the attorney for the Commonwealth and on successors in the office.

B. The Compensation Board shall prepare a list of localities eligible to have a full-time attorney for the Commonwealth and shall prioritize the list according to the same workload measures used by the Compensation Board in staffing standards established for assistant attorney for the Commonwealth positions in Commonwealth's Attorneys' offices statewide.

C. Upon electing to become a full-time attorney for the Commonwealth and upon receiving additional funding of such office by the Compensation Board, the attorney for the Commonwealth shall not thereafter engage in the private practice of law. No such election shall become effective until the July 1 immediately following the date of election, or until another date as agreed upon by the attorney for the Commonwealth and the Compensation Board.

D. The Compensation Board shall fund such additional full-time offices of the attorney for the Commonwealth according to the priority list established in subsection B of this section, subject to appropriations by the General Assembly.

1993, c. 826, § 15.1-50.3; 1996, c. 561; 1997, c. 587; 2007, c. 417.

**§ 15.2-1630. Attorneys for the Commonwealth for cities; no additional compensation for substituting for or assisting any other attorney for the Commonwealth or assistant.**

The voters in every city shall elect, for a term of four years, an attorney for the Commonwealth. Any city not required to have or to elect such officer prior to July 1, 1971, shall not be so required by this

section. Assistant attorneys for the Commonwealth for cities may be appointed by the attorney for the Commonwealth for such city. Such assistants shall receive such compensation as shall be fixed in the manner provided by law. However, volunteer assistant attorneys for the Commonwealth serving without compensation may be appointed by the attorney for the Commonwealth without approval of the governing body or the Compensation Board. All assistant attorneys for the Commonwealth shall perform such duties as are prescribed by their respective attorney for the Commonwealth. In cities having a population of more than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, except volunteer assistants serving without compensation, shall devote full time to their duties, and shall not engage in the private practice of law; however, this provision shall not apply in cities reaching a population of more than 35,000, which had a population of 35,000 or less immediately prior to the commencement of the term for which the attorney for the Commonwealth sought office. In cities having a population of more than 17,000 and less than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, except volunteer assistants serving without compensation, shall devote full time to their duties, and shall not engage in the private practice of law, if the council of the city and the Compensation Board all concur that he shall so serve. The office of assistant attorney for the Commonwealth heretofore created and provided for in the charters of such cities is hereby abolished.

Notwithstanding any other provisions of law, no attorney for the Commonwealth or assistant required to devote full time to his duties shall receive any additional compensation from the Commonwealth or any city or county for substituting for or assisting any other attorney for the Commonwealth or his assistant in any criminal prosecution or investigation.

Any attorney for the Commonwealth who is serving full time when the population for his city declines to 35,000 or less, according to a new United States census, may elect to continue serving on a full-time basis for the remainder of his current term and any subsequent successive terms. So long as he continues to serve on a full-time basis, he shall be compensated for full-time service on the same basis as an attorney for the Commonwealth in a city having a population of 35,001.

Any city served by a full-time attorney for the Commonwealth on January 1, 1993, under the provisions hereof shall continue to be served by a full-time attorney for the Commonwealth in the event the population of such city shall have fallen below the 17,000 population threshold in the most recent U.S. census and shall be administered in the same manner as cities with populations in excess of 17,000 but of 35,000 or less. In such jurisdictions, the attorney for the Commonwealth and his assistant attorneys and their successors in office shall be subject to the requirements regarding full-time service and part-time private practice as in effect for such positions on January 1, 1993. No further action by the council of the city or the Compensation Board shall be necessary.

Code 1950, § 15-414; 1956, c. 590; 1962, cc. 523, 623, § 15.1-821; 1971, Ex. Sess., c. 159; 1974, c. 470; 1977, c. 623; 1981, c. 296; 1983, c. 361; 1986, c. 497; 1991, c. 270; 1993, cc. 446, 620; 1994, cc. 780, 792; 1997, c. 587; 2000, c. 913.

**§ 15.2-1631. Part-time attorneys for the Commonwealth in certain cities may seek full-time status.**

A. Notwithstanding §§ 15.2-1627.1 and 15.2-1630, any attorney for the Commonwealth for a city may, with the consent of the Compensation Board, elect to devote full time to the duties of attorney for the Commonwealth at a salary equal to that for an attorney for the Commonwealth in a city with a population of more than 35,000. Such an election and consent by the Compensation Board shall be binding on the attorney for the Commonwealth and on successors in the office.

B. The Compensation Board shall prepare a list of localities eligible to have a full-time attorney for the Commonwealth and shall prioritize the list according to the same workload measures used by the Compensation Board in staffing standards established for assistant attorney for the Commonwealth positions in Commonwealth's Attorneys' offices statewide.

C. Upon electing to become a full-time attorney for the Commonwealth and upon receiving additional funding of such office by the Compensation Board, the attorney for the Commonwealth shall not thereafter engage in the private practice of law. No such election shall become effective until the July 1 immediately following the date of election, or until another date as agreed upon by the attorney for the Commonwealth and the Compensation Board.

D. The Compensation Board shall fund such additional full-time offices of the attorney for the Commonwealth according to the priority list established in subsection B of this section, subject to appropriations by the General Assembly.

1993, c. 826, § 15.1-821.1; 1996, c. 561; 1997, c. 587; 2007, c. 417.

### § 15.2-1632. Employment of assistants to attorneys for the Commonwealth, subject to approval of Compensation Board.

Every county and city may, with the approval of the Compensation Board, provide for employing such additional compensated assistant or assistants to the attorney for the Commonwealth as in the opinion of the governing body may be required. Such assistant or assistants shall be appointed by the attorney for the Commonwealth. The compensation for such assistants to the attorneys for the Commonwealth shall be as provided for assistants to attorneys for the Commonwealth under § 15.2-1627.1.

Code 1950, §§ 15-9.1, 15-9.2; 1956, cc. 245, 669; 1960, c. 53; 1962, cc. 189, 487, 623, § 15.1-9; 1964, c. 313; 1964, Ex. Sess., c. 3; 1994, cc. 780, 792; 1997, c. 587; 2000, c. 913.

### § 15.2-1633. Part-time compensated assistants to attorneys for the Commonwealth.

Notwithstanding any contrary provisions of §§ 15.2-1627.1, 15.2-1628 and 15.2-1630, the Compensation Board at the request of the attorney for the Commonwealth may provide for one compensated part-time assistant to a full-time attorney for the Commonwealth.

1983, c. 476, § 15.1-50.2; 1994, cc. 780, 792; 1997, c. 587; 2000, c. 913.

## Article 5 - CLERKS OF CIRCUIT COURTS

### § 15.2-1634. Clerks of circuit courts.

The voters in every county and in each city which has a circuit court, shall elect for a term of eight years, a clerk of such court unless otherwise provided by general law or special act. He shall be clerk of the circuit court and may also be the clerk of the governing body if the governing body so designates. He shall exercise all the powers conferred and perform all the duties imposed upon such officers by general law and may perform such other duties, not inconsistent with his office, as may be requested of him by the governing body.

1997, c. 587.

**§ 15.2-1635. Appointment of deputy when clerk of circuit court unable to perform duties.**
Whenever it is found by the judge of a circuit court that a clerk of such court is, by reason of mental or physical disability, temporarily unable to perform his duties, the judge of the court may, by order entered of record, designate some other person as deputy clerk to perform the duties of such clerk. The person so designated may be the clerk or deputy clerk of another county or city or any other qualified person, and in the event that he is from another county or city, the provisions of §§ 15.2-1525 and 15.2-1534 shall not apply.

The person so designated shall thereby become a deputy of the regular clerk and shall be vested with all the authority of a regular clerk and may perform all acts which are required by law to be performed by such clerk with the same effect as if performed by the clerk for whom he serves as deputy, and shall before entering upon his duties take the oath prescribed in § 49-1, and furnish bond in the same amount as is required of the clerk.

The person so designated shall serve at the pleasure of the court during the disability of the clerk and within the limits of the unexpired term of the clerk.

No compensation out of the state or local treasury shall be paid such person designated under this section for his services while acting in such capacity but any expense incurred shall be paid by the county or city in which such service is performed upon the order of the judge of such court.

Code 1950, § 15-485.1; 1952, c. 187; 1962, c. 623, § 15.1-49; 1993, cc. 621, 781; 1997, c. 587.

**§ 15.2-1635.1. Maximum total compensation for clerk of the court in certain counties.**
In Arlington, Fairfax, Fauquier, Loudoun, and Rappahannock Counties, wherein the clerk of the circuit court serves also as the clerk of the general district court and juvenile and domestic relations district court under the provisions of § 16.1-69.38, such clerk may be paid a sum not to exceed $5,000, by local supplement, for each of the two district courts served.

1998, c. 872.

## Article 6 - COMMISSIONER OF THE REVENUE

**§ 15.2-1636. Commissioner of the revenue.**
The voters in every county and city shall elect a commissioner of the revenue, unless otherwise provided by general law or special act. The commissioner of the revenue shall exercise all the powers conferred and perform all the duties imposed upon such officer by general law. He may perform such

other duties, not inconsistent with his office, as the governing body may request. He shall be elected for a term of four years as provided by general law.

1997, c. 587.

## Article 6.1 - COMPENSATION BOARD GENERALLY

### § 15.2-1636.1. Salaries of city commissioners of the revenue.

The annual salaries of city commissioners of the revenue under this article shall be as prescribed in the general appropriation act, except as otherwise provided in § 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-70, 14-70.1, 14-70.2 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

Code 1950, §§ 14-70 through 14-70.2; 1952, c. 479; 1956, c. 605; 1960, c. 417; 1964, c. 386, § 14.1-57; 1966, c. 637; 1970, c. 679; 1972, c. 617; 1974, c. 271; 1976, c. 400; 1977, c. 565; 1980, c. 588; 1983, c. 600; 1998, c. 872.

### § 15.2-1636.2. Salaries of county commissioners of the revenue.

The annual salaries of county commissioners of the revenue under this article shall be as prescribed in the general appropriation act, except as otherwise provided in § 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-71, 14-71.1, 14-71.2, 14-71.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

Code 1950, §§ 14-71 through 14-71.3; 1952, c. 479; 1954, c. 629; 1956, c. 603; 1960, c. 416; 1964, c. 386, § 14.1-58; 1966, cc. 501, 565, 637; 1970, c. 679; 1972, c. 617; 1974, c. 271; 1976, c. 400; 1977, c. 565; 1980, c. 588; 1981, c. 415; 1983, c. 600; 1998, c. 872.

### § 15.2-1636.3. Real estate transfer and license fees in counties.

The treasurers of the several counties shall hereafter collect the license fees and any other fees of the county commissioners of the revenue and shall pay the county fees into the county treasury and the state fees into the state treasury.

Code 1950, § 14-72; 1964, c. 386, § 14.1-59; 1998, c. 872.

### § 15.2-1636.4. Real estate transfer and license fees in cities.

Such officers as may be authorized by law to collect city licenses shall collect all such license fees and apply them to the credit of their respective city treasuries. The treasurers of the several cities shall hereafter collect all state license fees and apply them to the credit of the Commonwealth.

Code 1950, § 14-73; 1964, c. 386, § 14.1-60; 1998, c. 872.

### § 15.2-1636.5. Membership; compensation.

The Compensation Board shall consist of the Auditor of Public Accounts, the State Tax Commissioner, as ex officio members, and one member, who may or may not be an officer or employee of the Commonwealth, who shall be appointed and designated as chairman of the Board by the

Governor and who shall hold office at the pleasure of the Governor. The ex officio members of the Board shall not receive any compensation for their services as such members. The member designated by the Governor as chairman shall receive such compensation as shall be fixed by law.

Code 1950, § 14-60; 1964, c. 386, § 14.1-48; 1983, c. 382; 1998, c. 872.

### § 15.2-1636.6. Duties of chairman.

The chairman of the Board shall supervise the administrative work of the Board; receive, file, collate and classify the reports of the respective officers required to report to the Board; call meetings of the Board whenever any matters arise requiring its consideration or action; and have available for and lay before the Board all information necessary for the decision of questions coming before it. He shall conduct all correspondence with the various officers within the jurisdiction of the Board and institute and supervise investigations into the affairs and conduct of all such officers, as and when the Board may direct. He shall preside at all meetings of the Board and cause to be prepared and recorded proper minutes of the action taken at all such meetings, and keep and preserve all papers, books, correspondence and records of the Board.

Code 1950, § 14-61; 1964, c. 386, § 14.1-49; 1998, c. 872.

### § 15.2-1636.6:1. Statement of receipts and expenses of officers.

The Compensation Board shall as soon as practicable annually furnish the board of supervisors or other governing body of each county and city with the statement showing receipts and expenses of office and of officers making report under this article.

Code 1950, § 14-158; 1964, c. 386, § 14.1-158; 1972, c. 202; 1998, c. 872.

### § 15.2-1636.7. Filing requests for salaries.

At the times hereinafter prescribed, every attorney for the Commonwealth, every city and county treasurer and commissioner of the revenue, or any officer, whether elected or appointed, who holds the combined office of county or city treasurer and commissioner of the revenue, and every sheriff, in addition to all such officers serving two or more local governments who were elected pursuant to § 15.2-1602, shall file with the chairman of the Board, upon forms prescribed by it, a written request for the expense of his office, stating the amount of salaries requested, and itemizing each item of expense for which allowance is sought, and every such officer shall concurrently file a copy of the request with the governing body of the county or city. Such requests shall be filed on or before February 1 preceding the beginning of the fiscal year for which such requests are made.

The chairman of the Board may, at any time, submit to any officer a written questionnaire concerning the affairs of his office, to ascertain all facts relevant to the determination of the proper allowance to be made with respect to the officer's salaries and the expenses of his office. Every officer shall answer fully and completely all questions so propounded and shall return the questionnaire to the chairman within five days.

The provisions of this section shall not affect the powers of any county operating under an optional form of organization and government as provided by Chapter 3 (§ 15.2-300 et seq.) of this title to determine the budgets of the aforementioned officers.

Code 1950, § 14-62; 1962, c. 439; 1964, c. 386, § 14.1-50; 1966, c. 688; 1972, c. 731; 1978, c. 431; 1979, c. 233; 1980, c. 588; 1983, c. 382; 1989, c. 242; 1998, c. 872.

**§ 15.2-1636.8. Duties of Board in fixing salaries, expenses, etc.**

All salaries of such officers shall be as hereinafter provided. The expenses and other allowances of all such officers shall be fixed and determined on or before May 1 of each year. The Board shall, no later than the fifteenth day following final adjournment of the General Assembly of Virginia in each session, provide to such officers and the local governing body of each city and county he represents, an estimate of expenses and other allowances to be fixed by the Board for the next fiscal year. The Board shall, at meetings duly called by the chairman, carefully consider the questionnaires and written requests filed as required by § 15.2-1636.7 and consider the work involved in the discharge of the duties of the respective officers, the extent to which such duties are imposed by actions of the local governing body, the amount expended or proposed to be expended by each for clerks, deputies and other assistants, the efficiency with which the affairs of each such office are conducted, and such other matters as the Board may deem pertinent and material, including the number of local governments served if more than one, including the pay and compensation plan of each political subdivision, if it has one, and the locality's plans for adjustments of salaries and expenses for the ensuing fiscal year, as well as the plan of the Commonwealth for adjustment of state salaries and expenses for such year. The Board shall fix and determine what constitutes a fair and reasonable budget for the participation of the Commonwealth toward the total cost of the office. In its deliberations with respect to any office of an attorney for the Commonwealth, the Board shall not consider whether volunteer assistants are being used in that office. Such budgets, in the aggregate, shall not contemplate state expenditures in excess of the appropriation available to the Board. Prior to holding any such meeting for the fixing of salaries and expenses as provided in this article, ten days' written notice of the time, place and purpose of such meeting shall be given every officer affected and to the mayor or city manager of the city or to the chairman of the governing body and administrator, executive or manager of the county affected.

When the salaries, expenses and other allowances for the several counties and cities have been tentatively fixed by the Board they shall notify the governing body of each city and county of the amounts so fixed. Within thirty days thereafter, but not later, the governing body may file with the Compensation Board any objection it may have to such allowances so fixed. When such objection is filed the Board shall fix a time for a hearing on such objection, of which time the governing body as well as the officer affected shall have at least fifteen days' notice. For the purpose of determining the merits of such protest the governing body may designate two members of such body to serve as additional members of the Compensation Board and such additional members shall each have one vote on the Board.

The chairman of the Board shall record the salary of each such officer, his clerks, assistants and deputies, and the allowances made for other items, and shall promptly notify each such officer of the same with respect to his office.

In fixing, determining and recording the salaries of the full-time deputy sheriffs mentioned in § 15.2-1609.2, the Board shall act solely with reference to establishing an aggregate allowance for personal services to the respective sheriffs for such deputy sheriffs. The annual salary of each such full-time deputy sheriff shall be fixed and determined as provided by § 15.2-1609.2.

Code 1950, §§ 14-63, 14-64; 1964, c. 386, § 14.1-51; 1966, c. 688; 1979, cc. 233, 538; 1980, cc. 587, 588; 1983, c. 382; 1989, c. 242; 1994, cc. 780, 792; 1998, c. 872; 2000, c. 913.

**§ 15.2-1636.9. Appeal from decision of Board.**

A. Any officer whose budget is affected by a decision of the Board under this article made for the fiscal year pursuant to and at the time designated by §§ 15.2-1636.7 and 15.2-1636.8 and no other, or any county or city affected thereby, or the Attorney General as representative of the Commonwealth, shall have the right to appeal from any such decision of the Board, within forty-five days from the date of such decision. Such appeal shall lie to the circuit court of the county or city wherein the officer making the appeal resides. The court shall be presided over by three judges of circuit courts remote from that to which the appeal is taken. The three judges shall be chosen by the Chief Justice of the Supreme Court from a panel of fifteen active or retired judges selected to hear such matters by the Supreme Court. Such judges shall remain on the panel for a period of time determined by the Chief Justice of the Supreme Court. No judge may be appointed to hear an appeal involving a jurisdiction in his current or former circuit. Notice of such appeal shall be given within the time above specified by any such officer to the Compensation Board, the county or city affected and the Attorney General. The officer appealing shall, in the appeal, state with specificity what action of the Compensation Board the officer is contesting, the additional services provided to the locality not required by law, and the cost of providing such service. The Compensation Board shall notify the Chief Justice forthwith when all administrative remedies have been exhausted by the appellant and the three-judge court shall be designated upon receipt of the notice by the Chief Justice. The appeal shall be heard within forty-five days from the date such notice is filed by the Board with the Chief Justice. At least fifteen days' notice of the time and place set for the hearing shall be given the officer noting such appeal, the county or city affected, the Compensation Board and the Attorney General. On such appeal all questions involved in said decision shall be heard de novo by the court and its decision on all questions shall be certified by the clerk thereof to the officer affected, to the locality and to the chairman of the Compensation Board.

In making its decision, the court shall give consideration to the amount of funds budgeted and expended by the local government for the constitutional officer which exceeds the amount reimbursed by the Compensation Board, the extent to which the officer provides additional services to the locality not required by law and to what extent, if any, the local government should participate in providing the additional funding requested by the constitutional officer. The court shall also give consideration both

to the officer's ability to perform his statutory duties without additional funding and the ability of the Compensation Board and local government to provide additional funding for the officer's functions. The court shall also consider maximum staffing and funding levels set in the general appropriation act and any other statutory provisions which would otherwise prohibit the Compensation Board from granting the officer's request. The burden of proving the necessity of additional funding shall be borne by the officer. After due consideration of Compensation Board and local government statutory authority and the constitutional officer's demonstrated need for additional funding, the court shall determine the extent to which the Compensation Board and local government shall share in the additional funding. Should the court determine that additional funding is necessary for the officer to perform his duties, and that it is the responsibility of the Compensation Board to provide all or part of the additional funds, and that the Compensation Board does not have the ability to provide such additional funding, the Compensation Board shall request the necessary additional funding from the General Assembly at its next occurring regular session.

Should the court determine that additional funding is necessary for the officer to perform his duties and that it is the responsibility of the local government to provide all or part of the additional funds, and that the local government does not have the ability to provide such additional funding, the chief administrative officer of the local government shall include such request in the budget submission to the local governing body.

From the decision of the court there shall be no right of further appeal. The decision of the court shall be within the difference between the amounts originally requested by the appealing officer pursuant to § 15.2-1636.7 and the amounts fixed by the Compensation Board for such fiscal year; however, when the appeal is filed by a county or city such decision shall be within the difference between the prior salaries, expenses and other allowances of such officer and the amounts fixed by the Compensation Board for such fiscal year. In the event an appeal is filed by both the officer affected and the county or city affected, such decision shall be within the difference between the amounts originally requested by the appealing officer pursuant to § 15.2-1636.7 and the prior salaries, expenses and other allowances of such officer.

In pursuing the provisions of this section, constitutional officers may use funds designated by the Compensation Board or appropriated by their local governing body to employ independent counsel, provided that funds have been specifically appropriated for such purpose.

B. Notwithstanding the provisions of subsection A, no appeal of any decision of the Board shall lie to the circuit court from the date of enactment of this subsection until July 1, 1993, at which time the circuit court may consider appeals for all fiscal years affected by this moratorium and for subsequent fiscal years.

Code 1950, § 14-65; 1964, c. 386, § 14.1-52; 1971, Ex. Sess., c. 156; 1972, c. 390; 1974, c. 465; 1976, c. 673; 1977, c. 80; 1980, c. 588; 1983, c. 382; 1991, c. 617; 1992, c. 342; 1993, cc. 554, 563; 1995, c. 733; 1998, c. 872.

**§ 15.2-1636.10. Appeals from certain decisions affecting expenses, etc., of circuit court clerks.**
Any clerk of a circuit court shall have a right to appeal from the annual budget decision of the Board under this article affecting the expenses or allowances of the clerk, or the salary and number of clerk's deputies. In addition, any county or city affected by such decision or the Attorney General as representative of the Commonwealth shall have the right to appeal from the decision. Such appeals shall be taken and heard as provided in § 15.2-1636.9.

1984, c. 654, § 14.1-52.01; 1998, c. 872.

**§ 15.2-1636.11. Determination of population.**
For the purpose of fixing salaries specified in §§ 15.2-1608.1, 15.2-1608.2, 15.2-1609.2, 15.2-1627.1, 15.2-1636.1, and 15.2-1636.2, the population of each county and city shall be according to the last preceding United States census. If the area of any city has, since the last preceding United States census, been increased by annexation, the population of such city, for such purposes, shall be the population thereof as shown by the last preceding United States census, plus the increase resulting from such annexation. Whenever it appears to the satisfaction of the Compensation Board that the population of any county or city has, since the last preceding United States census, increased so as to entitle such county or city to be placed in a higher salary bracket, such county or city shall be considered within such higher salary brackets.

Code 1950, § 14-74; 1964, c. 386, § 14.1-61; 1983, c. 600; 1998, c. 872.

**§ 15.2-1636.12. Increase in salaries in certain cases.**
Any officer whose salary in the year ending June 30, 1980, included an increase under deleted provisions of former § 14.1-62 shall receive the same amount of such increase for the terms in which he continues in office.

Code 1950, § 14-75; 1956, c. 455; 1964, c. 386, § 14.1-62; 1980, c. 588; 1998, c. 872.

**§ 15.2-1636.13. Time and manner of payment.**
A. The salaries fixed in accordance with this article shall be paid in equal monthly installments. The expenses and other allowances of office within the limits fixed by the Board shall be paid monthly on the submission of satisfactory evidence that such expenses and other allowances were actually incurred. All counties and cities shall pay the entire amount of such salaries, expenses and other allowances and, upon notification to the Board, the Commonwealth shall reimburse all such counties and cities for the Commonwealth's proportionate share of such salaries, compensation, benefits under § 51.1-137, and other expense allowances.

B. In the event a county or city shall fail to make timely payment of the salaries, expenses or other allowances fixed in accordance with the provisions of law applicable thereto, the Board shall withhold all reimbursements for the office or offices affected thereby until such salaries, expenses or other allowances have been paid, unless such county or city has appealed pursuant to § 15.2-1636.8 or § 15.2-1636.9.

C. The Board may provide advance payments on a monthly pro rata basis to any county or city and adjust subsequent monthly advances based on actual expenditures incurred in the preceding month. Should the Board elect to make such advance payments to any locality, then it shall make such advance payments to all localities which request the same.

Code 1950, § 14-76; 1964, c. 386, § 14.1-63; 1972, c. 564; 1976, c. 674; 1983, c. 326; 1984, c. 564; 1998, c. 872.

**§ 15.2-1636.14. Proportion borne by Commonwealth and by localities.**

A. The salaries, expenses and other allowances of attorneys for the Commonwealth in counties and cities as fixed and determined by the Compensation Board shall be paid by the Commonwealth after July 1, 1980.

B. The salaries, expenses and other allowances of treasurers and commissioners, or any officers, whether elected or appointed, who hold the combined office of county or city treasurer and commissioner of the revenue in the counties and cities shall be paid in the proportion of one-half by the respective counties and cities and one-half by the Commonwealth, except as hereafter in this section provided.

C. The salary, expenses and other allowances of any city treasurer who neither collects nor disburses local taxes or revenues shall be paid entirely by the Commonwealth and the salary, expenses and other allowances of any city treasurer who disburses local revenues but does not collect the same shall be paid in the proportion of one-third by the city and two-thirds by the Commonwealth.

D. In no event shall the amount paid by each city and county as its share of the salary of its respective treasurer and commissioner in any fiscal year exceed the actual dollar amount paid by such city and county for such salaries during the fiscal year ending June 30, 1980.

E. In the case of each county and city treasurer except a city treasurer who neither collects nor disburses local taxes or revenues, and in the case of each county and city commissioner of the revenue, the cost of such office furniture, office equipment and office appliances as may be specifically authorized by and included in the then current expense allowance made to such officer under the provisions of this article, shall be paid in the proportion of two-thirds by the county or city and one-third by the Commonwealth. The prices paid for such office furniture, office equipment and office appliances shall not be in excess of the prices available to the Commonwealth if such purchases were made through the Department of General Services' Division of Purchases and Supply. The words "office furniture, office equipment and office appliances," as used in this subsection, mean such items of this character as have a useful life of more than one year; and the word "cost," as used in this subsection, may include a rental cost, in the discretion of the Compensation Board, in any case in which, in the opinion of the Board, such rental cost, in whole or in part, is properly includible in the expense allowance.

F. If any county or city commissioner of the revenue or county or city treasurer uses any forms, sheets or books of any kind for the assessment or collection of state or local taxes or levies, or in connection with the assessment or collection of such taxes or levies, in lieu of the standard forms, sheets or books

furnished by the Commonwealth, no part of the cost of such forms, sheets or books shall be paid by the Commonwealth, but their entire cost shall be paid out of the treasury of the county or city whose governing body required, authorized or consented to their use. This subsection shall not be construed as enlarging the existing powers of local governing bodies to require, authorize or consent to the use of such forms, sheets or books.

G. The cost of all forms, sheets and books of all kinds used for the assessment or collection of local license and local excise taxes or used in connection with the assessment or collection of local license and local excise taxes, shall be paid entirely out of the local treasury, including the cost of any tags, stamps, stickers, or other devices intended to evidence the payment of any such local license or local excise taxes.

H. The cost of all forms, sheets and books of all kinds used in the ascertainment, billing or collection of charges for utility or other special services rendered by a county or city, or by any district or agency thereof shall be paid entirely by the locality, although it may be the duty of the treasurer or the commissioner of the revenue to ascertain or collect such charges under applicable provisions of law.

The governing body of each county and city shall provide suitable office space for the treasurer and commissioner of the revenue, together with the necessary heat, light, water and janitorial service. The entire cost of providing such office space, heat, light, water and janitorial service shall be paid out of the local treasury.

The provisions of this section, as amended, shall not affect any county operating under an optional form of organization and government as provided by Chapter 3 (§ 15.2-300 et seq.) of this title.

Code 1950, § 14-77; 1954, c. 652; 1964, c. 386, § 14.1-64; 1972, c. 731; 1977, c. 623; 1979, c. 83; 1980, c. 588; 1998, c. 872.

**§ 15.2-1636.15. Manner of payment of certain items contained in budgets of county and city attorneys for the Commonwealth, treasurers and commissioners of the revenue.**

A. Whenever a county or city attorney for the Commonwealth, treasurer or commissioner of the revenue purchases office furniture, office equipment, office appliances, tax tickets for state and local taxes collectible by county and city treasurers, stationery, office supplies, postage, data processing services, printing, advertising, telephone or telegraph service, or repairs to office furniture and equipment in conformity with and within the limits of allowances duly made and contained in the then current budget of any such officer under the provisions of this article, the invoices therefor, after examination as to their correctness, shall be paid by the county or city directly to the vendors, and the Commonwealth shall monthly pay the county or city the state's proportionate part of the cost of such items on submission by such officer to the Compensation Board of duplicate invoices and such other information or evidence as the Compensation Board may deem necessary. This section shall also apply to the payment of the premiums on the official bonds of such officers, their deputies and employees, and to the premiums on burglary and other insurance, except the premium on the bond of a treasurer the payment of which is governed by other provisions of law.

B. This section shall not apply to any city treasurer whose city is not required to pay any part of the cost of such items, in which event the Board shall pay the vendor upon receipt of the required invoices and other information.

Code 1950, § 14-77.1; 1958, c. 462; 1964, c. 386, § 14.1-65; 1983, c. 382; 1998, c. 872.

**§ 15.2-1636.16. Appropriations chargeable with Commonwealth's proportion of salaries, etc.**
The Commonwealth's proportion of the salaries, expenses and other allowances of the treasurers, commissioners of the revenue, attorneys for the Commonwealth, and sheriffs shall be paid out of the appropriations made for those purposes in the general appropriation act.

The budgets fixed by the Compensation Board may thereafter be amended by the Compensation Board upon the request of the officer or local governing body or when changed circumstances so require. No budget shall be increased if any portion of the increase is payable from local funds without the concurrence of the local governing body.

All provisions of charters of cities and towns inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

Code 1950, § 14-78; 1964, c. 386, § 14.1-66; 1966, c. 688; 1980, c. 588; 1983, c. 382; 1998, c. 872.

**§ 15.2-1636.17. Payments to counties which do not have certain officers.**
The Compensation Board shall determine the compensation and expense allowances for the attorney for the Commonwealth, the treasurer and the commissioner of the revenue for each county which adopts any form of county organization and government provided for in Chapter 5 (§ 15.2-500 et seq.) or Chapter 8 (§ 15.2-800 et seq.) of this title in the same manner as if such county had not adopted such form of county organization and government and had continued to have all of such officers. Thereafter, the portion of such compensation and such expense allowances payable by the Commonwealth shall be paid into the general fund of the treasury of the county. The actual compensation and expense allowances to be paid the attorney for the Commonwealth, the treasurer and the commissioner of the revenue, or the officers, agents or employees performing the duties and exercising the powers thereof, of any such county shall be fixed and determined as provided in said Chapter 5 (§ 15.2-500 et seq.) or Chapter 8 (§ 15.2-800 et seq.) of this title without regard to the limits provided for in this article.

Code 1950, § 14-79; 1964, c. 386, § 14.1-67; 1971, Ex. Sess., c. 236; 1998, c. 872.

**§ 15.2-1636.18. Deputies, office expenses, premiums on bonds, etc.**
The Compensation Board shall determine (i) how many deputies and assistants, if any, are necessary to the efficient performance of the duties of the office of the officer filing a report required by § 17.1-283, (ii) what should be the compensation of such deputies and assistants, (iii) what allowance, if any, should be made for office expenses and premiums on official bonds, and (iv) the manner in which such compensation should be paid or such allowance made. Each of such officers shall, on or before the first day of November in each year, report to the Board, on official estimate blanks, furnished for such purpose, an estimate in itemized form showing the amount of expenses expected to be incurred

in the operation and maintenance of his office for the ensuing year, and all such expenses must be approved in advance by the Board in order to be deductible under § 17.1-284. Nothing in this section shall be construed as prohibiting the Compensation Board from increasing at any time in the year allowances for such expenses as provided in § 15.2-1636.19. The Compensation Board shall report annually to the Governor on the expenses of such office.

Code 1950, § 14-151; 1964, c. 386, § 14.1-141; 1998, c. 872.

**§ 15.2-1636.19. Adjustment of questions of division of compensation, expenses, etc.**
The Compensation Board may adjust equitably all questions of the division of compensation, allowances for deputies and assistants, office expenses and premiums on bonds which may arise due to the change of incumbents in any such offices or from any other cause. All adjustments shall be made as nearly as possible in accordance with the intent of this Code. The Board may, on written application from any clerk of a court of record, and for good cause shown, increase the allowance made to such clerks for deputies and assistants, office expenses and premiums on bonds. The governing body of a county or city may, by resolution adopted and certified, make to the Compensation Board any recommendation it may desire to make with respect to the expense account of any clerk of a court of record as to increase or decrease of expense.

Code 1950, § 14-152; 1964, c. 386, § 14.1-142; 1998, c. 872.

**§ 15.2-1636.20. Payments to localities under the Personal Property Tax Relief Act of 1998.**
Localities shall be reimbursed for the administrative costs associated with the implementation of Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1. Notwithstanding the provisions of § 15.2-1636.14 and Item 70 of Chapter 464 of the Acts of Assembly of 1998, the Compensation Board shall approve and reimburse 100 percent of such costs that it deems fair and reasonable. The manner of submitting and preparing estimates for such costs and for reimbursements shall be as directed by the Compensation Board.

1998, Sp. Sess. I, c. 2; 1999, cc. 148, 185.

## Article 7 - SHARING OF CERTAIN CONSTITUTIONAL OFFICERS

**§ 15.2-1637. Sharing of offices; transfer of jurisdiction.**
A. Any attorney for the Commonwealth, clerk of a circuit court, or sheriff who performed his duties and had jurisdiction in both a city and a county prior to July 1, 1971, as provided for in Article VII, Section 4 of the Constitution of Virginia, shall continue to serve both political subdivisions until the city is transferred in accordance with the provisions of §§ 16.1-69.6 and 17.1-506 to a judicial circuit and district which is comprised of a county other than the circuit and district where the city was situated. Until such transfer is made, the voters residing in the city shall be entitled to vote for these officers at the general election for county officers.

B. Upon the effective date of the transfer referred to in subsection A of this section, the city shall have appointed for it by the judges of the circuit court for the county in the judicial circuit to which the city

was transferred an attorney for the Commonwealth, clerk of the circuit court and sheriff, which constitutional officers shall be those of the adjoining county. In cases where the city has an elected sheriff, such sheriff shall be the only sheriff for the city. The city may contract with the county to which it was transferred for jail facilities.

In any case where the effective date of the transfer is to take place within 120 days after an election for any of these officers in the county to which the city is transferred, the voters of the city shall be entitled to vote in that election for each officer. The voting wards or precincts of the city shall be treated as precincts of the adjoining county, and no candidate for these offices shall be required to qualify separately in the city. The voters of the city shall thereafter be entitled to vote for these officers.

C. In order to complete the transfer of the jurisdiction of the respective circuit courts when the situation in subsection A occurs, the following shall control:

1. As to any crime occurring or civil cause of action arising in the city before the effective date of the transfer, the circuit court of the former judicial circuit shall have jurisdiction.

2. As to any crime occurring or civil cause of action arising in the city on or after the effective date of the transfer involving a matter required by general law to be located in a circuit court, the circuit court of the judicial circuit to which the city was transferred shall have jurisdiction.

D. All writings authorized by law to be recorded in the circuit court for the city transferred pursuant to subsection A of this section shall be recorded in the circuit court to which the city was transferred beginning on the effective date of the transfer.

1980, c. 592, § 15.1-994.1; 1987, c. 624; 1997, c. 587.

## Article 8 - Courthouses

### § 15.2-1638. County or city governing body to provide courthouse, clerk's office, jail and suitable facilities for attorney for the Commonwealth; acquisition of land.

The governing body of every county and city shall provide courthouses with suitable space and facilities to accommodate the various courts and officials thereof serving the county or city; within or outside such courthouses, a clerk's office, the record room of which shall be fireproof; a jail; and, upon request therefor, suitable space and facilities for the attorney for the Commonwealth to discharge the duties of his office. The costs thereof and of the land on which they may be, and of keeping the same in good order, shall be chargeable to the county or city. The fee simple of the lands and of the buildings and improvements thereon utilized for such courthouses shall be in the county or city, or jointly in a county and a city, and the governing body of the county or city may purchase so much of such property, as, with what it has, may be necessary for the purposes enumerated or for any other proper purpose of the county or city. However, any portion of the property owned by a county and located within a city or town and not actually occupied by the courthouse, clerk's office, or jail may be sold or exchanged and conveyed to such city or town to be used for street or other public purposes. Any such

sale or exchange by the governing body of a county shall be made in accordance with the provisions of § 15.2-1800.

The amendments contained in Chapter 90 of the 1986 Acts of Assembly shall not apply to the City of Virginia Beach.

Code 1950, §§ 15-686, 15-688; 1954, cc. 49, 264; 1956, c. 329; 1960, c. 145; 1962, cc. 283, 489, 623, § 15.1-257; 1964, c. 241; 1986, c. 90; 1997, c. 587; 2007, c. 813; 2019, c. 240.

**§ 15.2-1638.1. Administrative assistants in offices of circuit court judges who are employees of a locality.**

An employee, not employed by a constitutional officer, hired and paid by a county or city to assist with the administration of a circuit court judge's office shall serve at the sole direction and under the sole supervision of such judge. Nothing herein shall be construed to affect the authority of the circuit court clerk to (i) perform statutory duties with respect to court administration or (ii) assign deputy clerks to provide judicial assistance to the court, at the sole discretion of the clerk.

2020, c. 1061.

**§ 15.2-1639. Providing offices for various officers, judges, etc.**

The governing body of each county and city shall, if there are offices in the courthouses of the respective counties and cities available for such purposes, provide offices for the treasurer, attorney for the Commonwealth, sheriff, commissioner of the revenue, commissioner of accounts and division superintendent of schools for such county or city. Any such governing body may, if there are offices in their respective courthouses available for such purposes, provide offices for the judge of any court sitting in the county or city, and any judge of the Court of Appeals or justice of the Supreme Court who may reside in the county or city, and if such offices are not available in the courthouse, offices may be provided by the governing body, if they deem it proper, elsewhere than in the courthouse of the county or city.

Code 1950, § 15-689; 1962, c. 623, § 15.1-258; 1984, c. 703; 1997, c. 587.

**§ 15.2-1640. Renting rooms in courthouse.**

With the approval of the judge of the circuit court for the county or for the city, any vacant rooms in the courthouse, after furnishing offices to the officers listed in § 15.2-1639, may be rented for a term of not exceeding one year to other persons for office purposes, and any public room or hall in the building may be hired for compensation for the purpose of giving public entertainments. All moneys received by the counties or cities under this section, shall constitute a fund to maintain and care for such building.

Code 1950, § 15-690; 1962, c. 623, § 15.1-259; 1997, c. 587.

**§ 15.2-1641. Leasing or other use of other buildings.**

When the governing body of any county or city, pursuant to § 15.2-1638, has purchased or may hereafter purchase any land, a part of which has valuable buildings thereon, whether when so purchased

or since constructed, and that portion of the land so occupied by such buildings, or the buildings thereon is, in the discretion of such governing body, not required for the purposes mentioned in § 15.2-1639, such governing body, if deemed proper by it, may either lease such building or buildings for private or other purposes, or remodel and use the same for other public purposes. However, the lease or use shall be first approved by the judge of the circuit court for the county or for the city, as the case may be, and such lease or use shall be terminated when, in the opinion of such judge, the building or buildings or the land occupied by the same, is needed for any of the purposes enumerated in § 15.2-1638.

Code 1950, § 15-691; 1962, c. 623, § 15.1-260; 1997, c. 587.

**§ 15.2-1642. Certain conveyances of courthouse grounds validated.**

Any other provision of law to the contrary, notwithstanding, any conveyance made prior to January 1, 1954, by a county, of a portion of the county courthouse grounds, to a town to be used for public purposes, shall be in all respects valid.

Code 1950, § 15-692.1; 1954, c. 150; 1962, c. 623, § 15.1-263; 1997, c. 587.

**§ 15.2-1643. Circuit courts to order court facilities to be repaired.**

A. When it appears to the circuit court for any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure, out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause why a mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in subdivisions 1 through 4, the court facilities are in fact insecure or out of repair or otherwise pose a danger to the health, welfare and safety of court employees or the public and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the local governing body shall appoint a five-member panel, three of whom shall be qualified by training and experience as either an architect or a professional engineer, not representing the same firms, to review the court facilities in question and make

recommendations to the local governing body and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed necessary.

In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

1. Security provisions to safeguard court personnel, participants and the public;

2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;

3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and

4. Comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

In making their recommendations, the panel may consult recognized national standard works in the field.

All costs, fees and expenses of the five-member panel, after approval by the local governing body, shall be paid by the county or city that appointed the panel.

C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise unsafe, it shall issue its mandamus as provided in subsection A.

D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are allowed.

E. Nothing in this section shall be construed to authorize a circuit court to require that an additional or replacement courthouse be constructed.

Code 1950, § 15-693.1; 1962, c. 623, § 15.1-267; 1975, c. 444; 1979, c. 507; 1997, c. 587; 2002, c. 758; 2012, cc. 805, 836.

**§ 15.2-1644. Petition for removal of county courthouse; writ of election.**

A. Whenever a number of voters equal to at least one third of the voters of a county registered in the county on the January 1 preceding filing of the petition, petition the circuit court of such county, or whenever the governing body of any county by resolution duly adopted requests the circuit court for such county, for an election in such county on the question of the removal of the courthouse to one or more places specified in the petition or resolution, such court shall issue a writ of election in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, which shall fix the day of holding such election. Such petition shall also state the amount to be appropriated by the board of supervisors

for the purchase of land, unless the land is to be donated, and for the erection of necessary buildings and improvements at the new location.

B. If the courthouse is used before and after removal for any city as well as for the county, then the petition shall be signed by a number of voters equal to at least one-third of the total number of voters registered in the locality on the January 1 preceding filing of the petition. The registered voters of such city shall be eligible to sign the petition. The petition shall state the amounts to be appropriated by both the county and city. The voters of such city shall be eligible to vote in any election on the question of relocating the courthouse. The court shall issue a writ of election to such city the same as issued to and for the county.

The votes of such city voters shall be treated as if they were cast by qualified voters of the county for the purposes of these sections (§§ 15.2-1644 through 15.2-1654).

C. In the case of the removal of a county courthouse that is not located in a city or town, and that is not being relocated to a city or town, such removal shall not require a petition or approval by the voters. However, this subsection shall not apply to the removal or relocation of any county courthouse, whether located on county or city property, that is entirely surrounded by a city, and any such courthouse shall be removed or relocated only in accordance with the provisions of subsections A and B.

Code 1950, § 15-43; 1956, c. 95; 1962, c. 623, § 15.1-559; 1971, Ex. Sess., cc. 42, 245; 1975, c. 517; 1978, c. 380; 1997, c. 587; 2017, c. 487; 2018, c. 732.

**§ 15.2-1645. How election held and conducted.**

The election specified in § 15.2-1644 shall be held and conducted as other special elections are held and conducted.

Code 1950, § 15-44; 1962, c. 623, § 15.1-560; 1971, Ex. Sess., cc. 42, 245; 1997, c. 587.

**§ 15.2-1646. Certification of result to board of supervisors; procuring land and buildings; relocation to contiguous or nearby land.**

If it appears from the returns that a majority of the votes cast at the election specified in § 15.2-1644 are for the removal of the courthouse to one of the places specified in the petition or resolution, the results shall be certified to the board of supervisors of the county, with the amount authorized to be expended for land, if not donated, and for necessary buildings and improvements. If the vote is for removal, the board of supervisors shall at once proceed to acquire the necessary land at the new location, if the same has not been donated, and to erect the necessary buildings and improvements.

The relocation or expansion of a courthouse to (i) land contiguous with its present location, including contiguous property directly across a public right-of-way, or (ii) any property within 1,000 feet of the parcel upon which the courthouse is located, and within the same county, city, or town is not such a removal as to require authorization by the electorate.

The provisions of these sections requiring authorization by the electorate shall not apply, in the case of a joint court system, between Albemarle County and the City of Charlottesville, James City County

and the City of Williamsburg, York County and the City of Poquoson, and Greensville County and the City of Emporia, to the relocation of the courthouse to other land within the localities which it serves, from its present location, if the governing bodies find by concurrent resolutions that the existing courthouse is inadequate and that renovation or expansion of the existing courthouse is not feasible.

Code 1950, § 15-45; 1956, c. 95; 1962, c. 623, § 15.1-561; 1971, Ex. Sess., cc. 42, 245; 1975, c. 59; 1976, c. 497; 1994, c. 504; 1997, cc. 587, 598; 2005, c. 36; 2018, c. 582; 2020, c. 139.

### § 15.2-1647. Removal of court.

As soon as the courthouse is completed, the board of supervisors shall certify the fact to the judge of the circuit court for the county, who shall, after sixty days' notice, to be published in a newspaper in the county if any, and if none, then in a newspaper having general circulation in the county, order his court to be held in the new location.

Code 1950, § 15-46; 1962, c. 623, § 15.1-562; 1997, c. 587.

### § 15.2-1648. Donation of land and money.

Any town or individual may donate to the county the land necessary for its uses at any of the locations named in the petition, which shall not be less than one acre, and may offer as an inducement for such removal such sum of money as may be desired. Any offer to donate the land shall be accompanied by a deed for the land, to be regularly executed and placed in the hands of the clerk of the county. Any offer of money shall be accompanied by a certified check or other satisfactory security to be likewise placed in the hands of the clerk to be delivered by him to the treasurer of the county. If the location stated in the deed or offer of money is selected by the voters, the treasurer shall record the deed and collect and place the fund to the credit of the county to be drawn on by the board of supervisors as hereinafter directed.

Code 1950, § 15-47; 1962, c. 623, § 15.1-563; 1997, c. 587.

### § 15.2-1649. Town may issue bonds to finance donation; election on bonds.

When any town desires to donate to the county any land or sums of money as an inducement for such removal and the town has not sufficient funds in its treasury as it may desire to offer, the town may borrow the money and issue its bonds therefor. Whenever a number of voters equal to at least twenty-five percent of the voters of such town, registered in the town on the January 1 preceding the filing of the petition, petition the circuit court for the county wherein such town is located for an election to be held on such bond issue, the circuit court shall, in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, issue a writ of election, ordering a special election upon such bond issue, in which the date of holding such election in the town shall be fixed. Such petition shall state the purposes for which the proceeds of such bond issue shall be used, and the amount of such issue. The election shall be held and the vote canvassed and returns made in accordance with the requirements of the general election law, except that the certificate of the electoral board shall be as follows:

"We hereby certify that at the election held in the town of..... on the..... day of....., 20....., upon the question of a bond issue of..... dollars, to be used as a donation to..... county as an

inducement for removal of the courthouse of the county to the town,..... votes were cast for the bond issue and..... votes were cast against the bond issue."

The ballots used in the election shall be as follows:

"Shall the Town of..... issue bonds to the amount of..... dollars to be used as a donation to..... County, as an inducement for the removal of the courthouse?

[ ] Yes

[ ] No"

The electoral board shall certify in duplicate the vote cast in such elections, for and against the bond issue, one of such certificates to be filed with the clerk of the county and the other with the judge of the circuit court.

Such election shall be subject to inquiry in the manner provided by § 15.2-1654.

Code 1950, § 15-48; 1962, c. 623, § 15.1-564; 1975, c. 517; 1997, c. 587.

**§ 15.2-1650. When and how council to issue bonds; payment of interest; sinking fund.**

If a majority of the voters in the town taking part in such election vote in favor of the bond issue, the council of the town may issue its bonds to the amount set out in the petition, either coupon or registered, signed by its mayor, and attested by the town clerk, and deliver the same to the clerk of the county as satisfactory security for the obligations imposed by this section. The council of the town may make annual appropriations out of the revenues of the town to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds by special levy or otherwise.

Code 1950, § 15-49; 1962, c. 623, § 15.1-565; 1997, c. 587.

**§ 15.2-1651. When supervisors may issue bonds of county.**

If the land is not donated, and the fund offered is not sufficient to acquire the land and erect the necessary buildings, or if the land is donated and the fund offered is not sufficient for the purposes aforesaid, the board of supervisors may issue the bonds of the county to an amount which with the fund offered shall be equal to the amount set out in the petition, and the proceeds of the bonds with the amount donated shall constitute the fund out of which the land shall be acquired, if not donated, and the buildings erected and improvements made. If the financial condition of the county is such as to render the issue of bonds unnecessary, the supervisors may decline to issue them. However, the amount expended shall not exceed the amount named in the petition and authorized by the voters.

Code 1950, § 15-50; 1962, c. 623, § 15.1-566; 1997, c. 587.

**§ 15.2-1652. Form of ballots for county election on removal and appropriation; certificate of electoral board.**

The ballots used in the election required by § 15.2-1644 shall be as follows:

"Shall the courthouse be removed to....., and shall the Board of Supervisors be permitted to spend $..... therefor?

[ ] Yes

[ ] No"

The manner of ascertaining the vote and making returns thereof shall conform in all respects to the requirements of the general election law, except that the certificate of the electoral board shall be as follows:

"We hereby certify, that at the election held on the..... day of....., 20....., upon the question of removing the courthouse to..... and permitting the expenditure of $..... therefor,..... votes were cast Yes; and..... votes were cast No."

Code 1950, § 15-51; 1962, c. 623, § 15.1-567; 1971, Ex. Sess., cc. 42, 245; 1977, c. 306; 1997, c. 587.

**§ 15.2-1653. Ascertaining results.**

The electoral board shall ascertain the vote from the returns, and shall certify in duplicate the votes cast for removal and authorizing the expenditure of the amount stated in the petition and against removal. One of the certificates shall be filed with the county clerk and the other with the judge of the circuit court.

Code 1950, § 15-52; 1962, c. 623, § 15.1-568; 1971, Ex. Sess., cc. 42, 245; 1997, c. 587.

**§ 15.2-1654. Contest of election.**

Returns in such election shall be subject to the inquiry, determination and judgment of the circuit court for the county in which the election is held, upon complaint of fifteen or more voters of the county of an undue election or false return. The complaint shall fully set out the grounds of contest and, if any votes were improperly received or rejected, shall give a list of such votes, with objections to the action of the election officials in receiving or rejecting the same. Two of the persons making the complaint shall take and subscribe an oath that the facts therein stated are true to the best of their knowledge and belief. The complaint shall be filed in the office of the clerk of the circuit court for the county in which such election is held. Notice of contest, stating that the complaint has been filed in the clerk's office, shall be given by posting the same at the courthouse door and at two or more public places in the county, and by publishing it once a week for two successive weeks in some newspaper published in the county or, if there is none so published, then in some newspaper having general circulation in the county. The time and place of taking depositions, if any, shall be stated in the notice, which shall entitle the parties giving the notice to take the depositions to be read as evidence in the contest. The complaint shall be filed and notice given within ten days after the election, otherwise the complaint shall not be valid. Any one or more persons who voted at such removal election may, within thirty days from the election, file in the circuit court clerk's office an answer to the complaint, in which any of the allegations of the complaint may be denied, and any statement made going to show the regularity of the old election, and the propriety of the action of the election officials in receiving or rejecting the votes set out in the complaint, and a list of the votes he or they will dispute. If the respondents desire to take depositions, notice thereof shall be given to any one or more of the persons signing the complaint. If no answer is filed to the complaint within thirty days from the election, no one shall be heard

to deny the allegations of the complaint, but the persons making the same shall prove the allegations thereof to the satisfaction of the court. The circuit court for the county in which the election is held, after the expiration of thirty days from the election, shall proceed to pass upon the complaint without a jury, on such depositions as may have been taken under the notices aforesaid, and upon such other legal testimony as may be adduced by either party at the hearing of the case. In judging such election and return, the court shall proceed on the merits thereof and decide the same on the Constitution and laws and according to the right of the case and shall enter such order as will carry its decision into full and complete effect. The judgment of the court shall be final.

Code 1950, § 15-53; 1962, c. 623, § 15.1-569; 1997, c. 587.

### § 15.2-1655. No other election held for ten years.

After an election has been held in any county upon the question of the removal of its courthouse, no other such election shall be held within ten years.

Code 1950, § 15-54; 1962, c. 623, § 15.1-570; 1997, c. 587.

## Article 9 - SUPPLIES AND EQUIPMENT

### § 15.2-1656. Supplies and equipment to be furnished to clerks of courts of record.

The governing body of each county and city shall, at the expense of the county or city, provide (i) suitable books and stationery, in addition to supplies furnished by the Commonwealth, for the use of clerks of all courts of record, together with appropriate cases and other furniture, for the safe and convenient keeping of all the books, documents and papers, in the custody of such officers; (ii) official seals for such officers; and (iii) such other office equipment, electronic or other systems, and appliances as in their judgment may be reasonably necessary for the proper conduct of such offices.

Code 1950, § 15-10.1; 1954, c. 652; 1956, c. 480; 1962, c. 623, § 15.1-19; 1973, c. 544; 1980, c. 549; 1997, c. 587; 2014, cc. 360, 589.

# Chapter 17 - Police and Public Order

## Article 1 - GENERAL PROVISIONS

### § 15.2-1700. Preservation of peace and good order.

Any locality may provide for the protection of its inhabitants and property and for the preservation of peace and good order therein.

Code 1950, § 15-556; 1962, c. 623, § 15.1-137; 1997, c. 587.

### § 15.2-1701. Organization of police forces.

Any locality may, by ordinance, provide for the organization of its authorized police forces. Such forces shall include a chief of police, and such officers and other personnel as appropriate.

When a locality provides for a police department, the chief of police shall be the chief law-enforcement officer of that locality. However, in towns, the chief law-enforcement officer may be called the town sergeant.

1979, c. 333, § 15.1-131.7; 1997, c. 587.

**§ 15.2-1702. Referendum required prior to establishment of county police force.**

A. A county shall not establish a police force unless (i) such action is first approved by the voters of the county in accordance with the provisions of this section and (ii) the General Assembly enacts appropriate authorizing legislation.

B. The governing body of any county shall petition the court, by resolution, asking that a referendum be held on the question, "Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. The notice shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county or city or, if there is no county or city attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

C. The county may expend public funds to produce and distribute neutral information concerning the referendum; provided, however, public funds may not be used to promote a particular position on the question, either in the notice called for in subsection B, or in any other distribution of information to the public.

D. The regular election officers of the county shall open the polls on the date specified in such order and conduct the election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral board of the county and on which shall be printed the following:

"Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?

[ ] Yes

[ ] No"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering the election. If a majority of the voters voting in the

election vote "Yes," the court shall enter an order proclaiming the results of the election and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed to establish a police force following the enactment of authorizing legislation by the General Assembly.

E. After a referendum has been conducted pursuant to this section, no subsequent referendum shall be conducted pursuant to this section in the same county for a period of four years from the date of the prior referendum.

1983, c. 341, § 15.1-131.6:1; 1993, c. 630; 1997, c. 587; 2000, c. 298.

**§ 15.2-1703. Referendum to abolish county police force.**

The police force in any county which established the force subsequent to July 1, 1983, may be abolished and its responsibilities assumed by the sheriff's office after a referendum held pursuant to this section.

Either (i) the voters of the county by petition signed by not less than ten percent of the registered voters therein on the January 1 preceding the filing of the petition or (ii) the governing body of the county, by resolution, may petition the circuit court for the county that a referendum be held on the question, "Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county at the next general election held in the county to open the polls and take the sense of the voters on the question as herein provided. The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election.

The ballot shall be printed as follows:

"Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?

[ ] Yes

[ ] No"

The election shall be held and the results certified as provided in § 24.2-684. If a majority of the voters voting in the election vote in favor of the question, the court shall enter an order proclaiming the results of the election, and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed with the necessary action to abolish the police force and transfer its responsibilities to the sheriff's office, to become effective on July 1 following the referendum.

Once a referendum has been held pursuant to this section, no further referendum shall be held pursuant to this section within four years thereafter.

1988, c. 660, § 15.1-131.6:2; 1997, c. 587.

### § 15.2-1704. Powers and duties of police force.

A. The police force of a locality is hereby invested with all the power and authority which formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.

B. A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in § 16.1-340, 16.1-340.1, 37.2-808, or 37.2-809, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4, and 16.1-279.1, (iii) to execute all warrants or summons as may be placed in his hands by any magistrate serving the locality and to make due return thereof, and (iv) to deliver, serve, execute, and enforce orders of isolation and quarantine issued pursuant to §§ 32.1-48.09, 32.1-48.012, and 32.1-48.014 and to deliver, serve, execute, and enforce an emergency custody order issued pursuant to § 32.1-48.02. A town police officer, after receiving training under subdivision 8 of § 9.1-102, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.

Code 1950, § 15-557; 1960, c. 167; 1962, c. 623, § 15.1-138; 1982, c. 38; 1984, c. 661; 1992, cc. 729, 742; 1995, c. 844; 1997, c. 587; 1998, c. 425; 1999, c. 495; 2007, c. 724; 2008, cc. 551, 691; 2010, cc. 778, 825.

### § 15.2-1705. Minimum qualifications; waiver.

A. The chief of police and all police officers of any locality, all deputy sheriffs and jail officers in this Commonwealth, and all law-enforcement officers as defined in § 9.1-101 who enter upon the duties of such office after July 1, 1994, are required to meet the following minimum qualifications for office. Such person shall (i) be a citizen of the United States, (ii) be required to undergo a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation, (iii) have a high school education or have passed a high school equivalency examination approved by the Board of Education, (iv) possess a valid driver's license if required by the duties of office to operate a motor vehicle, (v) undergo a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician, (vi) be at least eighteen years of age, (vii) not have been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth, and (viii) not have produced a positive result on a pre-employment drug screening, if such screening is required by the hiring law-enforcement agency or jail, where the positive result cannot be explained to the law-enforcement agency or jail administrator's satisfaction. In addition, all such officers who enter upon the duties of such office on or after July 1, 2013, shall not have been convicted of or pled guilty or no contest to (a) any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (b) any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under §

18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371, or (c) domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States.

B. Upon request of a sheriff or chief of police, or the director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized to waive the requirements for qualification as set out in subsection A of this section for good cause shown.

1982, c. 442, § 15.1-131.8; 1988, c. 396; 1994, cc. 850, 905; 1995, c. 112; 1997, c. 587; 2013, cc. 307, 468; 2014, c. 84.

**§ 15.2-1706. Certification through training required for all law-enforcement officers; waiver of requirements.**

A. All law-enforcement officers as defined in § 9.1-101 and all jail officers as defined in § 53.1-1 must be certified through the successful completion of training at an approved criminal justice training academy in order to remain eligible for appointment or employment. In order to obtain such certification, all entry level law-enforcement officers seeking certification on or after July 1, 2003, shall successfully complete statewide certification examinations developed and administered by the Department of Criminal Justice Services. The Department may delegate administration of the examinations to an approved criminal justice training academy and may revoke such delegation at its discretion. The appointee's or employee's hiring agency must provide the Department of Criminal Justice Services with verification that law-enforcement or jail officers first hired after July 1, 1994, have met the minimum standards set forth in § 15.2-1705.

B. The requirement for the successful completion of the law-enforcement certification examination may be waived by the Department of Criminal Justice Services based upon previous law-enforcement experience and training. To be eligible for such waiver, the individual must have applied for and been granted an exemption or partial exemption in accordance with § 9.1-116.

1994, cc. 850, 905, § 15.1-131.8:1; 1995, c. 112; 1997, c. 587; 1999, c. 635; 2002, c. 345; 2004, c. 477.

**§ 15.2-1707. Decertification of law-enforcement officers.**

A. The sheriff, chief of police, or agency administrator shall notify the Criminal Justice Services Board in writing within 48 hours of becoming aware that any certified law-enforcement or jail officer currently employed by his agency has (i) been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth, (ii) been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (iii) been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371,

(iv) been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States, (v) failed to comply with or maintain compliance with mandated training requirements, or (vi) refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency administrator's satisfaction. Notification shall also be provided in writing within 48 hours of becoming aware that any employee who resigned or was terminated in advance of being convicted or found guilty of an offense that requires decertification or who resigned or was terminated in advance of a pending drug screening. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction. Upon receiving such notice from the sheriff, chief of police, or agency administrator, or from an attorney for the Commonwealth, the Criminal Justice Services Board shall immediately decertify such law-enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement officer within the Commonwealth until his certification has been reinstated by the Board.

B. When a conviction has not become final, the Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.

C. The Department of Criminal Justice Services is hereby authorized to waive the requirements for decertification as set out in subsection A for good cause shown.

D. The Criminal Justice Services Board may initiate decertification proceedings against any former law-enforcement or jail officer whom the Board has found to have been convicted of an offense that requires decertification or who has failed to comply with or maintain compliance with mandated training requirements.

E. Any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction for purposes of this section unless a final order of conviction is entered.

1994, cc. 850, 905, § 15.1-131.8:2; 1995, c. 112; 1997, c. 587; 2013, cc. 307, 468; 2017, c. 496.

**§ 15.2-1708. Notice of decertification.**

A. Service of notice. The Board shall, within ten days of decertification, serve notice upon an affected officer, in person or by certified mail, and upon the law-enforcement or jail agency employing said officer, by certified mail, specifying the action taken and remedies available. The Board shall stay final action until the period for requesting a hearing expires.

B. Decertification hearing. Any law-enforcement or jail officer who has been decertified may, within thirty days of receipt of notice served by the Board, request, by certified mail, a hearing which shall be granted by the Board. Upon receipt of such request, the Board shall set a date, time, and place for the hearing within sixty days and serve notice by certified mail upon the affected officer. The Board, or a committee thereof, shall conduct such hearing. The affected officer may be represented by counsel. In

the absence of a request for hearing, decertification shall, without further proceedings, become final thirty days after the initial notice.

C. Standard of review. The decertification of a law-enforcement or jail officer under § 15.2-1707 shall be sustained by the Board unless such law-enforcement or jail officer shows, by a preponderance of the evidence, good cause for his certification to be reinstated.

D. Final decision after request for hearing. The Board shall render a final decision within thirty days.

E. Notice of final action. The Board shall notify the officer and the law-enforcement or jail agency involved, by certified mail, of the final action regarding decertification.

F. Reinstatement after decertification. Any officer who is decertified may, after a period of not less than five years, petition the Board to be considered for reinstatement of certification.

1994, cc. 850, 905, § 15.1-131.8:3; 1995, c. 112; 1997, c. 587.

**§ 15.2-1709. Employer immunity from liability; disclosure of information regarding former deputy sheriffs and law-enforcement officers.**

Any sheriff or chief of police, the director or chief executive of any agency or department employing deputy sheriffs or law-enforcement officers as defined § 9.1-101, or jail officers as defined in § 53.1-1, and the Director of the Department of Criminal Justice Services or his designee who discloses information about a former deputy sheriff's or law-enforcement officer's or jail officer's job performance to a prospective law-enforcement or jail employer of the former appointee or employee is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences. For purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former employee or appointee.

1994, cc. 850, 905, § 15.1-131.8:4; 1995, c. 112; 1997, c. 587.

**§ 15.2-1710. Fees and other compensation.**

A police officer shall not receive any fee or other compensation out of the state treasury or the treasury of a locality for any service rendered under the provisions of this chapter other than the salary paid him by the locality and a fee as a witness in cases arising under the criminal laws of the Commonwealth. A police officer shall not receive any fee as a witness in any case arising under the ordinances of his locality, nor for attendance as a witness before any magistrate serving his locality. However, if it is necessary or expedient for him to travel beyond the limits of the locality in his capacity as a police officer, he shall be entitled to his actual expenses, as provided by law for other expenses in criminal cases.

Nothing in this section shall be construed as prohibiting a police officer of a locality from claiming and receiving any reward which may be offered for the arrest and detention of any offender against the criminal laws of this or any other state or nation.

Code 1950, § 15-557; 1960, c. 167; 1962, c. 623, § 15.1-138; 1982, c. 38; 1984, c. 661; 1992, cc. 729, 742; 1995, c. 844; 1997, c. 587; 2008, cc. 551, 691.

**§ 15.2-1711. Providing legal fees and expenses for law-enforcement officers; repayment to locality of two-thirds of amount by Compensation Board.**

If any law-enforcement officer is investigated, arrested or indicted or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties, and no charges are brought, the charge is subsequently dismissed or upon trial he is found not guilty, the governing body of the locality wherein he is appointed may reimburse such officer for reasonable legal fees and expenses incurred by him in defense of such investigation or charge; such reimbursement shall be paid from the treasury of the locality.

When a governing body reimburses its sheriff or a law-enforcement officer in the sheriff's employment for reasonable legal fees and expenses as provided for in this section, then, upon certification of the reimbursement to the Chairman of the Compensation Board by the presiding officer of the governing body, the Compensation Board shall pay to the applicable locality two-thirds of the amount so certified.

1975, c. 31, § 15.1-131.6; 1979, c. 600; 1980, c. 106; 1985, c. 321; 1997, c. 587.

**§ 15.2-1712. Employment of off-duty officers.**

Notwithstanding the provisions of §§ 2.2-3100 through 2.2-3127, any locality may adopt an ordinance which permits law-enforcement officers and deputy sheriffs in such locality to engage in off-duty employment which may occasionally require the use of their police powers in the performance of such employment. Such ordinance may include reasonable rules to apply to such off-duty employment, or it may delegate the promulgation of such reasonable rules to the chief of the respective police departments or the sheriff of the county or city.

1978, c. 537, § 15.1-133.1; 1997, c. 587.

**§ 15.2-1713. Localities authorized to offer and pay rewards in felony and misdemeanor cases.**

When any felony or misdemeanor has been committed, or there has been any attempt to commit a felony in any locality, the governing body of the locality or its duly authorized agent may offer and pay a reward for the arrest and final conviction of the person or persons who committed the felony or misdemeanor or attempted to commit the felony. The reward may be paid out of the general fund of such locality.

1983, c. 525, § 15.1-137.2; 1984, c. 661; 1997, c. 587.

**§ 15.2-1713.1. Local "Crime Stoppers" programs; confidentiality.**

A. As used in this section, a "Crime Stoppers," "crime solvers," "crime line," or other similarly named organization is defined as a private, nonprofit Virginia corporation governed by a civilian volunteer board of directors that is operated on a local or statewide level that (i) offers anonymity to persons providing information to the organization, (ii) accepts and expends donations for cash rewards to persons who report to the organization information about alleged criminal activity and that the

organization forwards to the appropriate law-enforcement agency, and (iii) is established as a cooperative alliance between the news media, the community, and law-enforcement officials.

B. Evidence of a communication or any information contained therein between a person submitting a report of an alleged criminal act to a "Crime Stoppers" organization and the person who accepted the report on behalf of the organization is not admissible in a court proceeding. Law-enforcement agencies receiving information concerning alleged criminal activity from a "Crime Stoppers" organization shall maintain confidentiality pursuant to subsection C of § 2.2-3706.

2003, cc. 754, 760; 2013, c. 695; 2018, c. 48.

**§ 15.2-1714. Establishing police lines, perimeters, or barricades.**

Whenever fires, accidents, wrecks, explosions, crimes, riots, or other emergency situations where life, limb, or property may be endangered may cause persons to collect on the public streets, alleys, highways, parking lots, or other public area, the chief law-enforcement officer of any locality or that officer's authorized representative who is responsible for the security of the scene may establish such areas, zones, or perimeters by the placement of police lines or barricades as are reasonably necessary to (i) preserve the integrity of evidence at such scenes, (ii) notwithstanding the provisions of §§ 46.2-888 through 46.2-891, facilitate the movement of vehicular and pedestrian traffic into, out of, and around the scene, (iii) permit firefighters, police officers, and emergency medical services personnel to perform necessary operations unimpeded, and (iv) protect persons and property.

Any police line or barricade erected for these purposes shall be clearly identified by wording such as "Police Line -- DO NOT CROSS" or other similar wording. If material or equipment is not available for identifying the prohibited area, then a verbal warning by identifiable law-enforcement officials positioned to indicate a location of a police line or barricade shall be given to any person or persons attempting to cross police lines or barricades without proper authorization.

Such scene may be secured no longer than is reasonably necessary to effect the above-described purposes. Nothing in this section shall limit or otherwise affect the authority of, or be construed to deny access to such scene by, any person charged by law with the responsibility of rendering assistance at or investigating any such fires, accidents, wrecks, explosions, crimes or riots.

Personnel from information services such as press, radio, and television, when gathering news, shall be exempt from the provisions of this section except that it shall be unlawful for such persons to obstruct the police, firefighters, or emergency medical services personnel in the performance of their duties at such scene. Such personnel shall proceed at their own risk.

1984, c. 533, § 15.1-140.1; 1990, c. 327; 1997, c. 587; 2015, cc. 502, 503.

**§ 15.2-1715. Authority to declare Intensified Drug Enforcement Jurisdictions; expenditure of funds.**

Whenever, in the judgment of the Governor or his designee, a locality or multi-jurisdictional area is confronted with a drug trafficking problem of such a magnitude as to warrant additional resources to supplement the efforts of local officials responsible for the apprehension and prosecution of persons engaged in drug trafficking activities, he may declare such areas Intensified Drug Enforcement

Jurisdictions. Upon such declaration, the Governor, or his designee, may make available funds from the Intensified Drug Enforcement Jurisdictions Fund provided for in § 9.1-105.

1990, c. 971, § 15.1-131.12; 1997, c. 587.

**§ 15.2-1716. Reimbursement of expenses incurred in responding to DUI and related incidents.**

A. Any locality may provide by ordinance that a person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the locality or to any responding volunteer fire company or department or volunteer emergency medical services agency, or both, for restitution of reasonable expenses incurred by the locality for responding law enforcement, firefighting, and emergency medical services, including those incurred by the sheriff's office of such locality, or by any volunteer fire or volunteer emergency medical services agency, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation. The ordinance may further provide that a person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the locality or to any responding volunteer fire or volunteer emergency medical services agency, or both, for restitution of reasonable expenses incurred by the locality when issuing any related arrest warrant or summons, including the expenses incurred by the sheriff's office of such locality, or by any volunteer fire or volunteer emergency medical services agency, or by any combination of the foregoing:

1. The provisions of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, or 46.2-341.24, or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

2. The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

3. The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and

4. The provisions of § 46.2-894 relating to improperly leaving the scene of an accident.

B. Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection A shall not exceed $1,000 in the aggregate for a particular accident, arrest, or incident occurring in such locality. In determining the "reasonable expenses," a locality may bill a flat fee of $350 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the locality for responding law enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle, or other conduct as set forth herein.

1994, c. 617, § 15.1-132.1; 1995, cc. 683, 685, 830; 1997, cc. 587, 691; 2001, c. 505; 2003, c. 796; 2004, c. 273; 2005, cc. 148, 366; 2006, c. 679; 2009, c. 245; 2010, c. 343; 2015, cc. 502, 503.

**§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident, bomb threat, or malicious activation of fire alarm.**

Any locality may provide by ordinance that any person who is convicted of a violation of subsection B or C of § 18.2-46.6, a felony violation of § 18.2-83 or 18.2-84, or a violation of § 18.2-212, when his violation of such section is the proximate cause of any incident resulting in an appropriate emergency response, shall be liable at the time of sentencing or in a separate civil action to the locality or to any volunteer emergency medical services agency, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed $2,500 in the aggregate for a particular incident occurring in such locality. In determining the "reasonable expense," a locality may bill a flat fee of $250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an incident not involving a terroristic hoax or an act undertaken in violation of § 18.2-83, 18.2-84, or 18.2-212 as set forth herein.

2002, cc. 588, 623; 2005, c. 479; 2015, cc. 502, 503; 2016, c. 213; 2017, cc. 98, 519.

**§ 15.2-1716.2. Methamphetamine lab cleanup costs; localities may charge for reimbursement.**

Any locality may provide by ordinance that any person who is convicted of an offense for manufacture of methamphetamine pursuant to § 18.2-248 or 18.2-248.03 shall be liable at the time of sentencing or in a separate civil action to the locality or to any other law-enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal, or repair of the affected property or the replacement cost of personal protective equipment used.

2012, cc. 517, 616.

**§ 15.2-1717. Preventing interference with pupils at schools.**

Localities may adopt any reasonable ordinance necessary to prevent any improper interference with or annoyance of the pupils attending or boarding at any schools situated in such locality.

Code 1950, § 15-558; 1962, c. 623, § 15.1-139; 1973, c. 401; 1984, c. 661; 1997, c. 587.

**§ 15.2-1717.1. Designation of police to enforce trespass violations.**

Any locality may by ordinance establish a procedure whereby the owner, lessee, custodian, or person lawfully in charge as those terms are used in § 18.2-119, of real property may designate the local law-enforcement agency as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings or premises as specified in the designation. The ordinance shall require that any such designation be in writing and on file with the local law-enforcement agency.

1999, c. 275; 2002, c. 328.

### § 15.2-1718. Receipt of missing child reports.

No police or sheriff's department shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing child report as defined in § 52-32. Upon receipt of a missing child report by any police or sheriff's department, the department shall immediately, but in all cases within two hours of receiving the report, enter identifying and descriptive data about the child into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Missing Children Information Clearinghouse within the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

1985, c. 259, § 15.1-131.9; 1990, c. 239; 1997, c. 587; 2004, cc. 248, 443.

### § 15.2-1718.1. Receipt of missing senior adult reports.

A. No police or sheriff's department shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing senior adult report. Upon receipt of a missing senior adult report by any police or sheriff's department, the department shall immediately, but in all cases within two hours of receiving the report, enter identifying and descriptive data about the senior adult into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

B. For purposes of this section:

"Missing senior adult report" means a report prepared in a format prescribed by the Superintendent of State Police for use by law-enforcement agencies to report missing senior adult information and photograph to the Department of State Police.

2007, cc. 486, 723.

### § 15.2-1718.2. Receipt of critically missing adult reports.

A. No police or sheriff's department shall establish or maintain any policy that requires the observance of any waiting period before accepting a critically missing adult report. Upon receipt of a critically missing adult report by any police or sheriff's department, the department shall immediately, but in all cases within two hours of receiving the report, enter identifying and descriptive data about the critically missing adult into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

B. For purposes of this section:

"Critically missing adult" means any missing adult 21 years of age or older whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances.

"Critically missing adult report" means a report prepared in a format prescribed by the Superintendent of State Police for use by law-enforcement agencies to report critically missing adult information, including a photograph, to the Department of State Police.

2015, cc. 205, 223.

**§ 15.2-1719. Disposal of unclaimed property in possession of sheriff or police.**

Any locality may provide by ordinance for (i) the public sale in accordance with the provisions of this section or (ii) the retention for use by the law-enforcement agency, of any unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than 60 days, after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, sheriff or their duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, sheriff or their duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the locality served by the agency and shall be retained only if, in the opinion of the chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the locality and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the locality within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the locality shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or

compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

1982, c. 163, § 15.1-133.01; 1994, c. 144; 1997, c. 587; 2010, c. 333.

**§ 15.2-1720. Localities authorized to license bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices; disposition of unclaimed bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices.**

Any locality may, by ordinance, (i) provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the police or sheriff's department, unclaimed, for more than thirty days; (ii) require every resident owner of a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, or moped to obtain a license therefor and a license plate, tag, or adhesive license decal of such design and material as the ordinance may prescribe, to be substantially attached to the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped; (iii) prescribe the license fee, the license application forms and the license form; and (iv) prescribe penalties for operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on public roads or streets within the locality without an attached license plate, tag, or adhesive decal. The ordinance shall require the license plates, tags, or adhesive decals to be provided by and at the cost of the locality. Any locality may provide that the license plates, tags, or adhesive decals shall be valid for the life of the bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds to which they are attached or for such other period as it may prescribe and may prescribe such fee therefor as it may deem reasonable. When any town license is required as provided for herein, the license shall be in lieu of any license required by any county ordinance. Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped found and delivered to the police or sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the locality. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

Code 1950, § 15-554; 1962, c. 623, § 15.1-133; 1968, c. 24; 1970, c. 285; 1975, c. 76; 1986, c. 52; 1994, c. 449; 1997, c. 587; 2001, c. 834; 2002, c. 254; 2013, c. 783.

**§ 15.2-1721. Disposal of unclaimed firearms or other weapons in possession of sheriff or police.**

Any locality may destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than 120 days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State

Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.).

At the discretion of the chief of police, sheriff, or their duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the chief of police, sheriff, or their duly authorized agents shall comply with the notice provision contained in § 15.2-1719.

In lieu of destroying any such unclaimed firearm, the locality may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

1990, c. 324, § 15.1-133.01:1; 1997, c. 587; 2015, c. 220.

**§ 15.2-1722. Certain records to be kept by sheriffs and chiefs of police.**

A. It shall be the duty of the sheriff or chief of police of every locality to insure, in addition to other records required by law, the maintenance of adequate personnel, arrest, investigative, reportable incidents, and noncriminal incidents records necessary for the efficient operation of a law-enforcement agency. Failure of a sheriff or a chief of police to maintain such records or failure to relinquish such records to his successor in office shall constitute a misdemeanor. Former sheriffs or chiefs of police shall be allowed access to such files for preparation of a defense in any suit or action arising from the performance of their official duties as sheriff or chief of police. The enforcement of this section shall be the duty of the attorney for the Commonwealth of the county or city wherein the violation occurs.

B. For purposes of this section, the following definitions shall apply:

"Arrest records" means a compilation of information, centrally maintained in law-enforcement custody, of any arrest or temporary detention of an individual, including the identity of the person arrested or detained, the nature of the arrest or detention, and the charge, if any.

"Investigative records" means the reports of any systematic inquiries or examinations into criminal or suspected criminal acts which have been committed, are being committed, or are about to be committed.

"Noncriminal incidents records" means compilations of noncriminal occurrences of general interest to law-enforcement agencies, such as missing persons, lost and found property, suicides and accidental deaths.

"Personnel records" means those records maintained on each and every individual employed by a law-enforcement agency which reflect personal data concerning the employee's age, length of service, amount of training, education, compensation level, and other pertinent personal information.

"Reportable incidents records" means a compilation of complaints received by a law-enforcement agency and action taken by the agency in response thereto.

1975, c. 290, § 15.1-135.1; 1979, c. 686; 1981, c. 284; 1997, c. 587; 1999, cc. 703, 726.

**§ 15.2-1722.1. Prohibited practices; collection of data.**

A. No law-enforcement officer shall engage in bias-based profiling as defined in § 52-30.1 in the performance of his official duties.

B. The police force of every locality shall collect data pertaining to motor vehicle or investigatory stops pursuant to § 52-30.2 and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database established pursuant to § 52-30.3. The chief of police of the locality shall be responsible for forwarding the data to the Superintendent of State Police.

2020, c. 1165.

### § 15.2-1723. Validation of certain police forces.

Any police force in existence on July 1, 1980, whose existence is authorized or was authorized by any provision of law, general or special, that was repealed by Chapter 333 of the Acts of Assembly of 1979 is hereby validated and shall continue. Any police force in existence on December 1, 1996, whose existence is authorized or was authorized by any provision of law, general or special, that is repealed by this act is hereby validated and shall continue.

1979, c. 333, § 15.1-142.2; 1983, c. 576; 1997, c. 587.

### § 15.2-1723.1. Body-worn camera system.

A. For purposes of this section, "body-worn camera system" means an electronic system for creating, generating, sending, receiving, storing, displaying, and processing audiovisual recordings, including cameras or other devices capable of creating such recordings, that may be worn about the person.

B. No law-enforcement agency having jurisdiction over criminal law enforcement or regulatory violations shall purchase or deploy a body-worn camera system unless such agency has adopted and established a written policy for the operation of a body-worn camera system. Such policy shall follow identified best practices and be consistent with Virginia law and regulations, using as guidance the model policy established by the Department of Criminal Justice Services. Prior to the adoption of a written policy for the operation of a body-worn camera system, the agency shall make the policy available for public comment and review.

2020, c. 123.

## Article 2 - Interjurisdictional Law-Enforcement Authority and Agreements

### § 15.2-1724. Police and other officers may be sent beyond territorial limits.

Whenever the necessity arises (i) for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in § 54.1-3401 or laws contained in Article 3 (§ 18.2-47 et seq.) of Chapter 4 or Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2, (ii) in response to any law-enforcement emergency involving any immediate threat to life or public safety, (iii) during the execution of the provisions of Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title 37.2 or § 16.1-340 or 16.1-340.1 relating to orders for temporary detention or emergency custody for mental health evaluation or (iv) during any emergency resulting from the existence of a state of war, internal disorder, or fire, flood, epidemic or other public disaster, the police officers and other officers, agents and employees of any locality, the

police officers of the Division of Capitol Police, and the police of any state-supported institution of higher learning appointed pursuant to subsection B of § 23.1-812 may, together with all necessary equipment, lawfully go or be sent beyond the territorial limits of such locality, such agency, or such state-supported institution of higher learning to any point within or without the Commonwealth to assist in meeting such emergency or need, or while en route to a part of the jurisdiction which is only accessible by roads outside the jurisdiction. However, the police of any state-supported institution of higher learning may be sent only to a locality within the Commonwealth, or locality outside the Commonwealth, whose boundaries are contiguous with the locality in which such institution is located. No member of a police force of any state-supported institution of higher learning shall be sent beyond the territorial limits of the locality in which such institution is located unless such member has met the requirements established by the Department of Criminal Justice Services as provided in clause (i) of subdivision 2 of § 9.1-102.

In such event the acts performed for such purpose by such police officers or other officers, agents or employees and the expenditures made for such purpose by such locality, such agency, or a state-supported institution of higher learning shall be deemed conclusively to be for a public and governmental purpose, and all of the immunities from liability enjoyed by a locality, agency, or a state-supported institution of higher learning when acting through its police officers or other officers, agents or employees for a public or governmental purpose within its territorial limits shall be enjoyed by it to the same extent when such locality, agency, or a state-supported institution of higher learning within the Commonwealth is so acting, under this section or under other lawful authority, beyond its territorial limits.

The police officers and other officers, agents and employees of any locality, agency, or a state-supported institution of higher learning when acting hereunder or under other lawful authority beyond the territorial limits of such locality, agency, or such state-supported institution of higher learning shall have all of the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief, disability, workers' compensation and other benefits enjoyed by them while performing their respective duties within the territorial limits of such locality, agency, or such state-supported institution of higher learning.

Code 1950, § 15-552; 1962, c. 623, § 15.1-131; 1968, c. 800; 1971, Ex. Sess., c. 238; 1976, c. 457; 1977, c. 79; 1979, c. 503; 1984, c. 779; 1992, c. 566; 1993, c. 860; 1995, c. 844; 1997, c. 587; 2008, c. 437; 2010, cc. 778, 825; 2013, c. 428; 2020, c. 122.

**§ 15.2-1725. Extending police power of localities over lands lying beyond boundaries thereof; jurisdiction of courts.**

Any locality owning and operating an airport, public hospital, sanitarium, nursing home, public water supply or watershed, public park, recreational area, sewage disposal plant or system, public landing, dock, wharf or canal, public school, public utility, public buildings and other public property located beyond the limits of the locality shall have and may exercise full police power over the property, and over persons using the property, and may, by ordinance, prescribe rules for the operation and use of the property and for the conduct of all persons using the property and may, further, provide penalties

for the violation of such rules contained in an ordinance; such penalties, however, shall not exceed those provided by general law for misdemeanors. However, no ordinances in conflict with an ordinance of the jurisdiction wherein the property is located shall be enacted.

Any locality which maintains or operates in whole or in part any property enumerated in this section may lawfully send its law-enforcement officers to the property owned beyond the limits of the locality for the purpose of protecting the property, keeping order therein, or otherwise enforcing the laws of the Commonwealth and ordinances of the locality owning the property as such laws and ordinances may relate to the operation and use thereof. The law-enforcement officer shall have power to make an arrest for a violation of any law or ordinance relating to the operation and use of the property. The district court in the city or town where the offense occurs shall have jurisdiction of all cases arising therein, and the district court of the county where the offense occurs shall have jurisdiction of all cases arising therein.

It shall be the duty of the attorney for the Commonwealth for the locality wherein the offense occurs to prosecute all violators of the ordinances of the locality that pertain to the operation and use of the property enumerated in this section.

Code 1950, § 15-560.1; 1952, c. 382; 1962, c. 623, § 15.1-142; 1979, c. 333; 1997, c. 587.

**§ 15.2-1725.1. Concurrent jurisdiction; limitations.**

For the purposes of local public safety regulatory authority and enforcement, the territorial limits of the City of Virginia Beach shall extend from its coastal shorelines, the coastal shorelines of Camp Pendleton, the coastal shorelines of First Landing State Park, and the coastal shorelines of False Cape State Park in a perpendicular direction for three miles into the Atlantic Ocean and Chesapeake Bay waters. This territorial jurisdiction shall be concurrent with the jurisdiction of the Commonwealth. No ordinance enacted under this authority shall conflict with the laws or regulations promulgated by the Commonwealth or any of its agencies. This authority shall not extend to the regulatory authority held by the Virginia Marine Resources Commission as provided in § 28.2-101.

2012, c. 809.

**§ 15.2-1726. Agreements for consolidation of police departments or for cooperation in furnishing police services.**

Any locality may, in its discretion, enter into a reciprocal agreement with any other locality, any agency of the federal government exercising police powers, the police of any public institution of higher education in the Commonwealth appointed pursuant to subsection B of § 23.1-812, the Division of Capitol Police, any private police department certified by the Department of Criminal Justice Services, or any combination of the foregoing, for such periods and under such conditions as the contracting parties deem advisable, for cooperation in the furnishing of police services. Such agreements may include designation of mutually agreed-upon boundary lines between contiguous localities for purposes of organizing 911 dispatch and response and clarifying issues related to coverage under workers' compensation and risk management laws. Such agreements may also include provisions allowing for the

loan of unmarked police vehicles. Such localities also may enter into an agreement for the cooperation in the furnishing of police services with the Department of State Police. The governing body of any locality also may, in its discretion, enter into a reciprocal agreement with any other locality, or combination thereof, for the consolidation of police departments or divisions or departments thereof. Subject to the conditions of the agreement, all police officers, officers, agents and other employees of such consolidated or cooperating police departments shall have the same powers, rights, benefits, privileges and immunities in every jurisdiction subscribing to such agreement, including the authority to make arrests in every such jurisdiction subscribing to the agreement; however, no police officer of any locality shall have authority to enforce federal laws unless specifically empowered to do so by statute, and no federal law-enforcement officer shall have authority to enforce the laws of the Commonwealth unless specifically empowered to do so by statute.

The governing body of a county also may enter into a tripartite contract with the governing body of any town, one or more, in such county and the sheriff for such county for the purpose of having the sheriff furnish law-enforcement services in the town. The contract shall be structured as a service contract and may have such other terms and conditions as the contracting parties deem advisable. The sheriff and any deputy sheriff serving as a town law-enforcement officer shall have authority to enforce such town's ordinances. Likewise, subject to the conditions of the contract, the sheriff and deputy sheriffs while serving as a town's law-enforcement officers shall have the same powers, rights, benefits, privileges and immunities as those of regular town police officers. The sheriff under any such contract shall be the town's chief of police.

1970, c. 271, § 15.1-131.3; 1978, c. 9; 1984, c. 622; 1989, c. 294; 1994, c. 268; 1997, c. 587; 2008, c. 437; 2013, cc. 250, 472, 594, 775; 2014, c. 581.

**§ 15.2-1727. Reciprocal agreements with localities outside the Commonwealth.**

A locality, public institution of higher education in the Commonwealth, or private institution of higher education in the Commonwealth may, in its discretion, enter into reciprocal agreements for such periods as it deems advisable with any locality outside the Commonwealth, including the District of Columbia, in order to establish and carry into effect a plan to provide mutual aid through the furnishing of its police and other employees and agents, together with all necessary equipment, in the event of such need or emergency as provided herein. No public institution of higher education in the Commonwealth or private institution of higher education in the Commonwealth shall enter into such agreement unless the agreement provides that each of the parties to such agreement shall: (i) waive any and all claims against all the other parties thereto which may arise out of their activities outside their respective jurisdictions under such agreement and (ii) indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury which may arise out of the activities of the other parties to such agreement outside their respective jurisdictions under such agreement. Parties responding to a reciprocal agreement for mutual aid between localities shall be liable to third parties only to the extent permitted under and in accordance with the laws of the state of the party rendering aid.

The principal law-enforcement officer in any locality or of any public institution of higher education in the Commonwealth or private institution of higher education in the Commonwealth having a reciprocal agreement with a jurisdiction outside the Commonwealth for police mutual aid under the provisions hereof shall be responsible for directing the activities of all police officers and other officers and agents coming into his jurisdiction under the reciprocal agreement. While operating under the terms of the reciprocal agreement, the principal law-enforcement officer is empowered to authorize all police officers and other officers and agents from outside the Commonwealth to enforce the laws of the Commonwealth to the same extent as if they were duly authorized law-enforcement officers of the locality or a public institution of higher education in the Commonwealth or private institution of higher education in the Commonwealth.

The governing body of any locality, public institution of higher education in the Commonwealth, or private institution of higher education in the Commonwealth is authorized to procure or extend the necessary public liability insurance to cover claims arising out of mutual aid agreements executed with other localities outside the Commonwealth.

The police officers, and other officers, agents and employees of a locality, public institution of higher education in the Commonwealth, or private institution of higher education in the Commonwealth serving in a jurisdiction outside the Commonwealth under a reciprocal agreement entered into pursuant hereto are authorized to carry out the duties and functions provided for in the agreement under the command and supervision of the chief law-enforcement officer of the jurisdiction outside the Commonwealth.

In counties where no police department has been established and the sheriff is the chief law-enforcement officer, the sheriff may enter into mutual aid agreements and furnish and receive such assistance as provided by this section. Sheriffs and their deputies providing assistance pursuant to such a mutual aid agreement shall enjoy all of the authority, immunities and benefits as provided herein for police officers, including full police powers.

Code 1950, § 15-552; 1962, c. 623, § 15.1-131; 1968, c. 800; 1971, Ex. Sess., c. 238; 1976, c. 457; 1977, c. 79; 1979, c. 503; 1984, c. 779; 1992, c. 566; 1993, c. 860; 1995, c. 844; 1997, cc. 587, 638, 668; 2004, c. 769; 2007, c. 724.

**§ 15.2-1728. Mutual aid agreements between police departments and federal authorities.**

In any case where exclusive jurisdiction over any property or territory has been granted by the Commonwealth to the United States government, or to a department or agency thereof, the governing body of any contiguous locality or the Division of Capitol Police may enter into a mutual aid agreement with the appropriate federal authorities to authorize police cooperation and assistance within such property or territory. Subject to the conditions of any such agreement, all police officers and agents of the contracting governing body or agency shall have the same powers, rights, benefits, privileges and immunities while acting in the performance of their duties on the property or territory under federal authority as are lawfully conferred upon them within their own jurisdictions.

1987, c. 33, § 15.1-131.10; 1997, c. 587; 2008, c. 437.

**§ 15.2-1729. Agreements for enforcement of state and county laws by federal officers on federal property.**

A. The governing body of any county may enter into an agreement with the United States government or a department or agency thereof, under the terms of which agreement law-enforcement officers employed by such government, including but not limited to members of the United States Park Police, may enforce the laws of such county and the Commonwealth on federally owned properties within such county, and on the highways located therein and other public places abutting such properties. In the event such an agreement is entered into, all of the provisions of §§ 15.2-1724 and 15.2-1727 shall be applicable, mutatis mutandis.

B. The governing body of any county governed under the provisions of Chapter 8 (§ 15.2-800 et seq.) of Title 15.2 may enter into an agreement with the United States government or a department or agency thereof, under the terms of which agreement law-enforcement officers employed by such government, including but not limited to members of the United States Park Police, may enforce the laws of such county and the Commonwealth on federally owned properties within such county, and on the highways and other public places abutting such properties. In the event such an agreement is entered into, all of the provisions of §§ 15.2-1724 and 15.2-1727 shall be applicable, mutatis mutandis.

1972, c. 743, § 15.1-131.4; 1997, cc. 537, 587.

**§ 15.2-1730. Calling upon law-enforcement officers of counties, cities or towns for assistance.**

In case of an emergency declared by the chief law-enforcement officer of a locality, such officer may call upon the chief law-enforcement officer of towns within his county and the chief law-enforcement officer of an adjoining county or city, or towns in adjoining counties for assistance from him or his deputies or other police officers, without the necessity for deputizing such deputies or officers. Such deputies or officers shall have full police powers in such locality as are conferred upon them by law during the period of such emergency.

1974, c. 633, § 15.1-131.5; 1976, c. 206; 1997, c. 587.

**§ 15.2-1730.1. Authority and immunity of sheriffs and deputies.**

In counties where no police department has been established and the sheriff is the chief law-enforcement officer, the sheriff may enter into agreements with any other governmental entity providing law-enforcement services in the Commonwealth, and may furnish and receive interjurisdictional law-enforcement assistance for all law-enforcement purposes, including those described in this chapter, and for purposes of Chapter 3.2 (§ 44-146.13 et seq.) of Title 44. Sheriffs and their deputies, providing or receiving such assistance, shall have all the authority, benefits, immunity from liability and exemptions from laws, ordinances and regulations as officers acting within their own jurisdictions.

1999, c. 352.

## Article 3 - AUXILIARY POLICE FORCES IN LOCALITIES

**§ 15.2-1731. Establishment, etc., authorized; powers, authority and immunities generally.**

A. Localities, for the further preservation of the public peace, safety, and good order of the community, may establish, equip, and maintain auxiliary police forces that have all the powers and authority and all the immunities of full-time law-enforcement officers, if all such forces have met the training requirements established by the Department of Criminal Justice Services under § 9.1-102.

B. Notwithstanding any other provision of this section, an auxiliary officer shall be exempted from any initial training requirement established under § 9.1-102 until a date one year subsequent to the approval by the Criminal Justice Services Board of compulsory minimum training standards for auxiliary police officers, except that (i) any such officer shall not be permitted to carry or use a firearm while serving as an auxiliary police officer unless such officer has met the firearms training requirements established in accordance with in-service training standards for law-enforcement officers as prescribed by the Criminal Justice Services Board, and (ii) any such officer shall have one year following the approval by the Board to comply with the compulsory minimum training standards.

1968, c. 157, § 15.1-159.2; 1987, c. 421; 1988, c. 864; 1997, c. 587; 2012, c. 827.

**§ 15.2-1732. Appropriations for equipment and maintenance.**

Localities may make such appropriations as may be necessary to arm, equip, uniform and maintain such auxiliary police force.

1968, c. 157, § 15.1-159.3; 1997, c. 587.

**§ 15.2-1733. Appointment of auxiliary police officers; revocation of appointment; uniform; organization; rules and regulations.**

The governing body of the locality may appoint or provide for the appointment as auxiliary police officers as many persons of good character as it deems necessary, not to exceed the number fixed by ordinance adopted by the governing body, and their appointment shall be revocable at any time by the governing body. The governing body may prescribe the uniform, organization, and such rules as it deems necessary for the operation of the auxiliary police force.

1968, c. 157, § 15.1-159.4; 1997, c. 587.

**§ 15.2-1734. Calling auxiliary police officers into service; police officers performing service to wear uniform; exception.**

A. A locality may call into service or provide for calling into service such auxiliary police officers as may be deemed necessary (i) in time of public emergency, (ii) at such times as there are insufficient numbers of regular police officers to preserve the peace, safety and good order of the community, or (iii) at any time for the purpose of training such auxiliary police officers. At all times when performing such service, the members of the auxiliary police force shall wear the uniform prescribed by the governing body.

B. Members of any auxiliary police force who have been trained in accordance with the provisions of § 15.2-1731 may be called into service by the chief of police of any locality to aid and assist regular police officers in the performance of their duties.

C. When the duties of an auxiliary police officer are such that the wearing of the prescribed uniform would adversely limit the effectiveness of the auxiliary police officer's ability to perform his prescribed duties, then clothing appropriate for the duties to be performed may be required by the chief of police.

1968, c. 157, § 15.1-159.5; 1987, c. 421; 1988, c. 190; 1997, c. 587.

### § 15.2-1735. Acting beyond limits of jurisdiction of locality.

The members of any such auxiliary police force shall not be required to act beyond the limits of the jurisdiction of any such locality except when called upon to protect any public property belonging to the locality which may be located beyond its boundaries, or as provided in § 15.2-1736.

1968, c. 157, § 15.1-159.6; 1997, c. 587.

### § 15.2-1736. Mutual aid agreements among governing bodies of localities.

The governing bodies of localities, institutions of higher learning having a police force appointed pursuant to subsection B of § 23.1-812, and institutions of higher education having a private police force, as well as sheriffs, and the Director of the Department of Conservation and Recreation with commissioned conservation officers, or any combination thereof may, by proper resolutions, enter in and become a party to contracts or mutual aid agreements for the use of their joint forces, both regular and auxiliary, their equipment and materials to maintain peace and good order. However, no such institution of higher learning shall enter into such agreement with another institution of higher education in a noncontiguous locality without the consent of all localities within which such institutions are located. Any police or other law-enforcement officer, regular or auxiliary, while performing his duty under any such contract or agreement, shall have the same authority in such locality as he has within the locality where he was appointed.

In counties where no police department has been established, the sheriff may, in his discretion, enter into mutual aid agreements as provided by this section.

1968, c. 157, § 15.1-159.7; 1987, c. 421; 1994, c. 268; 1997, cc. 587, 604; 2002, cc. 684, 709, 876; 2005, c. 87; 2006, c. 286; 2009, cc. 461, 609; 2010, c. 523.

## Article 4 - SPECIAL POLICE OFFICERS IN LOCALITIES

### §§ 15.2-1737 through 15.2-1746. Repealed.

Repealed by Acts 2014, c. 543, cl. 2.

## Article 5 - CRIMINAL JUSTICE TRAINING ACADEMIES

### § 15.2-1747. Creation of academies.

A. The governing bodies of two or more localities or other political subdivisions or other public bodies hereinafter collectively referred to as "governmental units," may by ordinance or resolution enter into an agreement which creates a regional criminal justice academy under an appropriate name and title containing the words "criminal justice academy" or "criminal justice training academy" which shall be

a public body politic and corporate. Any regional criminal justice training academy created under this article shall also be subject to the requirements of § 9.1-102.

B. The agreement shall set forth (i) the name of the academy, (ii) the governmental subdivision in which its principal office shall be situated, (iii) the effective date of the organization of the academy and the duration of the agreement, (iv) the composition of the board of directors of the academy which may include representation of each locality, political subdivision or governmental entity party to the agreement, the members of which shall be the governing body of the academy, (v) the method for selection and the terms of office of the board of directors, (vi) the voting rights of the directors which need not be equal, (vii) the procedure for amendment of the agreement, and (viii) such other matters as the governmental units creating the academy deem appropriate. Sheriffs and members of the governing bodies of the governmental units as well as other public officials or employees may be members of the board of directors.

C. Any governmental unit not a party to an original agreement creating an academy under this section or § 15.2-1300 may join the academy only by two-thirds vote of the board of directors of the academy. The governing body of the governmental unit seeking to join the academy shall request membership by resolution or ordinance. The board of directors shall provide for the addition of the joining governmental unit to the academy and the number, terms of office, and voting rights of members of the board of directors, if any, to be appointed by the joining governmental unit.

D. A governmental unit may withdraw from an academy created under this section or § 15.2-1300 only by two-thirds vote of the board of directors of the academy. The governing body of the governmental unit seeking to withdraw from the academy shall signify its desire by resolution or ordinance. The board of directors shall consider requests to withdraw in October 2001, and in October of every fifth year thereafter. No requests to withdraw shall be considered at any other time, unless agreed to unanimously. Any withdrawal approved by the board of directors shall be effective on June 30 of the following year. The board of directors shall provide for the conditions of withdrawal.

D1. The Division of Capitol Police may become a party to an agreement creating an academy or may join an existing academy. The Chief of the Capitol Police is authorized to enter into such agreement as necessary to join an academy. The chief or his designee may serve as a member of the board of directors of such academy, and in accordance with the bylaws of the academy, may serve as a member of the executive committee or other committee of the academy.

E. The chairman of the academy board shall serve as a member and as the chairman of an executive committee. The composition of the remaining membership of the executive committee, the term of office of its members and any alternate members, procedures for the conduct of its meetings, and any limitations upon the general authority of the executive committee shall be established in the bylaws of the academy. The bylaws shall also establish any other special standing committees, advisory, technical or otherwise, as the board of directors shall deem desirable for the transaction of its affairs.

1993, c. 935, § 15.1-159.7:1; 1997, c. 587; 2000, c. 772; 2002, c. 350; 2010, c. 516.

## § 15.2-1748. Powers of the academies.

A. Upon organization of an academy, it shall be a public body corporate and politic, the purposes of which shall be to establish and conduct training for public law-enforcement and correctional officers, those being trained to be public law-enforcement and correctional officers, other personnel who assist or support such officers, and those persons seeking appointments as special conservators of the peace pursuant to § 19.2-13. The persons trained by an academy need not be employed by a locality that has joined in the agreement creating the academy.

B. Criminal justice training academies may:

1. Adopt and have a common seal and alter that seal at the pleasure of the board of directors;

2. Sue and be sued;

3. Adopt bylaws and make rules and regulations for the conduct of its business;

4. Make and enter into all contracts or agreements, as it may determine are necessary, incidental or convenient to the performance of its duties and to the execution of the powers granted under this article;

5. Apply for and accept, disburse and administer for itself or for a member governmental unit any loans or grants of money, materials or property from any private or charitable source, the United States of America, the Commonwealth, any agency or instrumentality thereof, or from any other source;

6. Employ engineers, attorneys, planners and such other professional experts or consultants, and general and clerical employees as may be deemed necessary and prescribe such experts, consultants, and employees' powers, duties, and compensation;

7. Perform any acts authorized under this article through or by means of its own officers, agents and employees, or by contracts with any person, firm or corporation;

8. Acquire, whether by purchase, exchange, gift, lease or otherwise, any interest in real or personal property, and improve, maintain, equip and furnish academy facilities;

9. Lease, sell, exchange, donate and convey any interest in any or all of its projects, property or facilities in furtherance of the purposes of the academy as set forth in this article;

10. Accept contributions, grants and other financial assistance from the United States of America and its agencies or instrumentalities thereof, the Commonwealth, any political subdivision, agency or public instrumentality thereof or from any other source, for or in aid of the construction, acquisition, ownership, maintenance or repair of the academy facilities, for the payment of principal of, or interest on, any bond of the academy, or other costs incident thereto, or make loans in furtherance of the purposes of this article of such money, contributions, grants, and other financial assistance, and comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and agree to such terms and conditions as may be imposed;

11. Borrow money from any source for capital purposes or to cover current expenditures in any given year in anticipation of the collection of revenues;

12. Mortgage and pledge any or all of its projects, property or facilities or parts thereof and pledge the revenues therefrom or from any part thereof as security for the payment of principal and premium, if any, and interest on any bonds, notes or other evidences of indebtedness;

13. Create an executive committee which may exercise the powers and authority of the academy under this article pursuant to authority delegated to it by the board of directors;

14. Establish fees or other charges for the training services provided;

15. Exercise the powers granted in the agreement creating the academy; and

16. Execute any and all instruments and do and perform any and all acts necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this article.

1993, c. 935, § 15.1-159.7:2; 1997, c. 587; 2015, cc. 766, 772.

**§ 15.2-1749. Revenue bonds.**

A. Each academy is hereby authorized, after a resolution adopted by a majority of its board of directors, to issue, at one time or from time to time, revenue bonds of the academy on a taxable or tax-exempt basis for the purpose of acquiring, purchasing, constructing, reconstructing, or improving training facilities and acquiring necessary land or equipment therefor, and to refund any bonds issued for such purposes. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their issue date or dates and shall bear interest at such fixed or variable rate or rates as may be determined by the board of directors, and may be made redeemable before maturity at the option of the board of directors at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The board of directors shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall affix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this article or any recitals in any bonds issued under the provisions of this article, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the board of directors may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of directors may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the academy.

B. The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the board of directors may deem proper and such additional bonds as shall be issued under such restriction and limitations as may be prescribed by such resolution or trust agreement.

C. Bonds may be issued under the provisions of this article without obtaining the consent of any commission, board, bureau, or agency of the Commonwealth or of any political subdivision and without any other proceedings or conditions as are specifically required by this article.

D. Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. The bonds shall be payable solely from revenues or other property of the academy specifically pledged for such purpose.

E. "Bonds" or "revenue bonds" as used in this article shall embrace notes, bonds and other obligations authorized to be issued pursuant to this article.

1993, c. 935, § 15.1-159.7:3; 1997, c. 587.

**§ 15.2-1750. Governmental units authorized to appropriate or lend funds.**

The governmental units which are parties of the agreement creating the academy or which arrange to have personnel trained at the academy are authorized to appropriate or lend funds; pay fees or charges for services; convey by sale, lease or gift real or personal property, or any interest therein; provide services to the academy; or enter into such other contracts with the academy as may be appropriate to carry out any other power granted to those localities or the academy.

1993, c. 935, § 15.1-159.7:4; 1997, c. 587.

**§ 15.2-1751. Exemption from taxation.**

Any academy created under the provisions of this article shall not be required to pay taxes or assessments upon any project or upon any property acquired or used by it or upon the income therefrom and income derived from bonds shall be exempt at all times from every kind and nature of taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1993, c. 935, § 15.1-159.7:5; 1997, c. 587.

**§ 15.2-1752. Governmental immunity.**

Any academy created pursuant to this article shall be deemed to be a governmental entity exercising essential governmental powers. Any such academy; its directors, officers, and employees; and any person serving as a trainer at the academy who is certified by the Department of Criminal Justice Services or any person who is a criminal justice academy approved instructor shall be entitled to immunity in any civil action or proceeding for damages or injury to any person or property of any person to the same extent that counties and their officers and employees are immune. Members of the

board of directors of the academy shall have the same immunity as members of county boards of supervisors.

1993, c. 935, § 15.1-159.7:6; 1997, c. 587; 2013, cc. 66, 99.

### § 15.2-1753. Liability of board members.

No member of the board of directors of an academy shall be personally liable for any indebtedness, obligation or other liability of an academy, barring willful misconduct.

1993, c. 935, § 15.1-159.7:7; 1997, c. 587.

## Chapter 18 - BUILDINGS, MONUMENTS AND LANDS GENERALLY

## Article 1 - PURCHASE, SALE, ETC., OF REAL PROPERTY

### § 15.2-1800. Purchase, sale, use, etc., of real property.

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (§ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision or authority of the Commonwealth or (ii) conveyance of site development easements, or utility easements related to transportation projects, across public property, including, but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22.

C. A city or town may also acquire real property for a public use outside its boundaries; a county may acquire real property for a public use outside its boundaries when expressly authorized by law.

D. A locality may construct, insure, and equip buildings, structures and other improvements on real property owned or leased by it.

E. A locality may operate, maintain, and regulate the use of its real property or may contract with other persons to do so.

Notwithstanding any contrary provision of law, general or special, no locality providing access and opportunity to use its real property, whether improved or unimproved, may deny equal access or a fair opportunity to use such real property to, or otherwise discriminate against, the Boy Scouts of America or the Girl Scouts of the USA. Nothing in this paragraph shall be construed to require any locality to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from local policies governing access to and use of a locality's real property. The provisions of this paragraph applicable to a locality shall also apply equally to any local governmental entity, including a department, agency, or authority.

F. This section shall not be construed to deprive the resident judge or judges of the right to control the use of the courthouse.

G. "Public use" as used in this section shall have the same meaning as in § 1-219.1.

Code 1950, § 15-692; 1962, c. 623, § 15.1-262; 1968, c. 418; 1974, c. 282; 1977, c. 269; 1979, c. 431; 1980, cc. 212, 559; 1984, c. 241; 1986, cc. 477, 573; 1990, c. 813; 1997, c. 587; 1998, c. 696; 2005, c. 822; 2006, c. 57; 2007, cc. 882, 901, 926; 2017, c. 401.

**§ 15.2-1800.1. Tenancy in common with school board for certain property.**

Notwithstanding the provisions of § 22.1-125 or any other provision of law, whenever a locality has incurred a financial obligation, payable over more than one fiscal year, to fund the acquisition, construction or improvement of public school property, the local governing body of the locality shall be deemed to have acquired title to such school property, as a tenant in common with the local school board, for the term of such financial obligation. Such tenancy in common shall arise by operation of law when such financial obligation is incurred by the local governing body, and shall terminate by operation of law when such financial obligation has been paid in full. Neither the creation nor the termination of this tenancy in common shall require the execution or recordation of any deed of conveyance by either the school board or the governing body. If the school property in question is used by more than one school division, such tenancy in common shall arise and terminate on the same basis in each of the participating localities. Nothing in this section shall alter the authority or responsibility of local school boards to control and regulate the use of the property during the existence of such tenancy in common, nor shall it confer to the local governing body any additional powers over school board decisions relative to school board property, including actions taken pursuant to § 22.1-129 of the Code. Notwithstanding the foregoing, any local governing body may elect not to acquire tenancy in common to some or all of the public school property in its locality, by adopting a resolution declining such tenancy in common for current and future financial obligations.

2002, c. 674.

**§ 15.2-1800.2. Acquisition of real property near certain facilities.**

If a locality in the Commonwealth appropriates funds, from any source, for the acquisition of property rights surrounding Fentress Naval Auxiliary Landing Field ("Fentress") in Chesapeake, the chief executive officer of the locality shall ensure that written notice is provided to the member of the House of Delegates and the member of the Senate of Virginia representing the area in which Fentress is located. Such notice shall be provided promptly, but in no case more than five working days after the appropriation is adopted by the governing body of the locality.

2018, c. 418.

**§ 15.2-1800.3. Sale of certain property by locality to adjoining landowners.**

In any instance in which a parcel of real estate is (i) located within an undeveloped common area in a subdivision, (ii) located in a subdivision with a homeowners' association that has been previously dissolved, and (iii) tax delinquent, a locality may, after giving at least 30 days of notice to adjacent property owners, choose to offer for sale such tax delinquent property in whole or in part to adjacent property owners prior to any public auction of the tax delinquent property. The locality may waive any liens associated with the property in order to facilitate the sale and may further waive payment of any past taxes, penalties, and interest with regard to any new owner.

2020, c. 346.

**§ 15.2-1801. Acquisition of real property near parks or other public property.**

A locality may acquire pursuant to § 15.2-1800 real property adjoining its parks, land on which its monuments are located, or other land used for public purposes; or real property in the vicinity of such parks, land on which its monuments are located or other public real property, which is used in such manner as to impair the beauty, usefulness or efficiency of such parks, land on which its monuments are located or other public real property. The locality so acquiring any such real property may subsequently dispose of the same, in whole or in part, making such limitations as to the uses thereof as it may see fit.

Code 1950, § 15-703; 1962, c. 623, § 15.1-277; 1971, Ex. Sess., c. 1; 1997, c. 587.

**§ 15.2-1802. Authority of towns to acquire, lease or sell land for development of business and industry.**

A city or county may acquire by contract, with such consideration as is agreed to by the parties, but not by condemnation, land within its boundaries for the development thereon of business and industry. A town may acquire pursuant to § 15.2-1800, but not by condemnation, land within its boundaries or within three miles outside its boundaries, for the development thereon of business and industry. No such land shall be acquired until the governing body has held a public hearing concerning such proposed acquisition. Any land so acquired may be leased or sold at public or private sale to any person, firm or corporation who will locate thereon any business or manufacturing establishment. This section shall constitute the authority for any town to exercise the powers herein conferred notwithstanding any charter provision to the contrary.

If any land so acquired, or any part thereof, is not sold to a person, firm or corporation who will locate thereon any business or manufacturing establishment, and such land is, in the discretion of the governing body, not required for the development thereon of business and industry, the governing body, if deemed proper by it, may dispose of the land so acquired, in whole or in part, making such limitations as to the uses thereof as it may see fit. No such land shall be disposed of until the governing body has held a public hearing concerning such proposed disposal.

Code 1950, § 15-7.2; 1960, c. 545; 1962, c. 623, § 15.1-18; 1977, c. 636; 1997, c. 587; 1998, c. 198; 2012, c. 389.

### § 15.2-1803. Approval and acceptance of conveyances of real estate.

Every deed purporting to convey real estate to a locality shall be in a form approved by the attorney for the locality, or if there is no such attorney, then a qualified attorney-at-law selected by the governing body. No such deed shall be valid unless accepted by the locality, which acceptance shall appear on the face thereof or on a separately recorded instrument and shall be executed by a person authorized to act on behalf of the locality. The provisions of this section shall not apply to any conveyance of real estate to any locality under the provisions of Article 6 (§ 15.2-2240 et seq.) of Chapter 22 or prior to December 1, 1997.

Code 1950, § 15-709.1; 1958, c. 360; 1962, c. 623, § 15.1-286; 1968, c. 416; 1977, c. 584; 1980, c. 215; 1984, c. 87; 1997, c. 587.

### § 15.2-1804. Building by locality.

Notwithstanding any contrary provision of law, general or special, when a locality builds facilities for its own use on real property owned by it but located in another locality's jurisdiction, all building inspections required by law shall be conducted without payment of any fees or costs to the locality within whose boundaries the building occurs; however, the locality within whose boundaries the building occurs may require that such inspections be carried out by the agents of the locality building the facility.

1981, c. 256, § 15.1-33.3; 1997, c. 587.

### § 15.2-1805. Permitting visually handicapped persons to operate stands for sale of newspapers, etc.

A locality, by ordinance or resolution, may authorize any visually handicapped person to construct, maintain and operate, under the supervision of the Virginia Department for the Blind and Vision Impaired, in the county or city courthouse or in any other property of the locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar articles and may prescribe rules for the operation of such stand.

Code 1950, § 15-712; 1954, c. 71; 1962, c. 623, § 15.1-289; 1997, c. 587.

## Article 2 - PARKS, RECREATION FACILITIES AND PLAYGROUNDS

### § 15.2-1806. Parks, recreation facilities, playgrounds, etc.

A. A locality may establish parks, recreation facilities and playgrounds; set apart for such use any land or buildings owned or leased by it; and acquire land, buildings and other facilities pursuant to § 15.2-1800 for the aforesaid purposes.

In regard to its parks, recreation facilities and playgrounds, a locality may:

1. Fix, prescribe, and provide for the collection of fees for their use;

2. Levy and collect an annual tax upon all property in the locality subject to local taxation to pay, in whole or in part, the expenses incident to their maintenance and operation;

3. Operate their use through a department or bureau of recreation or delegate the operation thereof to a recreation board created by it, to a school board, or any other appropriate existing board or commission.

B. A locality may also establish, conduct, and regulate a system of hiking, biking, and horseback riding trails and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of trails for all-terrain vehicles, off-road motorcycles, or both, as those terms are defined in § 46.2-100, and may set apart for such use any land or buildings owned or leased by it and may obtain licenses, easements, leases, or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it.

In furtherance of the purposes of this subsection, a locality may provide for the protection of persons whose property interests, or personal liability, may be related to or affected by the use of such trails or waterways. Nothing contained in this subsection shall be construed to interfere with the use and enjoyment of private property.

1997, c. 587; 2008, c. 381; 2018, cc. 720, 721.

**§ 15.2-1807. Recreation, etc., system; petition and election for establishment.**

A. Whenever a petition, signed by voters equal in number to at least ten percent of the number of voters registered in the locality on January 1 preceding its filing, is filed with the applicable circuit court, the court shall by order entered of record, in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, require the regular election officials to open the polls and submit to the voters at such election the question of establishing and conducting a system of public recreation and playgrounds and levying a specified annual tax therefor, provided that such tax shall not exceed two cents on each $100 of the assessed valuation of property subject to local taxation.

B. Upon the adoption of such proposition by a majority of the voters voting in the election, the local authorities shall provide for the establishment and conduct of a system of recreation and playgrounds and for the levy and collection of such tax and shall designate the body to be vested with the powers and duties necessary to the conduct thereof.

Code 1950, § 15-700; 1962, c. 623, § 15.1-274; 1975, c. 517; 1997, c. 587.

**§ 15.2-1808. Certain sports facilities.**

A locality may provide and operate stadiums and arenas and the lands, structures, equipment and facilities appurtenant thereto; provide for their management and operation by an agency of the locality; contract with others for the operation and management thereof upon such terms and conditions as shall be prescribed by the locality; and charge or authorize the charging of compensation for the use of or admission to such stadiums and arenas and their appurtenances.

Code 1950, § 15-77.50; 1958, c. 328; 1962, c. 623, § 15.1-886; 1997, c. 587.

**§ 15.2-1809. Liability of localities in the operation of parks, recreational facilities and playgrounds.**

No city or town which operates any park, recreational facility or playground shall be liable in any civil action or proceeding for damages resulting from any injury to the person or from a loss of or damage to the property of any person caused by any act or omission constituting ordinary negligence on the part of any officer or agent of such city or town in the maintenance or operation of any such park, recreational facility or playground. Every such city or town shall, however, be liable in damages for the gross negligence of any of its officers or agents in the maintenance or operation of any such park, recreational facility or playground.

The immunity created by this section is hereby conferred upon counties in addition to, and not limiting on, other immunity existing at common law or by statute.

Code 1950, § 15-714; 1962, c. 623, § 15.1-291; 1979, c. 277; 1990, c. 18; 1997, c. 587.

**§ 15.2-1809.1. Liability of localities for the site of trails or waterways.**

A locality, or a park authority created by the Park Authorities Act (§ 15.2-5700 et seq.), that establishes, conducts, and regulates a system of hiking, biking, or horseback riding trails, a system of trails for all-terrain vehicles, off-road motorcycles, or a system of boating, canoeing, kayaking, or tubing activities on waterways, as provided in subsection B of § 15.2-1806, and the owner or licensor or permit issuer of any property leased or licensed for any such use, shall not be liable for damages resulting from any injury to the person or from a loss of or damage to the property of any person arising from the condition of the property used for such trails or waterways, in the absence of gross negligence or willful misconduct.

2008, c. 381; 2018, cc. 720, 721.

**§ 15.2-1810. Leasing land for swimming pool purposes.**

Any locality, in its discretion, may lease to any responsible person, firm or corporation any lands owned or held by such locality for the purpose of constructing or erecting thereon a swimming pool and buildings and improvements incident thereto. The terms and provisions of any such lease shall be prescribed by the governing body, provided that any such lease contains a clause to the effect that at the termination of such lease it shall not be renewed and that the land and all improvements thereon shall revert to the locality and shall be free from any encumbrance at the time of such reversion. All

moneys received by a locality under this section shall constitute a fund for the development and improvement of recreational facilities within such locality.

Code 1950, § 15-691.1; 1954, c. 410; 1962, c. 623, § 15.1-261; 1997, c. 587.

### § 15.2-1811. Counties and cities may operate parks, recreational facilities and swimming pools in sanitary districts.

The governing body of any county or city in which a sanitary district has been established under the laws of this Commonwealth may, for the use and benefit of the public in such sanitary district in addition to the other powers and duties granted under other laws:

1. Construct, maintain and operate parks, recreational facilities and swimming pools;

2. Acquire by gift, condemnation, purchase, lease or otherwise and maintain and operate parks, recreational facilities and swimming pools;

3. Contract with any person, firm, corporation or municipality to construct, establish, maintain and operate the parks, recreational facilities and swimming pools;

4. Fix, prescribe and provide for the collection of fees for use of the parks, recreational facilities and swimming pools;

5. Levy and collect an annual tax upon all the property in the district subject to local taxation to pay in whole or in part the expenses and charges incident to maintaining and operating such parks, recreational facilities and swimming pools; and

6. Employ and fix compensation of any technical, clerical or other force or help deemed necessary for the construction, operation and maintenance of the parks, recreational facilities and swimming pools.

Code 1950, § 15-704; 1962, c. 623, § 15.1-278; 1997, c. 587.

## Article 3 - Miscellaneous

### § 15.2-1812. Memorials for war veterans.

A. A locality may, within the geographical limits of the locality, authorize and permit the erection of monuments or memorials for the veterans of any war or conflict, or any engagement of such war or conflict, to include the following : Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), Civil War (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000- ), Operation Enduring Freedom (2001- ), and Operation Iraqi Freedom (2003- ). Notwithstanding any other provision of law, general or special, a locality may remove, relocate, contextualize, or cover any such monument or memorial on the locality's public property, not including a monument or memorial located in a publicly owned cemetery, regardless of when the monument or memorial was erected, after complying with the provisions of subsection B.

B. Prior to removing, relocating, contextualizing, or covering any such publicly owned monument or memorial, the local governing body shall publish notice of such intent in a newspaper having general circulation in the locality. The notice shall specify the time and place of a public hearing at which interested persons may present their views, not less than 30 days after publication of the notice. After the completion of the hearing, the governing body may vote whether to remove, relocate, contextualize, or cover the monument or memorial. If the governing body votes to remove, relocate, contextualize, or cover the monument or memorial, the local governing body shall first, for a period of 30 days, offer the monument or memorial for relocation and placement to any museum, historical society, government, or military battlefield. The local governing body shall have sole authority to determine the final disposition of the monument or memorial.

C. A locality may, prior to initiating the provisions of subsection B, petition the judge of a circuit court having jurisdiction over the locality for an advisory referendum to be held on the question of the proposal to remove, relocate, contextualize, or cover any monument or memorial located on the locality's public property. Upon the receipt of such petition, the circuit court shall order an election to be held thereon at a time that is in conformity with § 24.2-682. The ballots shall be prepared, distributed, and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684.

D. The governing body may appropriate a sufficient sum of money out of its funds to complete or aid in the erection, removal, relocation, contextualizing, or covering of monuments or memorials to the veterans of such wars or conflicts, or any engagement of such wars or conflicts. The governing body may also make a special levy to raise the money necessary for the erection or completion of any such monuments or memorials, or to supplement the funds already raised or that may be raised by private persons, Veterans of Foreign Wars, the American Legion, or other organizations. It may also appropriate, out of any funds of such locality, a sufficient sum of money to permanently care for, protect, and preserve such monuments or memorials and may expend the same thereafter as other funds are expended.

Code 1950, § 15-696; 1962, c. 623, § 15.1-270; 1982, c. 19; 1988, c. 284; 1997, c. 587; 1998, c. 752; 2005, c. 390; 2010, c. 860; 2020, cc. 1100, 1101.

**§ 15.2-1812.1. Action for damage to memorials for war veterans.**

A. If any monument or memorial for war veterans as designated in § 15.2-1812 is damaged or defaced, an action for the recovery of damages may be commenced as follows:

1. For a publicly owned monument or memorial, such action may be commenced against a person other than a locality or its duly authorized officers, employees, or agents by the attorney for the locality in which it is located with the consent of the governing body or public officer having control of the monument or memorial; and

2. For a privately owned monument or memorial on a locality's public property, such action may be commenced by the private owner of such monument or memorial. No locality or its officers,

employees, or agents shall be liable for damages pursuant to this section when taking action pursuant to § 15.2-1812 except for gross negligence by a duly authorized officer, employee, or agent of the locality.

Damages may be awarded in such amounts as necessary for the purposes of rebuilding, repairing, preserving, and restoring such memorials or monuments. Damages other than those litigation costs recovered from any such action shall be used exclusively for said purposes.

B. Punitive damages may be recovered for reckless, willful, or wanton conduct resulting in the defacement of, malicious destruction of, unlawful removal of, or placement of improper markings, monuments, or statues on memorials for war veterans.

C. The party who initiates and prevails in an action authorized by this section shall be entitled to an award of the cost of the litigation, including reasonable attorney fees. The provisions of this section shall not be construed to limit the rights of any person, organization, society, or museum to pursue any additional civil remedy otherwise allowed by law.

2000, c. 812; 2020, cc. 1100, 1101.

**§ 15.2-1812.2. Willful and malicious damage to or defacement of public or private facilities; penalty.**
A. Any locality may by ordinance make unlawful the willful and malicious damage to or defacement of any public buildings, facilities and personal property or of any private buildings, facilities and personal property. The penalty for violation of such ordinance is a Class 1 misdemeanor. The punishment for any such violation in which the defacement is (i) more than 20 feet off the ground, (ii) on a railroad or highway overpass, or (iii) committed for the benefit of, at the direction of, or in association with any criminal street gang, as that term is defined by § 18.2-46.1, shall include a mandatory minimum fine of $500.

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

C. The ordinance shall direct that the community service, to the extent feasible, include the repair, restoration or replacement of any damage or defacement to property within the locality, and may include clean-up, beautification, landscaping or other appropriate community service within the locality. Any ordinance adopted pursuant to this section shall make provision for a designee of the locality to supervise the performance of any community service work required and to report thereon to the court imposing such requirement. At or before the time of sentencing under the ordinance, the court shall receive

and consider any plan for making restitution or performing community service submitted by the defendant. The court shall also receive and consider the recommendations of the supervisor of community service in the locality concerning the plan.

D. Notwithstanding any other provision of law, no person convicted of a violation of an ordinance adopted pursuant to this section shall be placed on probation or have his sentence suspended unless such person makes at least partial restitution for such property damage or is compelled to perform community services, or both, as is more particularly set forth in § 19.2-305.1.

E. If a locality seeks to clean or cover the defacement, it shall give notice to the owner and lessee, if any, of any private building or facility that has been defaced that, within 15 days of receipt of such notice, if the owner or lessee does not clean or cover the defacement or object to the removal of the defacement, the locality may clean or cover the defacement at the locality's expense.

1995, c. 251, § 18.2-138.1; 1997, cc. 445, 461; 2004, c. 462; 2005, c. 614.

### § 15.2-1813. Notice when public hearing required.

Any public hearing required by this chapter shall be advertised once in a newspaper having general circulation in the locality at least seven days prior to the date set for the hearing.

1997, c. 587.

### § 15.2-1814. Acquisition authorized by chapter declared to be for public use.

Any acquisition of property authorized by any provision of this chapter is hereby declared to be for a public use as the term "public uses" is used in § 1-219.1.

1997, c. 587; 2007, cc. 882, 901, 926.

## Chapter 18.1 - LOCAL GOVERNMENT FACILITIES PRIVATE CAPITAL LENDING

### § 15.2-1815. Definitions.

As used in this chapter, unless the context otherwise requires:

"Conduit entity" means an organization described in § 501(c)(3) of the Internal Revenue Code that qualifies as a public charity under § 509(a)(2) or 509(a)(3) of the Internal Revenue Code, and the purposes of which entity allow it to perform the functions and obligations of a conduit entity prescribed in a financing agreement.

"Conveyed property" means real and personal property conveyed by a local government to a conduit or other entity pursuant to a financing agreement.

"Costs," as applied to a project or any portion thereof financed under the provisions of this chapter, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction, and remodeling of a project including all lands, structures, real or personal property, rights, rights-of-way, air rights, franchises, easements, and interests acquired or used for or in connection with a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all

machinery and equipment; financing charges; interest prior to, during, and for a period after completion of such construction and acquisition; provisions for reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition, and the placing of the project in operation.

"Private capital funding source" means a private entity that enters into a financing agreement, under which that private entity shall purchase a lease of the conveyed property for a consideration to be provided in such agreement, and its successors and assigns.

"Project" means a structure or structures identified in the capital improvement program of the locality or an agency or instrumentality of the locality that is a revenue-producing undertaking as provided in § 15.2-2608.

2011, cc. 562, 660.

**§ 15.2-1816. Power to enter into financing agreements.**

In addition to other powers granted by law, every local government may, by ordinance, enter into a financing agreement as described in this section and may as part of that financing agreement (i) convey title to any property that is part of a project as defined in this chapter to a conduit or other entity in exchange for consideration provided for under the financing agreement; (ii) assign, pledge to, and create a lien in favor of a conduit or other entity, and permit the conduit or other entity to reassign, pledge to, and create a lien in favor of a private capital funding source, any revenues derived from the project being financed as provided for under the financing agreement; (iii) enter into a lease-leaseback arrangement for a term not to exceed 99 years, under which the private capital funding source will lease from the conduit or other entity, and the conduit or other entity shall lease back from the private capital funding source, the conveyed project. In addition, the conduit or other entity has the power to contribute to the local government any funds received by it in excess of the payments it is required to make to the private capital funding source under the lease-leaseback arrangement and has the power to convey the conveyed property back to the local government when the property is no longer encumbered by any lien or lease in favor of the funding source. The local government and the conduit or other entity may enter into agreements or contracts under which the local government may maintain or administer the conveyed property under the project or may collect rents or fees on behalf of the conduit or other entity. The parties may modify or extend the financing agreement subject to approval by the local government. The local government may enter into a financing agreement under this section either through a competitive selection process or by direct negotiations with a private capital funding source, as determined by the local government or as otherwise provided by law.

2011, cc. 562, 660.

**§ 15.2-1817. Real estate taxation.**

The conveyed property under the project shall be subject to real property taxation under Chapter 32 (§ 58.1-3200 et seq.) of Title 58.1.

2011, cc. 562, 660.

## Chapter 19 - CONDEMNATION

### § 15.2-1900. Repealed.

Repealed by Acts 2007, cc. 882, 901 and 926, cl. 2.

### § 15.2-1901. Condemnation authority.

A. In addition to the authority granted to localities pursuant to any applicable charter provision or other provision of law, whenever a locality is authorized to acquire real or personal property or property interests for a public use, it may do so by exercise of the power of eminent domain, except as provided in subsection B.

B. A locality may acquire property or property interests outside its boundaries by exercise of the power of eminent domain only if such authority is expressly conferred by general law or special act. However, cities and towns shall have the right to acquire property outside their boundaries for the purposes set forth in § 15.2-2109 by exercise of the power of eminent domain. The exercise of such condemnation authority by a city or town shall not be construed to exempt the municipality from the provisions of subsection F of § 56-580.

C. Notwithstanding any other provision of law, general or special, no locality shall condition or delay the timely consideration of any application for or grant of any permit or other approval for any real property over which it enjoys jurisdiction for the purpose, expressed or implied, of allowing the locality to condemn or otherwise acquire the property or to commence any process to consider whether to undertake condemnation or acquisition of the property.

1997, c. 587; 2001, c. 538; 2013, c. 581.

### § 15.2-1901.1. Condemnation by localities authorized.

The governing body of any locality may acquire by condemnation title to (i) land, buildings and structures, (ii) any easement thereover or (iii) any sand, earth, gravel, water or other necessary material for the purpose of opening, constructing, repairing or maintaining a road or for any other authorized public undertaking if the terms of purchase cannot be agreed upon or the owner (a) is unknown, (b) cannot with reasonable diligence be found in the Commonwealth or (c) due to incapacity cannot negotiate an agreement. Condemnation proceedings shall be conducted under the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 insofar as applicable.

Code 1950, § 25-232; 1964, c. 291, § 25-232.01; 1980, c. 559; 1986, c. 117; 2003, c. 940.

### § 15.2-1902. Condemnation proceedings generally.

Except where otherwise authorized by any applicable charter provision, a locality shall exercise the power of eminent domain in the manner, and in accordance with the procedures, set out in Chapter 2 (§ 25.1-200 et seq.) or Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, except that:

1. Only lands or easements for (i) streets and roads, (ii) drainage facilities, (iii) water supply and sewage disposal systems, including pipes and lines, and (iv) water, sewer and governmentally owned gas, electricity, telephone, telegraph and other utility lines and pipes and related facilities, except to the extent otherwise prohibited by law, may be condemned using the procedures in Chapter 3 of Title 25.1, as provided by the applicable provisions of §§ 15.2-1904 and 15.2-1905, because the foregoing enumerated uses are inherently public uses when undertaken by a locality;

2. Existing water and sewage disposal systems in their entirety shall be condemned in accordance with the procedures in § 15.2-1906;

3. Oyster bottoms and grounds may be condemned utilizing the procedures in Chapter 3 of Title 25.1, as required by § 28.2-628; and

4. The provisions of §§ 33.2-1007 through 33.2-1011, 33.2-1014, and 33.2-1017 shall be applicable, mutatis mutandis, with respect to any condemnation by a locality of property for highway purposes.

1997, c. 587; 2003, c. 940; 2012, c. 832.

**§ 15.2-1903. Requirements for initiating condemnation; filing of ordinance or resolution with petition; voluntary conveyance.**

A. Condemnation proceedings may be instituted when:

1. the locality and owner cannot agree on the compensation to be paid or other terms of purchase or settlement;

2. the owner is legally incapacitated;

3. either the owner or his whereabouts is unknown; or

4. the owner is unable to convey valid title to the property.

B. Prior to initiating condemnation proceedings, the governing body shall, after a public hearing, adopt a resolution or ordinance approving the proposed public use and directing the acquisition of property for the public use by condemnation or other means. The resolution or ordinance shall state the use to which the property shall be put and the necessity therefor. Furthermore, other political subdivisions of the Commonwealth shall also be required to hold a public hearing prior to initiating condemnation proceedings.

C. When a petition for condemnation is filed by or on behalf of the locality, a true copy of the resolution or ordinance duly adopted by the governing body declaring the intended public use of the property, and the necessity therefor, may be filed with the petition, and when so filed constitutes sufficient evidence of such public use and necessity.

D. The fact that no petition has been filed by a locality to condemn any interest conveyed by deed shall not by itself render such conveyance free from the threat of condemnation, nor shall such fact constitute sufficient proof of voluntary conveyance for the purposes of any taxing authority.

1997, c. 587; 2006, c. 927.

**§ 15.2-1904. Possession of property prior to condemnation; authority to utilize expedited acquisition procedure conferred.**

A. When a condemnation is authorized by § 15.2-1901, a locality may enter upon and take possession of property before the conclusion of condemnation proceedings, using the procedures in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, for public purposes of (i) streets and roads, (ii) drainage facilities, (iii) water supply and sewage disposal systems, including pipes and lines, (iv) oyster beds and grounds, and for any of the purposes set out in § 15.2-1901.1. In such proceedings, the procedure may be the same as is prescribed in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 or Chapter 3 of Title 25.1. Property may be condemned after the construction of a project, as well as prior thereto. The provisions of Chapter 3 of Title 25.1 shall be used to identify the fund out of which the judgment of the court in condemnation proceedings shall be paid. However, no property of any public service corporation shall be condemned except in accordance with §§ 15.2-1906, 15.2-2146 through 15.2-2148 and 25.1-102.

B. In all other condemnation proceedings authorized by § 15.2-1901, property shall be acquired by condemnation proceedings in accordance with the procedure provided in Chapter 2 of Title 25.1.

C. Before entering and taking possession of any property, the locality shall pay into court or to the clerk thereof, for the property owner's benefit, such sum as the governing body estimates to be the fair value of the property taken and damage, if any, done to the residue. Such payment shall not limit the amount to be allowed under proper proceedings.

D. When a locality enters upon and takes possession of property before the conclusion of condemnation proceedings pursuant to the procedures in Chapter 3 of Title 25.1, a certificate in lieu of payment may be issued by the governing body through its authorized designee, which certificate shall be countersigned by the locality's director of finance or authorized agent for availability of funds.

E. As soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, the locality shall reimburse the property owner, or other person legally obligated to pay the real property taxes, for the pro rata portion of real property taxes paid for the period subsequent to the date of title vesting in the locality or the effective date of possession of the real property by the locality, whichever is earlier.

Code 1950, §§ 15-668.1, 15-668.2; 1954, c. 384; 1958, c. 382; 1960, c. 6; 1962, cc. 494, 511, 623, § 15.1-238; 1964, c. 269; 1979, c. 303; 1983, c. 434; 1989, c. 304; 1990, c. 514; 1997, c. 587; 2003, cc. 680, 940.

**§ 15.2-1905. Special provisions for counties.**

A. When a county is authorized by subsection A of § 15.2-1904 to use the procedures set forth in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, it shall comply either with the requirements of subsection B or subsection C.

B. 1. No property shall be entered upon and taken by any county before the conclusion of condemnation proceedings unless, prior to entering upon and taking possession of such property or right-

of-way, the governing body of the county notifies the owners of the property by certified mail, that it intends to enter upon and take the property. Such notice shall be sent by the date specified in the resolution or ordinance required by § 15.2-1903 and shall set forth the compensation and damages offered by the county to each property owner;

2. Any property owner given notice as provided in subdivision 1 may, within 30 days following the sending of the notice, institute a proceeding in the circuit court of the county, wherein the condemnation proceedings are to be instituted, to determine whether such taking is of such necessity as to justify resort to entry upon the property prior to an agreement between the county and the property owner as to compensation and damages to be paid therefor. Any other property owner affected may intervene. The county shall be served notice as provided by law and shall be made a party defendant. The proceedings shall be placed upon the privileged docket of the court and shall take precedence over all other civil matters pending therein and shall be speedily heard and disposed of. The issue in any such proceeding shall be whether the circumstances are such as to justify an entry upon and taking possession by the county of the property involved prior to an agreement or award upon compensation and damages therefor. If the court is of the opinion that no such necessity exists, and that such manner of taking would work an undue hardship upon any such owner, it shall enter an order requiring the county to proceed by methods of condemnation providing for the determination of compensation and damages for property to be taken prior to such taking, if the county deems it necessary to proceed with the project for which the property is sought; and

3. At any time after the giving of the notice as provided in subdivision 1, upon the filing of an application by the landowner to such effect in the court having jurisdiction, and, in any event, within 120 days after the completion of the project for which the entry and taking of possession prior to condemnation was undertaken, if the county and the owner of such property have been unable to agree as to compensation and damages, if any, caused thereby, the county shall institute condemnation proceedings, and the amount of such compensation and damages, if any, awarded to the owner in such proceeding shall be paid by the county. The authorities constructing such project under the authority of this section shall use diligence to protect growing crops and pastures and to prevent damage to any property not taken. So far as possible all rights-of-way shall be acquired or contracted for before any condemnation is resorted to.

C. As an alternative to the procedure set forth in subsection B, any other laws to the contrary notwithstanding, upon the passage of an ordinance or resolution following a public hearing by the board of supervisors of any county declaring its intent to enter and take certain specified properties for any of the purposes set out in subsection A of § 15.2-1904, which ordinance or resolution shall also state the compensation and damages, if any, offered each property owner by the county and declare the necessity to enter upon and take such property prior to or during the condemnation proceedings, the county, for such purposes set forth in the resolution or ordinance, shall be authorized to institute and conduct condemnation proceedings in accordance with the procedure set forth in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, except that (i) the county may institute and conduct condemnation proceedings in

accordance with the procedure set forth in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 and (ii) such proceedings shall be instituted by and conducted in the name of the governing body of the county.

Code 1950, §§ 15-668.1, 15-668.2; 1954, c. 384; 1958, c. 382; 1960, c. 6; 1962, cc. 494, 511, 623, § 15.1-238; 1964, c. 269; 1979, c. 303; 1983, c. 434; 1989, c. 304; 1990, c. 514; 1997, c. 587; 2003, c. 940.

**§ 15.2-1906. Condemnation of existing water or sewage disposal systems.**

Condemnation of existing water or sewage disposal systems shall be governed by the provisions of Chapter 19.1 (§ 15.2-1908 et seq.) of this title so far as applicable. The provisions of § 25.1-102 shall not apply in the case of condemnation of an existing water or sewage disposal system in its entirety. The circuit court for the city or county wherein the property proposed to be condemned, or any part thereof, is located, shall have jurisdiction of the condemnation proceedings. It shall not be necessary to file with the petition for the condemnation of an existing water or sewage system, in its entirety, a minute inventory and description of the property sought to be condemned, provided the property is described therein generally and with reasonable particularity and in such manner as to disclose the intention of the petitioner that such existing water or sewage system be condemned in its entirety. The court having jurisdiction of the condemnation proceedings shall, as the occasion arises and prior to the filing of the report of the commissioners appointed to determine a just compensation for the property sought to be condemned in its entirety, take such steps as may be necessary and proper to cause to be included in an inventory of the property sought to be condemned full descriptions of any and all such property whenever the exigencies of the case or the ends of justice will be promoted thereby. Such inventory shall be made a part of the record in the proceedings and referred to the commissioners.

Code 1950, § 15-754; 1962, c. 623, § 15.1-340; 1997, c. 587; 2003, c. 940.

**§ 15.2-1907. Condemnation for water supplies and water lines.**

Upon compliance with the applicable provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, cities and towns may acquire by condemnation any lands or rights-of-way necessary for maintaining, protecting, or providing supplies of water for public use or for laying water pipes, and counties may so acquire such lands or rights-of-way within their borders. Any interest acquired under this section by a county, city or town shall be subject to the provisions of § 25.1-102.

Code 1950, § 25-232; 1964, c. 291, § 25-232.01; 1980, c. 559; 1986, c. 117; 2003, c. 940.

**§ 15.2-1907.1. Condemnation of lands for compensatory mitigation of wetlands.**

Notwithstanding any other provision of a local government charter or other special act, when authorization is required by federal or state law for any project affecting wetlands and the authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, no locality or other political subdivision shall acquire through exercise of the power of eminent domain any property to satisfy such condition unless: (i) the property sought to be acquired is located within the same locality as the

project affecting wetlands, or (ii) the governing body of the locality where the property sought to be acquired consents to its acquisition for such purpose.

2005, c. 311.

## Chapter 19.1 - ACQUISITION OF WATERWORKS SYSTEMS

### § 15.2-1908. Council or other governing body to file copy of resolution.

In any proceedings instituted by any city or county to acquire a waterworks system by condemnation pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, as authorized by § 15.2-1906 and §§ 15.2-2146, 15.2-2147, and 15.2-2148, after the body determining just compensation, as defined in § 25.1-100, has filed its report as provided by § 25.1-232, it shall be the duty of its council or other governing body, within such time as may be fixed and allowed by the court, to file in the proceedings a certified copy of a resolution of such council or other governing body stating whether the council or other governing body is of the opinion that it is in the best interest of the city or county to take the property sought to be condemned at the amount fixed by the body determining just compensation as compensation or damages on account of the taking of same. If such copy of the resolution be not filed within the time allowed by the court, or within any extension of such time which may be allowed, the proceedings shall be dismissed on motion of any party thereto.

1938, p. 48; Michie Code 1942, § 4387a; Code 1950, § 25-47; 2003, c. 940.

### § 15.2-1909. Such resolution to contain statement as to issuance of bonds.

If in order to pay the amount fixed by the body determining just compensation it will be necessary for the city or county to issue and sell its bonds, such resolution filed shall so state, and shall further state that the council or other governing body proposes promptly to take the necessary and appropriate action required by law to issue and sell such bonds whenever authorized by § 15.2-1910.

1938, p. 48; Michie Code 1942, § 4387a; Code 1950, § 25-48; 2003, c. 940.

### § 15.2-1910. Prerequisite to issuance and sale of bonds.

The necessary and appropriate action for the issuance and sale of such bonds may be taken: (i) whenever an order, decree or judgment of the court confirming the report of the body determining just compensation has become final and not subject to review by writ of error or appeal; (ii) if appealed, whenever the report shall be finally confirmed by any final appellate court; or (iii) whenever a sole defendant, if there be but one, or all of the defendants, if there be more than one, shall file in the proceedings a statement or statements that such defendant or defendants will accept the report of the body determining just compensation and will not dispute or contest in any manner the amount therein fixed or the legality of the proceedings.

1938, p. 48; Michie Code 1942, § 4387a; Code 1950, § 25-49; 2003, c. 940.

### § 15.2-1911. Statement by defendant precludes appeal.

If a statement, as provided for in § 15.2-1910, is filed by each defendant, no appeal or writ of error shall thereafter be allowed such defendant.

1938, p. 49; Michie Code 1942, § 4387a; Code 1950, § 25-50; 2003, c. 940.

**§ 15.2-1912. Time for sale of bonds or payment fixed by court.**

When such report is finally confirmed or when such defendant or defendants have filed in such proceedings the statement or statements as provided by § 15.2-1910, the court shall, upon motion of any party to the proceedings, after notice to all other parties thereto, fix a reasonable time within which the city or county must complete the issuance and sale of its bonds, if the sale of bonds is necessary, or pay the money to the party or parties entitled thereto, or pay the same into the court. Such time so fixed may be extended by the court for good cause shown.

1938, p. 49; Michie Code 1942, § 4387a; Code 1950, § 25-51; 2003, c. 940.

**§ 15.2-1913. Time for holding election if revenue bonds are to be issued.**

If the bonds that any such city or county proposes to issue in order to raise the money necessary to pay the amount fixed in the report of the body determining just compensation will be revenue bonds requiring approval by the affirmative vote of a majority of the qualified voters in a referendum election as provided in Article VII, Section 10 of the Constitution of Virginia, the court shall allow a reasonable time for the holding of the required election.

1938, p. 49; Michie Code 1942, § 4387a; Code 1950, § 25-52; 2003, c. 940.

**§ 15.2-1914. Proceedings dismissed if issuance defeated or bonds cannot be sold; resolution of approval of report not deemed contract to purchase.**

In the event that such an election is held and the proposed bond issue is not approved therein, or if approved and for any reason the bonds proposed to be issued by any such city or county cannot be sold upon terms which, in the opinion of the city council or other governing body, are reasonably advantageous to such city or county, then, upon motion of such city or county, the proceedings shall be dismissed and there shall be no obligation upon such city or county to take the property or pay the amount fixed by the report of the body determining just compensation, notwithstanding the fact that the council or other governing body may have filed the resolution of approval of the report of the body determining just compensation as provided by § 15.2-1908, nor shall the filing of any such resolution approving the award of the body determining just compensation be deemed to be a contract on the part of any such city or county to purchase or take the property sought to be condemned, or to render any such city or county liable in damages for failure to take same.

1938, p. 49; Michie Code 1942, § 4387a; Code 1950, § 25-53; 2003, c. 940.

**§ 15.2-1915. Proceedings dismissed on failure to pay compensation; judgment for fees and costs.**

In the event that any such city or county fails to pay the amount fixed and ascertained by the report of the body determining just compensation, as directed by the court and within the time, or any extension thereof, allowed by the court as provided by § 15.2-1912, the proceedings shall be dismissed on motion of any party thereto. If such proceedings be so dismissed, judgment shall be entered against such city or county for all costs and the attorneys' fee or fees actually incurred by the defendant or

defendants; provided, however, that the fee or fees shall be so paid only to the extent they are reasonable in the opinion of the court.

1938, p. 49; Michie Code 1942, § 4387a; Code 1950, § 25-54; 2003, c. 940.

### § 15.2-1916. Right to pay compensation into court and take possession and operate.

A. Notwithstanding any exceptions that may be filed to the report of the body determining just compensation or the pendency of proceedings on the exceptions, or any appeal or writ of error that may be contemplated or may be pending, or the pendency of any other matters in such proceedings, any such city or county shall have the right at any time pending such proceedings, after the filing of the report of the body determining just compensation, to pay into court the amount of the award fixed by the report and take possession of and operate the property sought to be condemned and embraced in such report, and to enlarge the works taken and construct additional works on any property taken and to make any needed repairs to or replacements, or substitutions with respect to the works or any part thereof. No court or judge shall enter any order or decree restraining, prohibiting or enjoining any such city or county from taking such possession of any such waterworks or other property embraced in the report of the body determining just compensation, or from operating same or making replacements, repairs, betterments or additions thereto.

B. If such money is paid and possession taken within 90 days of the time of the filing of the report of the body determining just compensation, no interest on the amount of the award, or any part thereof, shall be allowable to the defendant or defendants, and if such money is paid and possession taken after the lapse of more than 90 days from the date of the filing of the report of the body determining just compensation, the court, upon hearing after due notice, shall adjudicate all claims made by the defendant or defendants for damages claimed to have been sustained and for interest on the value of the property taken, and for additions thereto or replacements during or for the time elapsed since the expiration of the 90 days. If the property taken, or any part thereof, be income producing the court shall take into consideration any income accruing to the property owner during such period, and shall also take into consideration depreciation of an operating water system as well as the cost of additions, betterments, and replacements made by the city or county. If the court finds that the property owner is entitled to receive any additional payment by reason of such matters, it shall render judgment against the city or county for the amount thereof.

1938, p. 50; Michie Code 1942, § 4387a; Code 1950, § 25-55; 2003, c. 940.

## Chapter 20 - STREETS AND ALLEYS

## Article 1 - CONSTRUCTION OF ROADS, STREETS AND ALLEYS GENERALLY

### § 15.2-2000. State highway systems excepted; town streets.

A. Nothing contained in this chapter, except as otherwise provided, shall apply to any highway, road, street or other public right-of-way which constitutes a part of any system of state highways; however,

any highway for which a locality receives highway maintenance funds pursuant to § 33.2-319 or 33.2-366 shall not, for purposes of this section, be deemed to be a part of any system of state highways.

B. Public rights-of-way subject to local control under this chapter which lie within the boundaries of incorporated towns which receive highway maintenance funds pursuant to § 33.2-319 shall be subject to the jurisdiction of the town council of such town and not the board of supervisors of the county in which such town is located.

C. The term "public right-of-way" as used in this chapter means any area over which the public has a general privilege to travel. It includes, but is not limited to, ways, areas between deeded right-of-way boundary lines, and easements of all descriptions that are available for general travel by the public.

Code 1950, § 15-77.59:1; 1958, c. 328; 1962, c. 623, § 15.1-896; 1994, c. 177; 1997, c. 587; 2005, c. 839.

**§ 15.2-2001. Streets, sidewalks and public rights-of-way generally.**

Every locality may lay out, open, extend, widen, narrow, establish or change the grade of, close, construct, pave, curb, gutter, plant and maintain shade trees on, improve, maintain, repair, clean and light: streets, limited access highways, express highways, roads, alleys, bridges, viaducts, subways and underpasses. Localities may make, improve and repair sidewalks upon all public rights-of-way and may convert sidewalks to bicycle paths. A locality's power and authority over its public rights-of-way and other public places shall be the same, regardless of whether the public right-of-way or place has been expressly or impliedly dedicated to public use, has been conveyed to the locality by deed, or has been acquired by any other means.

Furthermore, any locality may establish highway user fees for highways that are not part of any system of state highways when such highway's traffic-carrying capacity is increased by construction or improvement.

Code 1950, § 15-77.53; 1958, c. 328; 1962, c. 623, § 15.1-889; 1974, c. 407; 1997, c. 587; 2006, c. 924.

**§ 15.2-2002. Acquisitions in connection with public right-of-way changes.**

Every locality proposing to open or widen any public right-of-way by taking a part of any lot or other subdivision of property in such manner that the remnant thereof would, in the opinion of the governing body, be so small or of such shape as to be unsuited for the erection of appropriate buildings thereon may acquire, as permitted by § 15.2-1800, the whole of the lot or other subdivision of property. Any such acquisition is declared to be for a public use, as the term public uses is used in Article I, Section 11 of the Constitution of Virginia. The locality may subsequently replat and dispose of the remnant of such property not used for right-of-way purposes in whole or in part, limiting the uses thereof as it may see fit. Nothing in this section shall be construed to give any locality any power to condemn the property of any railroad company or public service corporation which it does not otherwise possess under existing law.

Code 1950, § 15-771; 1962, c. 623, § 15.1-372; 1971, Ex. Sess., c. 1; 1997, c. 587.

### § 15.2-2003. Acquisition of land for public rights-of-way outside certain corporate limits.

Whenever the council of any city having a population of more than 100,000 seeks to acquire land for projecting roads, streets and avenues or for extending any of its existing roads, streets and avenues of uniform width into the territory adjacent to such city, it may acquire the necessary lands as permitted by § 15.2-1800; however, no such land shall be acquired except within five miles from the corporate limits, and the proposed location of any such projected or extended roads, streets and avenues shall be approved by the board of supervisors of the county in which such road, street or avenue is located.

Code 1950, § 15-772; 1962, c. 623, § 15.1-373; 1997, c. 587.

### § 15.2-2004. Streets, highways, etc., outside a city or town.

A city or town may construct, improve and maintain, or aid in the construction, improvement and maintenance of streets, roads, highways, bridges and underpasses outside the city or town in order to facilitate public travel and traffic into and out of the city or town or any property owned by it outside its boundaries.

Code 1950, § 15-77.54; 1958, c. 328; 1962, c. 623, § 15.1-890; 1997, c. 587.

### § 15.2-2005. Streets, etc., through any lands belonging to Commonwealth.

No street, alley or public highway not now actually improved and open to public travel shall be opened or maintained through, on or over any land lying in any city or town which belongs to the Commonwealth, without first obtaining the consent of the General Assembly, anything in the charter or ordinances of any city or town to the contrary notwithstanding.

Nothing herein shall be construed as interfering in any way with the present or future plans of any cities or towns in regard to the location and maintenance of sewerage and surface drainage on or through such properties when submitted to and approved by the Governor.

Code 1950, § 15-773; 1962, c. 623, § 15.1-374; 1997, c. 587.

## Article 2 - VACATION, ETC., OF PUBLIC RIGHTS-OF-WAY

### § 15.2-2006. Alteration and vacation of public rights-of-way; appeal from decision.

In addition to (i) the powers contained in the charter of any locality, (ii) any powers now had by such governing bodies under the common law or (iii) powers by other provisions of law, public rights-of-way in localities may be altered or vacated on motion of such governing bodies or on application of any person after notice of intention to do so has been published at least twice, with at least six days elapsing between the first and second publication, in a newspaper having general circulation in the locality. The notice shall specify the time and place of a hearing at which persons affected may appear and be heard. The cost of publishing the notice shall be taxed to the applicant. At the conclusion of the hearing and on application of any person, the governing body may appoint three to five people to view such public right-of-way and report in writing any inconvenience that would result from discontinuing the right-of-way. The governing body may allow the viewers up to fifty dollars each for their services. The sum allowed shall be paid by the person making the application to alter or vacate the public right-

of-way. From such report and other evidence, if any, and after the land owners affected thereby, along the public right-of-way proposed to be altered or vacated, have been notified, the governing body may discontinue the public right-of-way. When an applicant requests a vacation to accommodate expansion or development of an existing or proposed business, the governing body may condition the vacation upon commencement of the expansion or development within a specified period of time. Failing to commence within such time may render the vacation, at the option of the governing body, void. A certified copy of the ordinance of vacation shall be recorded as deeds are recorded and indexed in the name of the locality. A conditional vacation shall not be recorded until the condition has been met.

Any appeal shall be filed within sixty days of adoption of the ordinance with the circuit court for the locality in which the public right-of-way is located.

Code 1950, § 15-766; 1950, p. 725; 1952, c. 580; 1956, c. 487; 1958, c. 196; 1962, c. 623, § 15.1-364; 1964, c. 13; 1972, c. 357; 1973, c. 71; 1980, c. 236; 1982, c. 381; 1983, c. 33; 1984, c. 175; 1986, c. 41; 1997, c. 587.

**§ 15.2-2007. Fee for processing application under § 15.2-2006.**

The governing body of any locality may prescribe and charge a reasonable fee not exceeding $100 for processing an application pursuant to § 15.2-2006.

1970, c. 161, § 15.1-364.1; 1976, c. 183; 1979, c. 208; 1997, c. 587.

**§ 15.2-2007.1. Appointment of viewers in certain cities.**

Notwithstanding the provisions of § 15.2-2006, the City of Virginia Beach may by ordinance appoint three to five viewers for terms of one year to view each and every street or alley proposed to be altered or vacated during the term. The notice requirements of § 15.2-2204 shall be complied with for each hearing regarding discontinuance of the street or alley proposed to be altered or vacated. The applicant for closure of streets or alleys in such cities that have appointed viewers pursuant to this section shall not be required to advertise, and the governing body shall not be required to hold a separate hearing, for appointment of viewers for each specific street or alley proposed to be altered or vacated. The applicant and the governing body of such city shall comply with all other provisions of § 15.2-2006.

1997, c. 742, § 15.1-364.2; 2007, c. 813.

**§ 15.2-2008. Sale of public rights-of-way, easements, etc., to certain purchasers.**

Notwithstanding any contrary provision of law, general or special, any locality, as a condition to a vacation or abandonment, may require the fractional portion of its public rights-of-way and easements to be purchased by any abutting property owner. The price shall be no greater than the property's fair market value or its contributory value to the abutting property, whichever is greater, or the amount agreed to by the parties. No such vacation or abandonment shall be concluded until the agreed price has been paid. If any abutting property owner does not pay for such owner's fractional portion within one year, or other time period made a condition of the vacation or abandonment, of the local government

action to vacate or abandon, then the vacation or abandonment shall be void as to any such property owner.

1979, c. 241, § 15.1-366; 1985, c. 276; 1992, c. 362; 1993, c. 343; 1997, c. 587.

## Article 3 - ENCROACHMENTS ON RIGHTS-OF-WAY, ETC

### § 15.2-2009. Obstructions or encroachments.

A locality may prevent any unlawful obstruction of or encroachment over, under or in any street, highway, road, alley, bridge, viaduct, subway, underpass or other public right-of-way or place; may provide penalties for maintaining any such unlawful obstruction or encroachment; may remove the same and charge the cost thereof to the owner or occupant of the property so obstructing or encroaching; and may collect the cost in any manner provided by law for the collection of state or local taxes. The locality may require the owner or occupant of the property so obstructing or encroaching to remove the property and, pending such removal, may charge the owner of the property so obstructing or encroaching compensation for the use of such portion of the street, highway, road, alley, bridge, viaduct, subway, underpass or other public right-of-way or place obstructed or encroached upon the equivalent of what would be the tax upon the land so occupied if it were owned by the owner of the property so obstructing or encroaching. If removal is not accomplished within the time ordered, the locality may impose penalties for each day that the obstruction or encroachment is allowed to continue. The locality may authorize encroachments upon such public rights-of-way and places subject to such terms and conditions as the governing body may prescribe. However, owners or occupants shall be liable for negligence on account of such encroachment, and the governing body may institute and prosecute a suit or action in ejectment or other appropriate proceedings to recover possession of any such public right-of-way or place or any other property unlawfully occupied or encroached upon.

Code 1950, § 15-77.57; 1958, c. 328; 1962, c. 623, § 15.1-893; 1997, c. 587.

### § 15.2-2009.1. Dangerous roadside vegetation.

Notwithstanding the provisions of subsection A of § 15.2-2000, any locality may, by ordinance, provide that the owner of any property adjacent to the right-of-way of any street, highway, road, alley, bridge, viaduct, subway, underpass, or other public right-of-way or place shall, at such time or times as the governing body may prescribe, remove therefrom any and all trees, tree limbs, shrubs, high grass, or other substance that might dangerously obstruct the line of sight of a driver, be involved in a collision with a vehicle, or interfere with the safe operation of a vehicle or may, whenever the governing body deems it necessary, after reasonable notice as defined in subdivision 2 of § 15.2-906, have such trees, shrubs, high grass, and other like substances removed by its own agents or employees.

2020, cc. 962, 963.

### § 15.2-2010. Localities may permit awnings, fire escapes, etc., to overhang public rights-of-way.

Any locality may authorize owners or occupants of property abutting upon any public rights-of-way, within such limitations as the locality may prescribe, to construct and maintain in, upon and over such public rights-of-way, awnings, fire escapes, shutters, signs, cornices, gutters, downspouts, bay

windows and other appendages to buildings; but such authority or permission shall be deemed to be a license merely and shall be revocable at the pleasure of the localities or of the General Assembly. Nothing contained in this section shall be construed to relieve such owners or occupants from liability for negligence on their part.

Code 1950, § 15-775; 1962, c. 623, § 15.1-376; 1997, c. 587.

### § 15.2-2011. Localities may permit existing encroachments.

Notwithstanding the provisions of subsection A of § 15.2-2000, localities may authorize owners of property with roadside vegetation described in § 15.2-2009.1 or buildings or structures encroaching under, upon and over any public rights-of-way therein, within such limitations as the localities may prescribe, to maintain such vegetation or encroachments as they exist, until such vegetation, buildings, or structures are destroyed or removed; however, nothing contained in this section shall be construed to relieve the owners of negligence on their part on account of any such vegetation or encroachment.

Code 1950, § 15-776; 1962, c. 623, § 15.1-377; 1966, c. 190; 1986, c. 96; 1997, c. 587; 2020, cc. 962, 963.

### § 15.2-2012. Fee for processing application.

A locality may prescribe and charge a fee up to $150 for processing an application pursuant to § 15.2-2011.

1986, c. 96, § 15.1-377.1; 1997, c. 587.

## Article 4 - TEMPORARY CLOSING OF RIGHTS-OF-WAY

### § 15.2-2013. Temporary closing of rights-of-way.

Any city, any town which receives highway maintenance funds pursuant to § 33.2-319, or any county which receives highway maintenance funds pursuant to § 33.2-366 may permit the temporary use of public rights-of-way for other than public purposes and close the rights-of-way for public use and travel during temporary use, subject to the following conditions:

1. No matter advertising any thing or business shall be displayed in or on the public rights-of-way in connection with such temporary use.

2. The person so permitted to use public rights-of-way shall furnish a public liability and property damage insurance contract insuring the liability of such person, firm, association, organization or corporation for personal injury or death and damages to property resulting from such temporary use in such amounts as shall be determined by the governing body of the locality; the locality shall be named as an additional insured in the contract.

3. When any rights-of-way that are closed are extensions of the state primary highway system, adequate provision shall be made to detour through traffic.

Code 1950, § 15-6; 1960, c. 528; 1962, c. 623; § 15.1-14; 1970, c. 453; 1973, c. 402; 1990, c. 58; 1997, c. 587.

### § 15.2-2014. Temporary closing of rights-of-way in certain circumstances.

The chief administrative officer of any locality or, if there is none, then the chairman or mayor, may temporarily close any public right-of-way in the locality when in his judgment the public safety so requires. Such temporary closing shall not extend past the time of the next meeting of the governing body.

1970, c. 529, § 15.1-889.1; 1997, c. 587.

## Article 5 - MISCELLANEOUS

### § 15.2-2015. Use of streets, etc., for transportation and utilities; removal and alteration of facilities and equipment; permits and charges.

Any city or town may provide for the issuance of permits, under such terms and conditions as they may impose, for the use of streets, highways, roads, alleys, bridges, viaducts, subways and underpasses and other public rights-of-way and places by railroads, buses, taxicabs and other vehicles for hire; may prescribe the location in, under or over and provide for the issuance of permits for the use of such public rights-of-way and places for the installation, maintenance and operation of tracks, poles, wires, cables, pipes, conduits, bridges, viaducts, subways, vaults, areas and cellars; may require tracks, poles, wires, cables, pipes, conduits, bridges, viaducts, subways and underpasses to be altered, removed or relocated either permanently or temporarily; may charge and collect compensation for the privileges so granted; and may prohibit such use of such public rights-of-way and places except as otherwise provided by law. No such use shall be made of the streets, highways, roads, alleys, bridges, viaducts, subways and underpasses without the consent of the city or town.

Code 1950, § 15-77.56; 1958, c. 328; 1962, c. 623, § 15.1-892; 1997, c. 587.

### § 15.2-2016. Regulation of services and rates charged by person using streets, etc.

Any city or town may regulate the services rendered to the public and rates charged therefor by any person using the streets, highways, roads, alleys, bridges, viaducts, subways, underpasses or other public rights-of-way or places for the rendition of such services, which are not subject to regulation by the State Corporation Commission.

Code 1950, § 15-77.59; 1958, c. 328; 1962, c. 623, § 15.1-895; 1997, c. 587.

### § 15.2-2017. Public utilities not to use streets without consent.

No street railway, gas, water, steam or electric heating, electric light or power, cold storage, compressed air, viaduct, conduit, telephone or bridge company, nor any corporation, association, person, or partnership engaged in these or like enterprises, shall be permitted to use the streets, alleys or public grounds of a city or town, without the previous consent of the corporate authorities of such city or town.

Code 1950, § 15-774; 1962, c. 623, § 15.1-375; 1997, c. 587.

### § 15.2-2018. Use of certain public property without consent or franchise.

Notwithstanding the provisions of subsection A of § 15.2-2000, any person or corporation, except a public service corporation, that occupies or uses any streets, avenues, parks, bridges or any other

public places or public property or any public easement of a county, in a manner not permitted to the general public, without having first obtained the consent of the governing body of such county or a franchise therefor, shall be guilty of a Class 4 misdemeanor. Each day's continuance thereof shall be a separate offense. Such occupancy or use shall be deemed a nuisance. The court trying the case may cause the nuisance to be abated and commit the offenders and all their agents and employees engaged in such offenses to jail until the order of the court is obeyed.

1983, c. 613, § 15.1-512.1; 1997, c. 587.

**§ 15.2-2019. Localities may name streets, roads and alleys.**

Notwithstanding the provisions of subsection A of § 15.2-2000, every locality may name streets, roads and alleys. Such names shall take precedence over any other designation except those primary highways conforming to § 33.2-213, and shall be employed in references to property abutting thereon.

Renaming streets, roads and alleys on site plans or subdivision plats previously recorded and filed in a circuit court clerk's office shall not cause vacation of such site plans or subdivision plats. The locality may forward a certified copy of the action effecting such name change to the clerk of the circuit court in which the site plan or subdivision plat is recorded or filed. Upon receipt, the clerk shall (i) file the certified copy and note the name change on the site plan or subdivision plat affected or (ii) record the certified copy.

Code 1950, § 15-777.1; 1954, c. 462; 1962, c. 623, § 15.1-379; 1987, c. 384; 1997, c. 587; 1999, c. 671.

**§ 15.2-2020. Lights on public rights-of-way in counties.**

Notwithstanding the provisions of subsection A of § 15.2-2000, counties may install and maintain suitable lights on public rights-of-way in such counties, and pay the costs of such installation and maintenance.

Code 1950, § 15-778; 1952, c. 125; 1962, c. 623, § 15.1-380; 1997, c. 587.

**§ 15.2-2021. Ramps on curbs of certain streets; specifications.**

Notwithstanding the provisions of subsection A of § 15.2-2000, every locality requiring curbs along its streets that incorporate accessible routes for pedestrian use, such as existing or proposed sidewalks, shall require that curb ramps be constructed at intersections for use by persons with mobility impairments. The ramps shall comply with the Virginia Department of Transportation's Road and Bridge Standards. Local option, variance, or waiver of these standards is prohibited.

1974, c. 169, § 15.1-381; 1975, c. 74; 1976, c. 477; 1990, c. 186; 1993, c. 258; 1997, c. 587; 1999, cc. 409, 417.

**§ 15.2-2022. Certain counties may adopt ordinance regulating tracking of mud and debris upon highways.**

Notwithstanding the provisions of subsection A of § 15.2-2000, any county (i) whose roads are not a part of the state secondary highway system, (ii) which has the urban county executive form of

government, or (iii) is adjacent to a county which has the urban county executive form of government may, by ordinance, regulate the tracking of mud and debris upon the highways and secondary highways within the county boundaries.

1966, c. 429, § 15.1-16.1; 1987, c. 635; 1997, c. 587.

**§ 15.2-2022.1. Turns into or out of certain residential areas; resident permits.**

Notwithstanding the provisions of subsection A of § 15.2-2000, or any other provision of law, a county operating under the urban county executive form of government may by ordinance develop a program to issue resident permits or stickers to residents of a designated area that will allow such residents to make turns into or out of the designated area during certain times of the day when such turns would otherwise be restricted.

2019, c. 305.

**§ 15.2-2023. Expenditure of county revenues for certain roads.**

Any county may expend so much of its general revenues as its governing body by majority vote of its elected members deems appropriate for the construction and repair of public roads not in the primary or secondary state highway system and may own and operate the properties and equipment necessary to carry out the provisions of this section.

Any county revenues expended for such roads shall not be considered to be highway funds which are made available for highway purposes pursuant to § 33.2-358 and shall not diminish funds paid to counties under § 33.2-358.

1978, c. 163, § 15.1-26.2; 1994, c. 251; 1997, c. 587.

**§ 15.2-2024. Numbers to be displayed on buildings.**

Notwithstanding the provisions of subsection A of § 15.2-2000, every locality, by ordinance, may require that each building that fronts on a right-of-way be numbered and such number be displayed on the primary or accompanying building or in a manner that is easily readable from the right-of-way. Every locality may adopt such rules or procedures necessary to ensure the compliance with and enforcement of the ordinance adopted pursuant to this section. The ordinance may include provisions for a civil penalty not to exceed $100 for a violation that has not been corrected within 15 days of notice of such violation. Civil penalties assessed under this section shall be paid into the treasury of the locality where the violation occurred.

1984, c. 223, § 15.1-29.11; 1997, cc. 534, 587; 2020, c. 8.

**§ 15.2-2025. Removal of snow and ice.**

Notwithstanding the provisions of subsection A of § 15.2-2000, any county in Northern Virginia Planning District 8, or any county outside Planning District 8 that has adopted the county executive form of government, may provide by ordinance reasonable criteria and requirements for the removal of accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any occupied property.

Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for handicapped and elderly persons, and those otherwise physically incapable of meeting the criteria and requirements for such removal.

Civil penalties not to exceed $100 may be imposed for violation of such ordinance.

1988, c. 356, § 15.1-29.16; 1997, c. 587; 2018, cc. 323, 661.

**§ 15.2-2026. Limited access streets.**

Localities shall have the same authority with respect to the planning, designation, acquisition, opening, construction, reconstruction, improvement, maintenance, discontinuance and regulation of the use of limited access streets; the designation of existing streets as limited access streets, and the extinguishment of easements and rights in connection therewith; the regulation and restriction of access to such streets; the construction of service roads in connection therewith; and all other authority with respect to such streets and incidental thereto, as the Commonwealth Transportation Board has under the provisions of §§ 33.2-400 through 33.2-404, or as the Board may be hereafter granted by amendment thereof or otherwise. "Limited access street" as used in this section means a street especially designed for through traffic over which abutters have no easement or right of light, air or access because their property abuts upon such limited access street.

Code 1950, § 15-7.1; 1952, c. 422; 1962, c. 623, § 15.1-16; 1997, c. 587.

**§ 15.2-2027. Regulation of private roadways within multifamily residential developments.**

Any locality may regulate and control private roadways within multifamily residential developments to such extent as to allow police, fire and rescue vehicles access to the developments.

1970, c. 282, § 15.1-510.5:1; 1997, c. 587.

**§ 15.2-2028. Regulation of traffic.**

Every locality may regulate and control the operation of motor and other vehicles and the movement of vehicular and pedestrian travel and traffic on streets, highways, roads, alleys, bridges, viaducts, subways, underpasses and other public rights-of-way and places, provided such regulations shall not be inconsistent with the provisions of Chapter 13 (§ 46.2-1300 et seq.) of Title 46.2.

Code 1950, § 15-77.55; 1958, c. 328; 1962, c. 623, § 15.1-891; 1997, c. 587.

**§ 15.2-2029. Regulation of transportation of certain materials.**

Any locality may regulate the transportation of hay, coal, gasoline, explosives or other articles through the streets of the locality.

Code 1950, § 15-6; 1960, c. 528; 1962, c. 623, § 15.1-14; 1970, c. 453; 1973, c. 402; 1990, c. 58; 1997, c. 587.

**§ 15.2-2030. Localities may sell or lease airspace over public streets, public rights-of-way, etc., under certain conditions.**

Notwithstanding the provisions of subsection A of § 15.2-2000, subject to the provisions of Article VII, Section 9 of the Constitution of Virginia when applicable, any locality may by ordinance authorize the

sale or lease of the airspace over or under any public street, lane, alley or other public right-of-way in such locality owned by it in fee simple; provided, that any building, structure or appurtenance thereto, constructed over any such street, lane, alley or other public right-of-way shall have a minimum clearance of sixteen feet six inches and providing further that nothing herein shall be construed to relieve any such grantee or lessee of such airspace of the liability for negligence on their part. No such ordinance shall be adopted until the governing body has held a public hearing thereon after public notice as provided in § 15.2-2204. In addition, in those public rights-of-way in which the Commonwealth has a prescriptive easement for maintenance and public travel, the airspace shall be conveyed or leased only with the consent, in writing, of the Commissioner of Highways.

Should the construction of any building or structure in any such airspace require the relocation of any utility, the cost of such relocation shall be borne by the grantee or lessee.

1964, c. 373, § 15.1-376.1; 1966, c. 44; 1970, c. 570; 1979, c. 431; 1997, c. 587.

## Chapter 21 - FRANCHISES; SALE AND LEASE OF CERTAIN MUNICIPAL PUBLIC PROPERTY; PUBLIC UTILITIES

## Article 1 - FRANCHISES; SALE AND LEASE OF CERTAIN PUBLIC PROPERTY

**§ 15.2-2100. Restrictions on selling certain municipal public property and granting franchises.**
A. No rights of a city or town in and to its waterfront, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, or other public places, or its gas, water, or electric works shall be sold except by an ordinance passed by a recorded affirmative vote of three-fourths of all the members elected to the council, notwithstanding any contrary provision of law, general or special, and under such other restrictions as may be imposed by law. Notwithstanding any contrary provision of law, general or special, in case of a veto by the mayor of such an ordinance, it shall require a recorded affirmative vote of three-fourths of all the members elected to the council to override the veto.

B. No franchise, lease or right of any kind to use any such public property or any other public property or easement of any description, in a manner not permitted to the general public, shall be granted for a period longer than forty years, except for air rights together with easements for columns for support, which may be granted for a period not exceeding sixty years.

Before granting any such franchise or privilege for a term in excess of five years, except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor, in such manner as is provided by § 15.2-2102, and shall then act as may be required by law.

Such grant, and any contract in pursuance thereof, may provide that, upon the termination of the grant, the plant as well as the property, if any, of the grantee in the streets, avenues and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation become the property of the city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise. Any such plant or property acquired by a city or town may be sold or leased or, if authorized by general law, maintained, controlled, and operated by such city or town. Every such

grant shall specify the mode of determining any valuation therein provided for and shall make adequate provisions by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant.

C. Any additional restriction now required in any existing municipal charter relating to the powers of cities and towns in selling or granting franchises or leasing any of their property is hereby superseded; however, nothing herein contained shall be construed as affecting the term of any existing franchise, lease or right. The requirement of an affirmative three-fourths vote of council shall apply only to the sale of the listed properties and not to their franchise, lease or use.

D. The provisions of this section shall only apply to cities or towns and shall not apply to counties or other political subdivisions.

Code 1950, § 15-727; 1962, c. 623, § 15.1-307; 1971, Ex. Sess., c. 64; 1997, c. 587; 2001, c. 498.

**§ 15.2-2101. Ordinance proposing grant of franchise, etc., to be advertised.**

A. Before granting any franchise, privilege, lease or right of any kind to use any public property described in § 15.2-2100 or easement of any description, for a term in excess of five years, except in the case of and for a trunk railway, the city or town proposing to make the grant shall advertise a descriptive notice of the ordinance proposing to make the grant once a week for two successive weeks in a newspaper having general circulation in the city or town. The descriptive notice of the ordinance may also be advertised as many times in such other newspaper or newspapers, published outside the city, town or Commonwealth, as the council may determine. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the city or town council.

B. The advertisement shall invite bids for the franchise, privilege, lease or right proposed to be granted in the ordinance. The bids shall be in writing and delivered upon the day and hour named in the advertisement and shall be opened in public session and marked for identification by the person designated in the advertisement to receive such bids. The cost of the required advertisement shall be paid by the city or town which shall be reimbursed by the person to whom the grant is made. The city or town shall have the right to reject any and all bids and shall reserve this right in the advertisement.

Code 1950, §§ 15-728, 15-729; 1962, c. 623, §§ 15.1-308, 15.1-309; 1971, Ex. Sess., c. 64; 1983, c. 138; 1997, c. 587; 2001, c. 498.

**§ 15.2-2102. How bids received and to whom franchise awarded.**

The presiding officer shall read aloud, or cause to be read aloud, a brief summary of each of the bids that have been received, for public information, and shall then inquire if any further bids are offered. If further bids are offered, they shall be received. The presiding officer shall thereafter declare the bidding closed. The presiding officer shall receive recommendations from the staff relative to any bids received in advance and staff's recommendations, if any, on any bids received at the advertised council meeting. After such other investigation as the council sees fit to make, the council shall accept the

highest bid from a responsible bidder and shall adopt the ordinance as advertised, without substantial variation, except to insert the name of the accepted bidder. However, the council, by a recorded vote of a majority of the members elected to the council, may reject a higher bid and accept a lower bid from a responsible bidder and award the franchise, right, lease or privilege to the lower bidder, if, in its opinion, some reason affecting the interest of the city or town makes it advisable to do so, which reason shall be expressed in the body of the subsequent ordinance granting the franchise, right, lease or privilege. The process described in this section may run concurrently with any other advertisement or public ordinance requirements of this title, or such requirements as may be contained in charters of such cities or towns.

Code 1950, § 15-730; 1962, c. 623, § 15.1-310; 1997, c. 587; 2001, c. 498.

### § 15.2-2103. Award when no satisfactory bid received.

If, after such advertisements, no bid, or no satisfactory bid, is made, the council may advertise for further bids, and in case no bid at all is made, the council, if it sees fit to do so, may adopt an ordinance in the manner required by law granting such franchises, rights, leases or privileges to any person making application therefor.

Code 1950, § 15-731; 1962, c. 623, § 15.1-311; 1997, c. 587.

### § 15.2-2103.1. Solar services agreements; nondisclosure of proprietary information.

A. A solar services agreement may be structured as a service agreement or may be subject to available appropriation.

B. Nothing in this article shall be construed to require the disclosure of proprietary information voluntarily provided by a private entity in connection with a franchise, lease, or use under a solar services agreement that is excluded from mandatory disclosure pursuant to subdivision 29 of § 2.2-3705.6 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Nothing in this section, however, shall be construed as authorizing the withholding of the financial terms of such agreements.

2017, c. 737.

### § 15.2-2104. Bond of person awarded franchise, etc.

The person to whom a franchise, right, lease or privilege is awarded, whether by competing bids or otherwise, shall first execute a bond, with good and sufficient security, in favor of the city or town. The bond shall be in such sum as the city or town shall determine, conditioned upon the construction, operation and maintenance of the plant or plants provided for in the granted franchise, right, lease or privilege.

Code 1950, § 15-732; 1962, c. 623, § 15.1-312; 1997, c. 587.

### § 15.2-2105. How amendments made to franchise, etc.; notice required.

No amendment or extension of any franchise, right, lease or privilege that now exists, or that may hereafter be authorized, which extends or enlarges the time or territory of such franchise, right, lease or

privilege, shall be granted by any city or town until the provisions of §§ 15.2-2101 through 15.2-2104 have been complied with. No amendment that releases the grantee, or his assignee, from the performance of any duty required by the ordinance or that authorizes an increase in the user charges to be made by such grantee or assignee shall be granted until notice of such proposed amendment has given to the public by advertising the proposed amendment for ten days in some newspaper having general circulation in the city or town. The cost of such advertising shall be paid by the city or town, which shall be reimbursed by the person to whom the amendment is granted. No such amendment shall be adopted except by ordinance.

Code 1950, § 15-734; 1962, c. 623, § 15.1-314; 1997, c. 587.

**§ 15.2-2105.1. Granting franchises for operation of a vehicular ferry transportation system.**

The authority granted by this article for the granting of franchises by localities shall include the authority to grant an exclusive franchise for the operation of a vehicular ferry transportation system in Northumberland County. The county may regulate such system, including the establishment of fees and rates.

2002, c. 154.

**§ 15.2-2106. Powers of court to enforce obedience by mandamus, etc.**

The circuit courts for the cities and for the counties in which towns may be situated shall have jurisdiction by mandamus, according to the provisions of Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01, to enforce compliance by the cities or towns and by all grantees with all the terms, contracts and obligations of either party, as contained in the franchises, rights, leases or privileges, whether now in force or hereafter granted. The jurisdiction in mandamus shall not preclude any party from bringing any other suit or action which such party would be entitled to bring, at law or in equity.

Code 1950, § 15-735; 1962, c. 623, § 15.1-315; 1997, c. 587.

**§ 15.2-2107. Persons occupying or using streets, etc., contrary to law.**

Any person occupying or using any of the streets, avenues, parks, bridges or any other public places or public property or any public easement of any description of a city or town, in a manner not permitted to the general public, without having first legally obtained the consent of the city or town shall be guilty of a Class 4 misdemeanor. Each day's continuance thereof shall be a separate offense. Such occupancy or use shall be deemed a nuisance. The court trying the case may cause the nuisance to be abated and commit the offenders and all their agents and employees engaged in such offenses to jail until the order of the court is obeyed.

Code 1950, § 15-736; 1962, c. 623, § 15.1-316; 1983, c. 613; 1997, c. 587.

**§ 15.2-2108. Repealed.**

Repealed by Acts 2006, cc. 73 and 76, cl. 2, effective July 1, 2006.

**§ 15.2-2108.1. Regulation of open video systems.**

A locality may regulate any open video system authorized pursuant to 47 U.S.C. § 573 to the maximum extent permitted by federal law, including without limitation the (i) imposition of a gross revenues fee, if such locality has not adopted a currently effective ordinance pursuant to § 58.1-3818.3 and (ii) requirement of the provision and support of public, educational and governmental access channels on any such system.

1998, cc. 643, 652.

**§ 15.2-2108.1:1. Franchise fees and public rights-of-way fees on cable operators.**

A. As used in this section:

"Cable operator" means any person or group of persons that (i) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (ii) otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system, whether or not the operator has entered into a franchise agreement with a locality. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service.

"Cable service" means the one-way transmission to subscribers of (i) video programming as defined in 47 U.S.C. § 522 (20) or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332 (d) and any direct-to-home satellite service as defined in 47 U.S.C. § 303 (v).

"Cable system" or "cable television system" means any facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) any portion of a system that serves fewer than 50 subscribers in any locality, where such portion is a part of a larger system franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

"Franchise" means an initial authorization, or renewal thereof, issued by a franchising authority, including a locality or the Commonwealth Transportation Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes

the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way, including either a negotiated cable franchise or an ordinance cable franchise.

B. Notwithstanding any other provision of law, if a cable operator uses the public rights-of-way the cable operator shall be subject to the Public Rights-of-Way Use Fee as provided in § 56-468.1. Any limitation as to fees charged for the use of the public rights-of-way shall not be applicable to pole attachments and conduit occupancy agreements between a cable operator and a locality or its authority or commission, which permits such operator to use the public poles or conduits.

C. Notwithstanding any other provision of law, no new or renewed cable franchise entered into on or after January 1, 2007, shall include a franchise fee as long as cable services are subject to the Virginia Communications Sales and Use Tax (§ 58.1-645 et seq.). Franchise fee as used in this subsection shall have the same meaning as that term is defined in 47 U.S.C. § 542 (g).

1. All cable franchises in effect as of January 1, 2007, shall remain in full force and effect, and nothing in this section shall impair any obligation of any such agreement; provided, however, that any requirement in such an existing franchise for payment of a monetary franchise fee based on the gross revenues of the franchisee shall be fulfilled in the manner specified in subdivision 2.

2. Each cable operator owing monetary payments for franchise fees, until the expiration of one or more such existing franchises, shall include with its monthly remittance of the Communications Sales and Use Tax a report, by locality, of the amounts due for franchise fees accruing during that month. The Department of Taxation shall, on behalf of the cable operator in the relevant locality, then distribute to each county, city, or town the amount reported by each locality's franchisee(s). Such payments shall reduce the cable operator's franchise fee liability. The monthly distributions shall be paid from the Communications Sales and Use Tax Trust Fund before making the other calculations and distributions required by § 58.1-662. Until distributed to the individual localities, such amounts shall be deemed to be held in trust for their respective accounts.

3. A locality's acceptance of any payment under subdivision 2 shall not prejudice any rights of the locality under the applicable cable franchises (i) to audit or demand adjustment of the amounts reported by its franchisee, or (ii) to enforce the provisions of the franchise by any lawful administrative or judicial means.

2006, c. 780.

## Article 1.1 - PROVISION OF CABLE TELEVISION SERVICES BY CERTAIN LOCALITIES

### § 15.2-2108.2. Definitions.

As used in this article:

"Advanced service" means high-speed Internet access capability in excess of 144 kilobits per second both upstream and downstream.

"Cable television service" means (i) the one-way transmission to subscribers of video programming or other programming service; and (ii) subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Capital costs" means all costs of providing a service that are capitalized in accordance with generally accepted accounting principles.

"Cross subsidize" means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.

"Direct costs" means those expenses of a municipality that are directly attributable to providing a cable television service and would be eliminated if such service were not provided by the municipality.

"Feasibility consultant" means an individual or entity with expertise in the processes and economics of providing cable television service.

"Full-cost accounting" means the accounting of all costs incurred by a municipality in providing a cable television service. The costs included in a full-cost accounting include all capital costs, direct costs, and indirect costs.

"Indirect costs" means any costs identified with two or more services or other functions; and that are not directly identified with a single service or function. "Indirect costs" may include cost factors for administration, accounting, personnel, purchasing, legal support, and other staff or departmental support.

"Private provider" means a private entity that provides cable television services.

"Telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

"Subscriber" means a person who lawfully receives cable television services.

2003, c. 677.

**§ 15.2-2108.3. Scope of article.**

A. Nothing in this article shall authorize any county or other political subdivision of the Commonwealth to (i) provide a cable television service; or (ii) purchase, lease, construct, maintain, or operate a facility for the purpose of providing a cable television service.

B. Nothing in this article shall apply to a municipality purchasing, leasing, constructing, or equipping facilities that are designed to provide services within the municipality, and that the municipality (i) uses for internal municipal government purposes; or (ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering cable television services.

2003, c. 677.

**§ 15.2-2108.4. Limitations on providing cable television services.**

A. Except as provided in this article, a municipality shall not (i) provide a cable television service; or (ii) purchase, lease, construct, maintain, or operate any facility for the purpose of providing a cable television service to one or more subscribers.

B. For purposes of this article, a municipality provides a cable television service if the municipality provides the service:

1. Directly or indirectly, including through an authority or instrumentality acting on behalf of the municipality or acting for the benefit of the municipality; or

2. By itself, through a partnership, joint venture, or by contract, resale, or otherwise.

2003, c. 677.

**§ 15.2-2108.5. Preliminary public hearing; feasibility consultant.**

A. Before a municipality may engage or offer to engage in an activity described in subsection A of § 15.2-2108.4, the governing body of the municipality shall hold a preliminary public hearing at which any interested party may appear and be heard.

B. If the governing body elects to proceed after holding the preliminary public hearing required by subsection A, the governing body shall approve the hiring of a feasibility consultant to conduct a feasibility study in accordance with § 15.2-2108.6.

2003, c. 677.

**§ 15.2-2108.6. Feasibility study on providing cable television services.**

A. Upon the hiring of a feasibility consultant under § 15.2-2108.5, the governing body of the municipality shall require the feasibility consultant to:

1. Complete the feasibility study in accordance with this section;

2. Submit to the governing body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study the full written results of the feasibility study, and a summary of the results that is no longer than one page in length; and

3. Attend the public hearings required by § 15.2-2108.7, if held, to: (i) present the feasibility study results and (ii) respond to questions from the public.

B. The feasibility study described in subsection A shall at a minimum consider:

1. If the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality;

2. Whether but for the municipality any person would provide the proposed cable television services;

3. The fiscal impact on the municipality of: (i) the capital investment in facilities that will be used to provide the proposed cable television services or (ii) the expenditure of funds for labor, financing, and administering the proposed cable television services;

4. The projected growth in demand in the municipality for the proposed cable television services;

5. The projections at the time of the feasibility study, and for the five years immediately thereafter, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed cable television services; and

6. The projections at the time of the feasibility study and for the five years immediately thereafter of the revenues to be generated from the proposed cable television services.

C. For purposes of the financial projections required under subdivisions B 5 and B 6 of this section, the feasibility consultant shall assume that the municipality will price the proposed cable television services consistent with subsection E of § 15.2-2108.11.

D. The governing body of the municipality shall determine whether the average annual revenues under subdivision B 6 exceed the average annual costs under subdivision B 5 by at least the amount necessary to meet the bond obligations of any bonds issued to fund the proposed cable television services based on the feasibility study's analysis for the first year of the study and the five-year projection, and separately stated with respect to the proposed cable television services.

2003, c. 677.

**§ 15.2-2108.7. Public hearings on feasibility study; notice.**

A. If the results of the feasibility study satisfy the revenue requirements of subsection D of § 15.2-2108.6, the governing body shall, at the next regular meeting after the governing body receives the results of the feasibility study, schedule at least two public hearings to be held at least seven days apart, but both shall be held not more than 60 days from the date of the meeting at which the public hearings are scheduled. The purpose of such public hearings shall be to allow the feasibility consultant to present the results of the feasibility study, and to inform the public about the feasibility study results and offer the public the opportunity to ask questions of the feasibility consultant about the results of the feasibility study.

B. Except as provided in subsection C, the municipality shall publish notice of the public hearings required under subsection A at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality. The last publication of notice required under this subsection shall be at least three days before the first public hearing required under subsection A.

C. If there is no newspaper of general circulation in the municipality, for each 1,000 residents the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality. The municipality shall post the notices at least seven days before the first public hearing required under subsection A is held.

D. After holding the public hearings required by this section, if the governing body of the municipality elects to proceed, the municipality shall adopt by resolution the feasibility study.

2003, c. 677.

### § 15.2-2108.8. Referendum.

A. Before a municipality may offer cable television service, the governing body of the municipality shall by a majority vote call an election on whether or not the municipality shall provide the proposed cable television services.

B. When under subsection A the governing body calls an election, the election shall be held:

1. At the next municipal general election or as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 at a local special election the purpose of which is authorized by this section; and

2. In accordance with the law of Virginia regarding elections in Title 24.2 and as provided in this section.

C. The notice of the election shall include with any other information required by law:

1. A summary of the cable television services that the governing body of the municipality proposes to provide to subscribers residing within the boundaries of the municipality;

2. The feasibility study summary under § 15.2-2108.6;

3. A statement that a full copy of the feasibility study is available for inspection and copying; and

4. The location in the municipality where the feasibility study may be inspected or copied.

D. The ballot at the election shall pose the question substantially as follows: "Shall this municipality provide cable television service to the inhabitants of the municipality?"

E. The ballot proposition shall not take effect until submitted to the electorate and approved by the majority of those voting on the ballot.

2003, c. 677.

### § 15.2-2108.9. Enterprise funds for cable television services.

A. A municipality that provides a cable television service under this article shall:

1. Establish an enterprise fund to account for the municipality's operations of a cable television service; and

2. Adopt separate operating and capital budgets for the municipality's cable television services.

B. A municipality that provides a cable television service under this article shall not:

1. Transfer any appropriation or other balance in any enterprise fund established by the municipality under this section to another enterprise fund; or

2. Transfer any appropriation or other balance in any other enterprise fund established by the municipality to any enterprise fund established by the municipality under this section.

The restrictions on transfers described in this subsection do not apply to transfers made by a municipality between other enterprise funds established by the municipality.

C. A municipality authorized pursuant to subsection E of § 56-265.4:4 to provide cable television service shall:

1. Establish a separate department within an enterprise fund to account for the municipality's operations of a cable television service. This department may share a common balance sheet with other telecommunications and communications services, but the income statements must be stated separately; and

2. Adopt separate operating and capital budgets for the municipality's cable television services.

D. A municipality authorized pursuant to subsection E of § 56-265.4:4 to provide cable television service shall not transfer funds from other departments to the cable television department, but the municipality may make interdepartmental loans at market rates, upon such terms and conditions as would prevail from a private lender.

2003, c. 677.

**§ 15.2-2108.10. Bonding authority.**

A. The governing body of a municipality may by resolution determine to issue one or more bonds to finance the capital costs for facilities necessary to provide to subscribers a cable television service. Such resolution shall: (i) describe the purpose for which the indebtedness is to be created and (ii) specify the dollar amount of the one or more bonds proposed to be issued.

B. A bond issued under this section shall be secured and paid for solely from the revenues generated by the municipality from providing cable television services with respect to bonds issued to finance facilities for the municipality's cable television services. Notwithstanding the foregoing, a municipality authorized under subsection E of § 56-265.4:4 to provide cable television services shall not be subject to the requirement that it secure a bond with solely the revenues generated by the municipality from providing cable television services, and such municipality shall repay the bond indebtedness in a fashion that reflects a reasonable pro rata allocation of such indebtedness by enterprise fund or department.

C. A municipality shall pay that portion of the origination, financing, or other carrying costs associated with one or more bonds issued under this section associated with cable television solely from the funds of the cable television department.

2003, c. 677.

**§ 15.2-2108.11. General operating limitations.**

A. A municipality that provides a cable television service shall comply with all terms and provisions of the Cable Communications Policy Act of 1984 (47 U.S.C. § 521 et seq.) and the regulations issued by the Federal Communications Commission under such Act that would be applicable to a similarly situated private provider of cable television services.

B. A municipality may not cross subsidize its cable television services with:

1. Tax dollars;

2. Income from other municipal or utility services;

3. Below-market rate loans from the municipality; or

4. Any other means.

C. A municipality shall not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of cable television services.

D. A municipality shall apply, without discrimination as to itself and to any private provider, the municipality's ordinances, rules, and policies, including those relating to (i) obligation to serve; (ii) access to public rights of way and municipal utility poles and conduits; (iii) permitting; (iv) performance bonding; (v) reporting; and (vi) quality of service.

E. In calculating the rates charged by a municipality for a cable television service:

1. The municipality shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including federal, state, and local taxes; franchise fees; permit fees; pole attachment fees; and any similar fees; and

2. The municipality shall not price any cable television service at a level that is less than the sum of: (i) the actual direct costs of providing the service; (ii) the actual indirect costs of providing the service; and (iii) the amount determined under subdivision E 1.

F. A municipality that provides cable television services shall comply with the provisions of Title 47 of the Code of Federal Regulations regarding rate and service changes.

G. A municipality shall offer to provide or provide cable television services to only those subscriber locations within either (i) the municipality's electric utility service area as it existed on January 1, 2003, or (ii) the area, as of January 1, 2003, in which the municipality was providing local exchange service or Internet service over telecommunications facilities owned by the municipality, provided that a cable television franchise from any jurisdiction other than the municipality authorized herein shall be required for any service outside the municipality's boundaries.

H. A municipality shall keep accurate books and records of the municipality's cable television services. A municipality shall conduct an annual audit of its books and records associated with the municipality's cable television services, such audit to be performed by an independent auditor approved by the Auditor of Public Accounts. Such audit shall include such criteria as the Auditor of Public Accounts deems appropriate and be filed with him, with copies to be submitted to each private provider that holds a franchise to offer service within the municipality. If, after review of such audit, the Commonwealth's Auditor of Public Accounts determines that there are violations of this article, he shall provide public notice of same.

I. Notwithstanding any other provision of law, the Auditor of Public Accounts shall not disclose those portions of any comprehensive business plan that reveal marketing strategies of a municipal cable television service except as necessary to perform his duties and such information shall be otherwise exempt from public disclosure and not subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2003, c. 677; 2004, c. 586.

### § 15.2-2108.12. Eminent domain.

A. No municipality shall exercise its power of eminent domain to condemn any plant or equipment of a private provider for the purpose of providing to a subscriber a cable television service.

B. No municipality, for the purpose of providing to a subscriber a cable television service, shall exercise its power of eminent domain to condemn real property, whether in whole or in part, or to obtain an easement.

2003, c. 677.

### § 15.2-2108.13. Quality of service standards.

A municipality that provides a cable television service shall adopt an ordinance governing the quality of service the municipality shall provide to its subscribers, which standard of quality shall be no more favorable or less burdensome to the municipality than the standard of quality applied to any other private providers within the municipality.

2003, c. 677.

### § 15.2-2108.14. Civil action.

A private provider may file an action against a municipality in the circuit court having jurisdiction over the municipality for equitable relief, including a restraining order and injunction, for a violation of the provisions of this article. At least 10 days before filing such action the private provider shall file a written notice thereof with the municipality.

2003, c. 677.

### § 15.2-2108.15. Consumer complaints.

A municipality that provides cable television service shall enact an ordinance establishing a procedure for the filing and resolution of complaints relating to the municipality's provision of cable television service. Such ordinance shall comply with Title 47 of the Code of Federal Regulations and shall be no more favorable or less burdensome to the municipality than such procedure applicable to any private provider providing service in the municipality.

2003, c. 677.

### § 15.2-2108.16. Annual report.

A municipality that provides cable television service shall provide to a private provider the same information required to be filed with the municipality by that private provider under the terms of its franchise.

2003, c. 677.

### § 15.2-2108.17. Antitrust immunity.

A municipality that provides a cable television service is subject to applicable antitrust liabilities and immunities from liabilities under the federal Local Government Antitrust Act of 1984 (15 U.S.C. § 34 et seq.).

2003, c. 677.

### § 15.2-2108.18. Repealed.

Repealed by Acts 2016, cc. 724 and 725, cl. 4, effective April 8, 2016.

## Article 1.2 - LICENSING AND REGULATION OF CABLE TELEVISION SYSTEMS

### § 15.2-2108.19. Definitions.

As used in this article:

"Act" means the Communications Act of 1934.

"Affiliate," in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

"Basic service tier" means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

"Cable operator" means any person or group of persons that (i) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (ii) otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service.

"Cable service" means the one-way transmission to subscribers of (i) video programming or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332 (d).

"Cable system" or "cable television system" means any facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to

subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) any portion of a system that serves fewer than 50 subscribers in any locality, where such portion is a part of a larger system franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

"Certificated provider of telecommunications services" means a person holding a certificate issued by the State Corporation Commission to provide local exchange telephone service.

"Force majeure" means an event or events reasonably beyond the ability of the cable operator to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which the cable operator's facilities are attached or to be attached or conduits in which the cable operator's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

"Franchise" means an initial authorization, or renewal thereof, issued by a franchising authority, including a locality or the Commonwealth Transportation Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way. A negotiated cable franchise is granted by a locality after negotiation with an applicant pursuant to § 15.2-2108.20. An ordinance cable franchise is granted by a locality when an applicant provides notice pursuant to § 15.2-2108.21 that it will provide cable service in the locality.

"Gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the cable system to provide cable services in the franchise area; however, in an ordinance cable franchise "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information

services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

"Interactive on-demand services" means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

"Ordinance" includes a resolution.

"Transfer" means any transaction in which (i) an ownership or other interest in the cable operator is transferred, directly or indirectly, from one person or group of persons to another person or group of persons, so that majority control of the cable operator is transferred; or (ii) the rights and obligations held by the cable operator under the cable franchise granted under this article are transferred or assigned to another person or group of persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the cable franchise shall not include (a) transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator; (b) transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator; (c) any action that is the result of a merger of the parent of the cable operator; (d) any action that is the result of a merger of another affiliate of the cable operator; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the cable franchise or the system used to provide cable in order to secure indebtedness.

"Video programming" means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

All terms used herein, unless otherwise defined, shall have the same meaning as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq. In addition, references in this article to any federal law shall include amendments thereto as are enacted from time-to-time.

2006, cc. 73, 76.

**§ 15.2-2108.20. Authority to grant negotiated cable franchises and regulate cable systems.**

A. A locality may grant a negotiated cable franchise in accordance with Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 521 et seq., and this chapter.

B. A locality may, by ordinance, exercise all regulatory powers over cable systems granted by the Communications Act of 1934, except as limited by this article. These regulatory powers shall include the authority: (i) to enforce customer service standards in accordance with the Act; (ii) to enforce more stringent standards as agreed upon by the cable operator through the terms of a negotiated cable franchise; and (iii) to regulate the rates for basic cable service in accordance with the Act. A locality, however, shall not regulate cable operators, cable systems, or other facilities used to provide video programming through the adoption of ordinances or regulations (a) that are more onerous than ordinances or regulations adopted for existing cable operators; (b) that unreasonably prejudice or

disadvantage any cable operator, whether existing or new; or (c) that are inconsistent with any provision of federal law or this article.

2006, cc. 73, 76.

**§ 15.2-2108.21. Ordinance cable franchises.**

A. This section shall govern the procedures by which a locality may grant ordinance cable franchises.

B. An ordinance cable franchise, which shall have a term of 15 years, may be requested by (i) a certificated provider of telecommunications services with previous consent to use the public rights-of-way in a locality through a franchise; (ii) a certificated provider of telecommunications services that lacked previous consent to provide cable service in a locality but provided telecommunications services over facilities leased from an entity having previous consent to use of the public rights-of-way in such locality through a franchise; or (iii) a cable operator with previous consent to use the public rights-of-way to provide cable service in a locality through a franchise and who seeks to renew its existing cable franchise pursuant to § 15.2-2108.30 as an ordinance cable franchise. A cable operator with previous consent to use the public rights-of-way to provide cable service in a locality through a franchise may opt into the new terms of an ordinance cable franchise under § 15.2-2108.26.

C. In order to obtain an ordinance cable franchise, an applicant shall first file with the chief administrative officer of the locality from which it seeks to receive such ordinance cable franchise a request to negotiate the terms and conditions of a negotiated cable franchise under § 15.2-2108.20. An applicant shall request and make itself available to participate in cable franchise negotiations with the locality from which it seeks to receive a negotiated cable franchise at least 45 calendar days prior to filing a notice electing an ordinance cable franchise; this prerequisite shall not be applicable if a locality refuses to engage in negotiations at the request of an applicant or if the applicant already holds a negotiated cable franchise from the locality. Thereafter, an applicant, through its president or chief executive officer, shall file notice with the locality that it elects to receive an ordinance cable franchise at least 30 days prior to offering cable in such locality. The notice shall be accompanied by a map or a boundary description showing (i) the initial service area in which the cable operator intends to provide cable service in the locality within the three-year period required for an initial service area and (ii) the area in the locality in which the cable operator has its telephone facilities. The map or boundary description of the initial service areas may be amended by the cable operator by filing with the locality a new map or boundary description of the initial service area.

D. The cable operator shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. The local franchising authority shall have the right to monitor and inspect the deployment of cable services and the cable operator shall submit semiannual progress reports detailing the current provision of cable services in accordance with the deployment schedule and its new service area plans for the next six months. The failure to correct or remedy any material deficiencies

shall be subject to the same remedies as contained in the cable television franchise of the existing cable operator as that franchise existed at the time of the grant of the ordinance franchise.

E. The locality from which the applicant seeks to receive an ordinance cable franchise shall adopt any ordinance requiring adoption under this article within 120 days of the applicant filing the notice required in subsection C. Any ordinance adopted under this section that relates to a cable operator's provision of cable service shall apply to such cable operator retroactively to the date on which the cable operator began to offer cable service in the locality pursuant to this article.

F. Notice of any ordinance that requires a public hearing shall be advertised once a week for two successive weeks in a newspaper having general circulation in the locality. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the locality. All costs of such advertising shall be assessed against the operator or applicant.

G. If the governing body of any town adopts an ordinance pursuant to the provisions of this article, such town shall not be subject to any ordinance adopted by the county within which such town lies.

2006, cc. 73, 76.

**§ 15.2-2108.22. Regulation of fees, rates and services; penalties.**

Upon receiving a notice requesting an ordinance cable franchise pursuant to § 15.2-2108.21, a locality shall adopt or maintain one or more ordinances that govern a cable operator who provides cable service under an ordinance cable franchise. The requirements of any specific provision in any such ordinance shall not exceed the requirements imposed in the same provision, if any, in any existing cable franchise within the locality. Such ordinance or ordinances, which shall be adopted after a public hearing, shall:

1. Require a cable operator to provide the locality with access to a number of public, educational, and governmental access channels, equal to the lowest number of such channels provided by any other cable operator in the same franchise area of the locality. If the existing cable operator provides less than three such public, educational, and governmental access channels pursuant to a franchise agreement, the locality may require each cable operator to provide up to three such channels. Any additional channels provided subject to this provision shall be subject to the reclamation formula set forth below. In addition, a locality may, by ordinance adopted after a public hearing, require a cable operator to interconnect with any other cable operator to ensure the carriage of required public, educational, and governmental access channels; if the new cable operator and all existing cable operators cannot agree to an interconnection agreement within 180 days of a request to interconnect by the new cable operator, then the locality is authorized to determine an interconnection point. The locality or its designee shall assume responsibility for management, operation, and programming of such channels. A locality that substantially utilizes its existing public, educational, and governmental access channels may require a reasonable number of additional public, educational, and governmental access channels by the enactment of an ordinance, after a public hearing, so long as (i) the ordinance applies equally to all providers of cable service within a franchise area, (ii) the total number

of additional public, educational, and governmental access channels does not exceed three channels in the basic service tier, and (iii) the total number of public, educational, and governmental access channels shall not exceed seven channels in the aggregate. Notwithstanding the foregoing, but consistent with federal law, the locality and a cable operator may enter into written agreements for the carriage of additional public, educational, and governmental access channels, including other arrangements for the carriage of such programming. Any additional public, educational, and governmental access channel provided pursuant to this article that is not utilized by the locality for at least eight hours a day shall no longer be made available to the locality, but may be programmed at the cable operator's discretion. At such time as the locality can certify to the cable operator a schedule for at least eight hours of daily programming for a period of three months, the cable operator shall restore the previously re-allocated channel. For purposes of this subdivision, a public, educational, and governmental access channel shall be considered to be substantially utilized when 12 hours are programmed on that channel each calendar day; in addition, at least 33% of the 12 hours of programming for each business day on average over each calendar quarter must be nonrepeat programming. For purposes of this subdivision, nonrepeat programming shall include the first three videocastings of a program and shall include programming on other public, educational, and governmental access channels in that locality. Programming for purposes of determining substantial utilization shall not include an alphanumeric scroll, except that for purposes of requiring one or more additional public, educational, and governmental access channels, an alphanumeric scroll shall be included as programming on not more than one channel;

2. Require a cable operator to pay a franchise fee, remitted on the same schedule as the least frequent schedule of an existing cable operator, but no more frequently than quarterly, calculated by multiplying a franchise fee percentage rate by the cable operator's gross revenues in such franchise area for the remittance period; however, the franchise fee rate shall (i) not exceed 5% of such gross revenues and (ii) not exceed the lowest franchise fee rate paid or provided by an existing cable operator in the locality. The locality may further require that the cable operator make the franchise fee payments to the locality no later than 45 days following the end of the remittance period and require that the franchise fee payment be submitted with a brief report prepared by a duly authorized representative of the cable operator showing the basis for the computation. The locality shall have the right to reasonably require further supporting information that does not exceed the information required to be provided by existing cable operators in the locality;

3. Require a cable operator to pay a recurring fee, hereafter referred to as the PEG Capital Fee, to support the capital costs of public, educational, and governmental channel facilities, including institutional networks, provided that the PEG Capital Fee is equal to the lowest recurring fee imposed on a per subscriber or a percentage of gross revenue basis and paid by any existing cable operator in the locality to support the capital costs of such facilities. The PEG Capital Fee shall only be imposed on a per subscriber or a percentage of gross revenue basis. If the existing cable operator has paid a lump sum capital grant at award or renewal of its current franchise, or is providing in-kind equipment in lieu of such a

capital grant, to support public, educational, and governmental channel facilities, including institutional networks, the locality, by ordinance adopted after a public hearing, shall also impose an additional monthly recurring fee to be known as the PEG Capital Grant Surcharge Fee on the new cable operator equal to the lower of (i) 1.5% of the new cable operator's gross revenues derived from the operation of its cable system in that locality or (ii) the lowest amount of capital contribution paid or provided in-kind, as shown on the books of the cable operator, by an existing cable operator in the locality (a) when such capital contribution is amortized over the term of the existing cable operator's franchise and (b) divided by the number of subscribers or annual gross revenue of the existing cable operator as shown on its most recent report to the locality, depending on recovery methodology chosen by the locality. Both the PEG Capital Fee and the PEG Capital Grant Surcharge Fee may only be collected by the locality for the remainder of the shortest remaining franchise term of any existing cable operator in the locality; however, at the end of such term the locality may negotiate with all cable operators to set a new, recurring fee to support the reasonable and necessary capital costs of public, educational, and governmental channel facilities, including institutional networks, that shall be imposed on all cable operators such that the fee applies equally to all of the customers of all cable operators in the locality. At the end of such term, no cable operator shall be required to provide any further in-kind public, educational, and governmental access channels, including institutional network, support. If the cable operators and the locality cannot agree on such a recurring capital cost fee, the locality, by ordinance adopted after a public hearing, may impose a recurring fee, calculated on a per subscriber or percentage of gross revenue basis, to support the reasonable and necessary capital costs of public, educational, and governmental channel facilities, including institutional networks; however, such fee may not exceed the PEG Capital Fee previously imposed on cable operators by the locality. Any and all fees permitted under this subdivision shall be paid by the cable operator to the locality on the same schedule as franchise fees are paid. Nothing in this subdivision shall be construed to permit a locality to require cable operators to pay capital grants at the time of the grant or renewal of a franchise or otherwise except for the PEG Capital Grant Surcharge Fee specifically provided in this subdivision;

4. Require a cable operator to comply with the customer service requirements imposed by the locality pursuant to 47 U.S.C. § 552(a) (1) and this article through the adoption of an ordinance after a public hearing. Any customer service requirements imposed by the locality that exceed the requirements established by the Federal Communications Commission under 47 U.S.C. § 552(b) shall (i) not be designed so that the cable operator cannot also comply with any other customer service requirements under state or federal law or regulation applicable to the cable operator in its provision of other services over the same network used to provide cable service, (ii) be no more stringent than the customer service requirements applied to other cable operators in the franchise area, and (iii) be reasonably tailored to achieve appropriate customer service goals based on the technology used by the cable operator to provide cable service;

5. Adopt procedures by which it will enforce the provisions of this article and the applicable mandatory requirements of 47 U.S.C. §§ 521-573 and the regulations promulgated thereunder. Such procedures shall require the locality to: (i) informally discuss the matter with the cable operator in the event that the locality believes that a cable operator has not complied with this article or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 and (ii) notify the cable operator in writing of the exact nature of the alleged noncompliance if the discussions described in the foregoing clause (i) do not lead to resolution of the alleged noncompliance. The cable operator shall have 15 days from receipt of this written notice to: (a) respond to the locality, if the cable operator contests, in whole or in part, the assertion of noncompliance; (b) cure such default; or (c) in the event that, by the nature of default, such default cannot be cured within the 15-day period, initiate reasonable steps to remedy such default and notify the locality of the steps being taken and the projected date that they will be completed. The locality shall schedule a public hearing in the event that the cable operator fails to respond to the written notice pursuant to these procedures or in the event that the alleged default is not remedied within 30 days of the date projected above if the locality intends to continue its investigation into the default. The locality shall provide the cable operator at least 30 business days prior written notice of such hearing, which will specify the time, place, and purpose of such hearing, and provide the cable operator the opportunity to be heard;

6. Adopt a schedule of uniform penalties or liquidated damages that it may impose upon any cable operator with an ordinance cable franchise when the locality determines that the cable operator has failed to materially comply with (i) customer service standards; (ii) carriage of public, educational, and governmental channels; (iii) reporting requirements; or (iv) timely and full payment of the franchise fee or the fee assessed for the provision of public, educational, or governmental access channels, including institutional networks. Any penalty or liquidated damage for any of the foregoing violations shall be the same penalty or liquidated damage already established for a cable operator in the same franchise area, if any. In addition, a locality shall not impose any penalty or liquidated damage adopted pursuant to this subdivision until the cable operator has been afforded a reasonable cure period between the time the cable operator is notified of the violation and the penalty or liquidated damage is imposed. A separate violation for purposes of this article and the ordinances passed to implement this article as it pertains to customer service standards shall be deemed to occur whenever the locality reasonably determines that a separate customer service standard violation has occurred on one day; however, the cable operator shall not be charged with multiple violations for a single act or event affecting one or more subscribers on the same day. The locality may charge interest at the legal rate as set forth in § 6.2-301 for any amounts due the locality by the cable operator in clause (iv) of this subdivision that remain unpaid and undisputed;

7. Adopt procedures under which the locality may inspect and audit, upon 30 days prior written notice, the books and records of the cable operator and recompute any amounts determined to be payable under the ordinances adopted pursuant to this article. The procedures adopted by the locality shall not exceed the following requirements: (i) the locality may require the cable operator to make available to

the locality all records reasonably necessary to confirm the accurate payment of fees; (ii) the locality may require the cable operator to bear the locality's reasonable out-of-pocket audit expenses if the audit discloses an underpayment of more than 3% of any quarterly payment, but not less than $5,000; (iii) the locality may require the cable operator to pay any additional undisputed amounts due to the locality as a result of the audit within 30 days following written notice by the locality to the cable operator; (iv) in the event the cable operator disputes any underpayment discovered as the result of an audit conducted by the locality, the locality shall work together with the cable operator in good faith to promptly resolve such dispute; (v) the locality shall provide that the cable operator and the locality maintain all rights and remedies available at law regarding any disputed amounts; (vi) the locality shall have no more than three years from the time the cable operator delivers a payment to provide a written, detailed objection to or dispute of that payment, and if the locality fails to object to or dispute the payment within that time period, the locality shall be barred from objecting to or disputing it after that time period; and (vii) the locality shall not audit a cable operator more frequently than every 24 months;

8. Adopt reasonable reporting requirements for annual financial information and quarterly customer service information that must be provided by a cable operator to the locality so long as such information does not exceed the reporting requirements for any existing cable operator in that locality;

9. Require cable operators to provide, without charge, within the area actually served by the cable operator, one cable service outlet activated for basic cable service to each fire station, public school, police station, public library, and any other local government building. The ordinance shall apply equally to all providers of cable services in the locality, but shall not apply in cases where it is not technically feasible for a cable operator to comply;

10. Subject to § 15.2-2108.24, adopt requirements and procedures for (i) the management of the public rights-of-way that do not exceed the standards set forth in clauses (i) and (ii) of subsection C of § 56-462 and (ii) the construction of a cable system in the public rights-of-way;

11. Adopt the following allocation procedure if cable services subject to a franchise fee, or any other fee determined by a percentage of the cable operator's gross revenues in a locality, are provided to subscribers in conjunction with other services: the fee shall be applied only to the value of these cable services, as reflected on the books and records of the cable operator in accordance with rules, regulations, standards, or orders of the Federal Communications Commission or the State Corporation Commission, or generally accepted accounting principles. Any discounts resulting from purchasing the services as a bundle shall be reasonably allocated between the respective services that constitute the bundled transaction; and

12. Require cable operators to make cable service available to (i) up to all of the occupied residential dwelling units in the initial service area selected by cable operator within no less than three years of the date of the grant of the franchise and (ii) no more than 65% of the residential dwelling units in the area in the locality in which the cable operator has its telephone facilities, within no less than seven

years of the date of the grant of the franchise. Notwithstanding the foregoing provision, a cable operator shall not be required to make cable service available: (a) for periods of force majeure; (b) for periods of delay caused by the locality; (c) for periods of delay resulting from the cable operator's inability to obtain authority to access rights-of-way in the service area; (d) in areas where developments or buildings are subject to claimed exclusive arrangements; (e) in developments or buildings that the cable operator cannot access under industry standard terms and conditions after good faith negotiation; (f) in developments or buildings that the cable operator is unable to provide cable service for technical reasons or that require facilities that are not available or cannot be deployed on a commercially reasonable basis; (g) in areas where it is not technically feasible to provide cable service due to the technology used by the cable operator to provide cable service; (h) in areas where the average occupied residential household density is less than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the cable operator's active cable system (or such higher average density number as may be contained in an existing cable operator's cable franchise); and (i) when the cable operator's prior service, payment, or theft of service history with a subscriber or potential subscriber has been unfavorable. Should, through new construction, an area within the cable operator's service area meet the density requirement, a cable operator shall, subject to the exclusions in this subdivision, provide cable service to such area within six months of receiving notice from the locality that the density requirements have been met. A locality may not require a cable operator using its telephone facilities to provide cable service to provide any cable service outside of the area in the locality in which the cable operator has its telephone facilities. During the 12-month period commencing after the seventh-year anniversary date of the grant of the franchise, a locality may, by ordinance adopted after a public hearing in which the locality specifically finds that such a requirement is necessary to promote competition in cable services within the locality, require the cable operator to make service available to no more than 80% of the residential dwelling units in the area in the locality in which the cable operator has its telephone facilities within no less than 10 years of the date of the grant of the franchise, subject to the exclusions in clauses (a) through (i) of this subdivision. If the cable operator notifies the locality that it is unwilling to accept this additional service availability requirement, the locality may, after notice and public hearing, terminate the cable operator's ordinance cable franchise. The cable operator shall file a certificate at its third and seventh, and if applicable, tenth, anniversary dates certifying its compliance with the foregoing service requirements. For purposes of an ordinance cable franchise, the date of the grant of the franchise shall be the date the notice required by § 15.2-2108.21 is filed with the locality. For purposes of a negotiated cable franchise, the date of the grant of the franchise shall be the date the respective locality has granted a negotiated cable franchise pursuant to § 15.2-2108.20.

2006, cc. 73, 76.

**§ 15.2-2108.23. Regulation of rights-of-way; fees.**

A. To the extent that a franchised cable operator has been authorized to use the public rights-of-way in a locality and is obligated to pay a franchise fee to such locality, such cable operator shall not be

subject to any occupancy, use, or similar fee, with respect to its use of such rights-of-way, by the locality or the Commonwealth Transportation Board except to the extent that such cable operator is also a certificated provider of telecommunications services and subject to the public rights-of-way use fee under § 56-468.1. The Commonwealth Transportation Board may charge, on a nondiscriminatory basis, fees to recover the approximate actual cost incurred for the issuance of a permit to perform work within the rights-of-way and for inspections to ensure compliance with the conditions of the permit, as such fees shall be established by regulations adopted under the Administrative Process Act (§ 2.2-4000 et seq.); however, such fees may not apply to certificated providers of telecommunications services except to the extent permitted under §§ 56-458, 56-462, and 56-468.1.

B. A locality may charge, on a nondiscriminatory basis, fees to recover the approximate actual cost incurred for the issuance of a permit to perform work within the rights-of-way and for inspections to ensure compliance with the conditions of the permit, as such fees existed on February 1, 1997, or as subsequently modified by ordinance; however, such fees may not apply to certificated providers of telecommunications services except to the extent permitted under §§ 56-458, 56-462, and 56-468.1. The limitation as to fees charged for the use of the public rights-of-way shall not be applicable to pole attachments and conduit occupancy agreements between a franchised cable operator and a locality or its authority or commission, which permits such operator to use the public poles or conduits.

C. Except as provided in §§ 56-458, 56-462, and 56-468.1 and in any rules adopted by the Commonwealth Transportation Board under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2, the cable franchise granted hereunder supersedes and replaces any and all other requirements and fees in local laws and the laws of the Commonwealth relating to the use of the public rights-of-way by a cable system or other facilities for the provision of cable service, whether such other authorizations are designated as franchises, permits, consents, ordinances, or otherwise. No cable operator that is (i) a certificated provider of telecommunications services that has previous consent to use the public rights-of-way in a locality through a franchise or (ii) a certificated provider of telecommunications services that lacked prior consent to provide cable service in a locality but provided telecommunications service over facilities leased from an entity having previous consent to use the public rights-of-way in such locality through a franchise and granted a franchise and paying fees pursuant to this section shall be required, in order to develop or operate a cable system or other facilities to provide video services, to (a) obtain consent in accordance with §§ 15.2-2015 through 15.2-2017, § 56-458 or 56-462, except for permits or other permission to open streets and roads, or (b) submit bids, bonds or applications in accordance with §§ 15.2-2100 through 15.2-2105, except for reasonable performance bonds or letters of credit not in excess of $50,000. The restrictions in §§ 15.2-2015 through 15.2-2018, 15.2-2100 through 15.2-2105, 15.2-2106 and 15.2-2107, including but not limited to the advertisement and receipt of bids for franchises, shall not apply to a cable system or other facilities used to provide cable services by a cable operator that is a certificated provider of telecommunications services with previous consent to use the public rights-of-way in a locality through a franchise, including the provision of telecommunications services over facilities leased from an entity with previous consent to use the

public rights-of-way in a locality through a franchise, but without previous consent to provide cable service in that locality.

2006, cc. 73, 76.

**§ 15.2-2108.24. Regulation of facility construction or rights-of-way management requirements for certain cable operators.**

A locality shall not impose through a franchise to provide cable service, whether by negotiation or by ordinance, any facility construction or rights-of-way management requirements on a cable operator that is (i) a certificated provider of telecommunications services that has a franchise to use the public rights-of-way in a locality or (ii) a certificated provider of telecommunications services that lacked prior consent to provide cable service in a locality but provided telecommunications services over facilities leased from an entity having a franchise to use the public rights-of-way in such locality, except that a municipality must meet the requirements of Article 1.1 (§ 15.2-2108.2 et seq.) of this chapter or otherwise be authorized to provide cable service.

2006, cc. 73, 76.

**§ 15.2-2108.25. Itemization.**

A cable operator providing cable service may identify as a separate line item on each regular bill of each subscriber (i) the amount of the total bill assessed as a franchise fee, or any equivalent fee, and the locality to which such fee is paid; (ii) the amount of the total bill assessed to satisfy any requirements imposed on the cable operator, including those to support public, educational, or governmental access facilities, including institutional networks; and (iii) the amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental entity on the transaction between the cable operator and the subscriber.

2006, cc. 73, 76.

**§ 15.2-2108.26. Reciprocity.**

Upon the request by an existing cable operator in the locality, a locality that has negotiated and granted a cable franchise to a new cable provider through negotiation, whether before or after July 1, 2006, shall make available to that existing cable operator the applicable terms and conditions that such locality provides to a new cable operator, by an amendment and restatement in lieu of its existing franchise document. In addition, upon the request by an existing cable operator in the locality, a locality adopting an ordinance under this article shall make available to that existing cable operator the applicable terms and conditions from any such ordinance by opting into an ordinance cable franchise. In either such event, the existing cable operator may accept all applicable terms and conditions only in their entirety and in lieu of its existing franchise document and without the ability to accept specific terms and conditions. The locality and the existing cable operator shall amend the cable franchise of the existing cable operator to substitute the new, applicable terms and conditions upon notice of acceptance from the existing cable operator. An existing cable provider in a locality shall have an enforceable right to require that its cable franchise be amended and restated within 90 days of its

request to substitute the new, applicable terms and conditions of the new negotiated franchise or new ordinance cable franchise granted to a new cable franchisee. Notwithstanding any other provision in this article, (i) no existing cable operator shall reduce the geographic area in which it actually provides cable service as of July 1, 2006, by the exercise of its rights under this article, but its service obligations within such service areas shall be subject to the service exclusions set forth in clauses (a) through (i) of subdivision 12 of § 15.2-2108.22 and (ii) the provisions of this section shall not alter the time period remaining in any unexpired, existing franchise.

2006, cc. 73, 76.

### § 15.2-2108.27. Modification.

No locality, without the consent of the franchisee, shall accelerate the term of, require the renegotiation of, or otherwise modify in any way, an agreement with any entity or a franchise, ordinance, permit, consent, or other authorization for such entity to use the public rights-of-way because such entity has been granted a cable franchise under this article to use the public rights-of-way for the development and operation of a cable system.

2006, cc. 73, 76.

### § 15.2-2108.28. Transfer.

No transfer of any franchise granted under this article shall occur without the prior consent of the locality, provided that such locality shall not unreasonably withhold, delay, or condition such consent. No transfer shall be made to a person, group of persons or affiliate that is not legally, technically, and financially qualified to operate the cable system and satisfy the franchise obligations.

2006, cc. 73, 76.

### § 15.2-2108.29. Surrender.

Notwithstanding the provisions of this article, a new cable franchisee that considers, within three years after the grant of a cable franchise under this article, that its provision of cable services within the locality is no longer economically feasible may notify the locality and surrender its cable franchise for the entire locality without liability to such locality. If a new cable franchisee surrenders its cable service franchise, it shall not be eligible to obtain a new cable service franchise within such locality until after the normal expiration date of the franchise that such franchisee surrendered. Such surrender of a cable franchise shall have no impact on other franchises held by the new cable franchisee or non-cable services offered by the new cable franchisee.

2006, cc. 73, 76.

### § 15.2-2108.30. Renewal.

A cable operator electing to renew its cable franchise shall do so (i) pursuant to the renewal procedures in 47 U.S.C. § 546 or (ii) by providing notice to the locality that it will opt into an ordinance cable franchise pursuant to this article. A cable operator may file such notification that its cable franchise will be renewed by an ordinance cable franchise not more than one year in advance of the expiration date of the existing franchise or by a renewal certification filed within 90 days after the effective

date of this act in the case of a current cable franchise whose original, renewal, or extension term has expired. Except as provided by federal law, the restrictions in §§ 15.2-2015 through 15.2-2018, 15.2-2100 through 15.2-2105, 15.2-2106 and 15.2-2107, including, but not limited to, the advertisement and receipt of bids for cable franchises, shall not apply to renewal certifications except where a renewal would result in a city or town having granted a cable franchise and a renewal with combined terms in excess of 40 years.

2006, cc. 73, 76.

**§ 15.2-2108.31. Article construed.**

The fact that any person obtains a negotiated franchise or ordinance cable franchise to provide cable services under this article shall not create any presumption that such person is providing cable services, is controlling or responsible for the management and operation of a cable system, or is a cable operator, for purposes of federal law.

2006, cc. 73, 76.

**§ 15.2-2108.32. Application of article to certain localities.**

In any locality in which the governing body of the locality has granted one or more new cable franchises during the 12-month period prior to July 1, 2006, that include an overlapping geographic service area with another cable franchise within that locality, all franchises within that locality shall remain in full force and effect until the earliest expiration date of the overlapping franchises or until one is terminated pursuant to the terms of the franchise and shall not be subject to the provisions of this article, except as set forth in this section. A locality that has granted one or more new, overlapping franchises within the 12-month period prior to July 1, 2006, shall have the option not to offer, accept, or implement the ordinance cable franchise process described in § 15.2-2108.22 until the earliest expiration date of the overlapping franchises, but may determine only to grant new cable franchises during such period through the negotiated cable franchise process. Any such locality, when granting any additional cable franchises after July 1, 2006, and until the existing cable franchises expire or are terminated pursuant to their terms, shall make the terms of any such newly granted franchise available, pursuant to § 15.2-2108.26, to all cable operators with existing franchises. Any locality in which the governing body of the locality has granted one or more new cable franchises during the 12-month period prior to July 1, 2006, that include an overlapping geographic service area with another cable franchise within that locality, shall make the terms of any such newly granted franchise available, in the manner described in § 15.2-2108.26, to all cable operators with existing franchises on the date the subsequent overlapping franchise was awarded. Upon the expiration of a current cable franchise that is subject to this section, the provisions of this section shall no longer be applicable to any cable franchise in such locality and the locality shall thereafter be subject to all provisions of this article.

2006, cc. 73, 76.

## Article 2 - GENERAL PROVISIONS FOR PUBLIC UTILITIES

### § 15.2-2109. Powers of localities as to public utilities and computer services; prevention of pollution of certain water.

A. Any locality may (i) acquire or otherwise obtain control of or (ii) establish, maintain, operate, extend and enlarge: waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass transportation systems, stormwater management systems and other public utilities within or outside the limits of the locality and may acquire within or outside its limits in accordance with § 15.2-1800 whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending or enlarging waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass transportation systems, stormwater management systems and other public utilities, and the rights-of-way, rails, pipes, poles, conduits or wires connected therewith, or any of the fixtures or appurtenances thereof. As required by subsection C of § 15.2-1800, this section expressly authorizes a county to acquire real property for a public use outside its boundaries.

The locality may also prevent the pollution of water and injury to waterworks for which purpose its jurisdiction shall extend to five miles beyond the locality. It may make, erect and construct, within or near its boundaries, drains, sewers and public ducts and acquire within or outside the locality in accordance with § 15.2-1800 so much land as may be necessary to make, erect, construct, operate and maintain any of the works or plants mentioned in this section.

In the exercise of the powers granted by this section, localities shall be subject to the provisions of § 25.1-102 to the same extent as are corporations. The provisions of this section shall not be construed to confer upon any locality the power of eminent domain with respect to any public utility owned or operated by any other political subdivision of this Commonwealth. The provisions of this section shall not be construed to exempt localities from the provisions of Chapters 20 (§ 46.2-2000 et seq.), 22 (§ 46.2-2200 et seq.) and 23 (§ 46.2-2300 et seq.) of Title 46.2.

B. A locality may not (i) acquire all of a public utility's facilities, equipment or appurtenances for the production, transmission or distribution of natural or manufactured gas, or of electric power, within the limits of such locality or (ii) take over or displace, in whole or in part, the utility services provided by such gas or electric public utility to customers within the limits of such locality until after the acquisition is authorized by a majority of the voters voting in a referendum held in accordance with the provisions of Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 in such locality on the question of whether or not such facilities, equipment or appurtenances should be acquired or such services should be taken over or displaced; however, the provisions of this subsection shall not apply to the use of energy generated from landfill gas in the City of Lynchburg or Fairfax County. In no event, however, shall a locality be required to hold a referendum in order to provide gas or electric service to its own facilities. Notwithstanding any provision of this subsection, a locality may acquire public utility facilities or provide services to customers of a public utility with the consent of the public utility. No city or town which provided electric service as of January 1, 1994, shall be required to hold such a referendum prior to the acquisition of a public utility's facilities, equipment or appurtenances used for the

production, transmission or distribution of electric power or to the provision of services to customers of a public utility. Nothing in this subsection shall be deemed to (a) create a property right or property interest or (b) affect or impair any existing property right or property interest of a public utility.

C. The City of Bristol is authorized to provide computer services as defined in § 18.2-152.2. "Computer services" as used in this section shall specifically not include the communications link between the host computer and any person or entity other than (i) such locality's departments, offices, boards, commissions, agencies or other governmental divisions or entities or (ii) an adjoining locality's departments, offices, boards, commissions, agencies or other governmental divisions or entities.

Code 1950, § 15-715; 1962, c. 623, § 15.1-292; 1970, c. 565; 1980, c. 483; 1994, c. 634; 1996, c. 384; 1997, c. 587; 2000, c. 663; 2003, c. 940; 2007, c. 813.

**§ 15.2-2109.1. Prescriptive easements for provision of water and sewer services.**

In an action to establish a prescriptive easement involving the provision of water and sewer services, a political subdivision shall demonstrate that the use has continued for a period of at least ten years. This section shall not affect any other requirement which may be necessary to establish a prescriptive easement.

1997, c. 416, § 15.1-292.01.

**§ 15.2-2109.2. Mutual aid agreements for power and natural gas.**

Localities may enter into mutual aid agreements with investor-owned public utilities, electric cooperatives and interstate natural gas companies in order to prepare for, prevent, and restore power and natural gas outages and failures. Such authority shall include, without limitation, the power to enter into agreements relating to (i) contingency plans, (ii) emergency communications, (iii) sharing of resources and personnel, and (iv) system upgrades, maintenance, and repair.

2004, c. 693.

**§ 15.2-2109.3. Provision of natural gas distribution service within counties.**

Any municipal corporation or public service authority created under the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) shall have the authority:

1. To purchase natural gas for resale within an area as described in subdivision 2 from any public utility that is certificated to provide natural gas distribution service within the Commonwealth, on such terms and conditions as the parties to such sale may agree;

2. To provide natural gas distribution service within any underserved area or county that is adjacent to the boundaries of the municipal corporation or any political subdivision that is a member of the public service authority, as applicable, provided that the area is not within the certificated territory assigned to a public utility for the provision of natural gas service, upon notifying the State Corporation Commission of its commitment to provide such service in such areas. The municipality or public service authority shall not be required to obtain a certificate of public convenience and necessity from the

State Corporation Commission as a condition to providing natural gas distribution service within any such area; and

3. Upon notifying the State Corporation Commission of its commitment to provide natural gas distribution service in such areas as described in subdivision 2, to exercise the same rights that a public service authority established pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) has to acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate, and maintain any lines, pipelines, or other improvements necessary or appropriate for the provision of any stormwater control system or water or waste system or any combination of such systems under § 15.2-5114, except that such powers, including the powers to acquire by gift, purchase, or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, except that such powers shall apply to the provision of natural gas distribution service, mutatis mutandis.

2009, c. 749.

**§ 15.2-2110. Mandatory connection to water and sewage systems in certain counties.**

A. Amelia, Botetourt, Campbell, Cumberland, Franklin, Halifax, and Nelson Counties may require connection to their water and sewage systems by owners of property that may be served by such systems; however, those persons having a domestic supply or source of potable water and a system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious, and dangerous diseases shall not be required to discontinue use of the same, but may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge that shall not be more than that proportion of a minimum monthly user charge as debt service compares to the total operating and debt service costs.

B. Bland County, Goochland County, Powhatan County, Rockingham County, Smyth County, and Wythe County may require connection to their water and sewer systems by owners of property that can be served by the systems if the property, at the time of installation of such public system, or at a future time, does not have a then-existing, correctable, or replaceable domestic supply or source of potable water and a then-existing, correctable, or replaceable system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious, and dangerous diseases. Such county may not charge a fee for connection to its water and sewer systems until such time as connection is required. However, Bland County, Smyth County, and Wythe County, in assuming the obligations of a public service authority, may assume such obligations under the same terms and conditions as applicable to the public service authority.

The provisions of this subsection as they apply to Goochland County shall become effective on July 1, 2002.

C. Buckingham County may require connection to its water and sewer systems by owners of property that can be served by the systems if the property, at the time of installation of such public system, or at a future time, does not have a then-existing or correctable domestic supply or source of potable water and a then-existing or correctable system for the disposal of sewage adequate to prevent the

contraction or spread of infectious, contagious, and dangerous diseases. Such county may not charge a fee for connection to its water and sewer systems until such time as connection is required.

1981, c. 44, § 15.1-292.1; 1990, c. 382; 1995, c. 282, § 15.1-292.1:1; 1996, c. 955; 1997, c. 587; 2000, cc. 777, 799; 2001, cc. 306, 326; 2002, c. 295; 2003, cc. 167, 215; 2004, cc. 24, 712, 816; 2005, c. 701; 2018, c. 309.

**§ 15.2-2111. Regulation of sewage disposal or water service.**

Any locality may exercise its powers to regulate sewage collection, treatment or disposal service and water service notwithstanding any anticompetitive effect. Such regulation may include the establishment of an exclusive service area for any sewage or water system, including a system owned or operated by the locality, the fixing of rates or charges for any sewage or water service, and the prohibition, restriction or regulation of competition between entities providing sewage or water service.

No power herein granted shall alter or amend the powers or the duties of any present or future authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) nor confer any right or responsibility upon the governing body of any locality which would supersede or be inconsistent with any of the duties or responsibilities of the State Water Control Board.

1984, c. 525, § 15.1-292.2; 1997, c. 587.

**§ 15.2-2112. Agreements by political subdivisions for sewage or water service.**

Any two or more localities, authorities, sanitary districts or other public entities may enter into agreements or contracts that create one or more exclusive service areas for the provision of sewage or water service, that fix the rates or charges for any sewage or water service provided separately or jointly by such entities, and that restrict or eliminate competition between or among such entities and any other public entity for the provision of sewage or water service.

1985, c. 6, § 15.1-306.1; 1997, c. 587.

**§ 15.2-2113. Connections of fire suppression systems.**

Any locality, by ordinance, may require local water utilities to allow connections of fire suppression systems to the water supply. Such ordinances may prohibit any requirement for installing water meters on a fire suppression system, may prohibit charging an availability fee to provide water service to such fire suppression systems, and may prohibit connection charges exceeding the actual cost of connecting the water supply to the fire suppression system.

1991, c. 265, § 15.1-292.3; 1997, c. 587.

**§ 15.2-2114. Regulation of stormwater.**

A. Any locality, by ordinance, may establish a utility or enact a system of service charges to support a local stormwater management program consistent with Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 or any other state or federal regulation governing stormwater management. Income derived from a utility or system of charges shall be dedicated special revenue, may not exceed the

actual costs incurred by a locality operating under the provisions of this section, and may be used only to pay or recover costs for the following:

1. The acquisition, as permitted by § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate and maintain stormwater control facilities;

2. The cost of administration of such programs;

3. Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;

4. Facility operation and maintenance, including the maintenance of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;

5. Monitoring of stormwater control devices and ambient water quality monitoring;

6. Contracts related to stormwater management, including contracts for the financing, construction, operation, or maintenance of stormwater management facilities, regardless of whether such facilities are located on public or private property and, in the case of private property locations, whether the contract is entered into pursuant to a stormwater management private property program under subsection J or otherwise; and

7. Other activities consistent with the state or federal regulations or permits governing stormwater management, including, but not limited to, public education, watershed planning, inspection and enforcement activities, and pollution prevention planning and implementation.

B. The charges may be assessed to property owners or occupants, including condominium unit owners or tenants (when the tenant is the party to whom the water and sewer service is billed), and shall be based upon an analysis that demonstrates the rational relationship between the amount charged and the services provided. Prior to adopting such a system, a public hearing shall be held after giving notice as required by charter or by publishing a descriptive notice once a week for two successive weeks prior to adoption in a newspaper with a general circulation in the locality. The second publication shall not be sooner than one calendar week after the first publication. However, prior to adoption of any ordinance pursuant to this section related to the enlargement, improvement, or maintenance of privately owned dams, a locality shall comply with the notice provisions of § 15.2-1427 and hold a public hearing.

C. A locality adopting such a system shall provide for full waivers of charges to the following:

1. A federal, state, or local government, or public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system, except that the waiver of charges shall apply only to property covered by any such permit; and

2. Public roads and street rights-of-way that are owned and maintained by state or local agencies, including property rights-of-way acquired through the acquisitions process.

D. A locality adopting such a system shall provide for full or partial waivers of charges to any person who installs, operates, and maintains a stormwater management facility that achieves a permanent reduction in stormwater flow or pollutant loadings or other such other facility, system, or practice whereby stormwater runoff produced by the property is retained and treated on site in accordance with a stormwater management plan approved pursuant to Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1. The locality shall base the amount of the waiver in part on the percentage reduction in stormwater flow or pollutant loadings, or both, from pre-installation to post-installation of the facility. No locality shall provide a waiver to any person who does not obtain a stormwater permit from the Department of Environmental Quality when such permit is required by statute or regulation.

E. A locality adopting such a system may provide for full or partial waivers of charges to cemeteries, property owned or operated by the locality administering the program, and public or private entities that implement or participate in strategies, techniques, or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public stormwater management system.

F. Any locality may issue general obligation bonds or revenue bonds in order to finance the cost of infrastructure and equipment for a stormwater control program. Infrastructure and equipment shall include structural and natural stormwater control systems of all types, including, without limitation, retention basins, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system. The procedure for the issuance of any such general obligation bonds or revenue bonds pursuant to this section shall be in conformity with the procedure for issuance of such bonds as set forth in the Public Finance Act (§ 15.2-2600 et seq.).

G. In the event charges are not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by law, determined by the locality until such time as the overdue payment and interest are paid. Charges and interest may be recovered by the locality by action at law or suit in equity and shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. The locality may combine the billings for stormwater charges with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which payments will be applied to the different charges. No locality shall combine its billings with those of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2, unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

H. Any two or more localities may enter into cooperative agreements concerning the management of stormwater.

I. For purposes of implementing waivers pursuant to subdivision C 1, for property where two adjoining localities subject to a revenue sharing agreement each hold municipal separate storm sewer permits, the waiver shall also apply to the property of each locality and of its school board that is accounted for

in that locality's municipal separate storm sewer program plan, regardless of whether such property is located within the adjoining locality.

J. Any locality that establishes a system of charges pursuant to this section may establish a public-private partnership program, to be known as a stormwater management private property program, in order to promote cost-effectiveness in reducing excessive stormwater flow or pollutant loadings or in making other stormwater improvements authorized pursuant to this section. A locality that opts to establish a stormwater management private property program pursuant to this subsection shall:

1. Promote awareness of the location, quantity, and timing of reductions or other improvements that it determines appropriate under this program;

2. Seek the voluntary participation of property owners;

3. Accept the participation of property owners on both an individual and a group basis by which multiple owners may collaborate on improvements and allocate among the multiple owners any payments made by the locality;

4. Enter into contracts at its discretion to secure improvements on terms and conditions that the locality deems appropriate, including by making payments to property owners in excess of the value of any applicable waivers pursuant to subsections D and E; and

5. Require appropriate operation and maintenance of the contracted improvements.

K. Any locality that establishes a stormwater management private property program pursuant to subsection J may procure reductions and improvements in accordance with the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) or other means, as appropriate. Subsection J shall not be interpreted to limit the authority of a locality to secure reductions of excessive stormwater flow or pollutant loadings or other stormwater improvements by other means.

1991, c. 703, § 15.1-292.4; 1994, cc. 284, 805; 1997, cc. 331, 587; 1998, c. 182; 2003, c. 390; 2004, c. 507; 2005, c. 313; 2006, c. 11; 2009, c. 703; 2011, c. 452; 2013, cc. 756, 793; 2015, c. 683; 2016, c. 587; 2017, c. 375.

**§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.**

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.

2019, cc. 344, 559.

**§ 15.2-2114.1. Car-washing fundraiser.**

No locality shall prohibit car washing as a noncommercial fundraising activity if the washing uses only biodegradable, phosphate-free, water-based cleaners, nor shall any permit issued pursuant to the

State Water Control Law (§ 62.1-44.2 et seq.) prohibit the discharge of such noncommercial fundraising activity washwaters from a municipal separate storm sewer system.

2018, c. 793.

**§ 15.2-2115. Purchase of gas, electric and water plants operating in contiguous territory.**

Whenever a locality leases or purchases any gas, electric or water plant operating within territory contiguous to the locality, the locality so leasing or purchasing shall have all of the rights, privileges and franchises of the person from which the property was leased or purchased and the power to operate, maintain and extend service lines in all the territory which the plant so leased or purchased had the right to do. Any locality leasing or purchasing any property hereunder shall be obligated to furnish, from the property so leased or purchased, or from any other source, an adequate supply of gas, electricity or water to the consumers of any person whose plant was leased or purchased. In the exercise of the powers granted by this section, localities shall be subject to the provisions of § 25.1-102 to the same extent as are corporations.

Code 1950, § 15-716; 1962, c. 623, § 15.1-293; 1997, c. 587; 2003, c. 940.

**§ 15.2-2116. Acquisition by county or city of water supply system or sewage system from sanitary district.**

Any county or city may acquire any water supply or sewage systems or water supply and sewage system, from any sanitary district in any such county or city, and the sanitary district may convey the system to such county or city, upon: (i) the payment to the sanitary district by the county or city of the amount of any indebtedness owing by the county or city to the sanitary district with respect to such water supply or sewage system or water supply and sewage system (reduced by the amount of any indebtedness owing to the county or city by the sanitary district in respect of such system), provided that any such amount so paid to the sanitary district shall be set aside and applied to the payment of the outstanding bonded indebtedness of the sanitary district incurred with respect to such water supply or sewage system or water supply and sewage system; and (ii) the assumption by the county or city of the outstanding bonded indebtedness of the sanitary district incurred with respect to such water supply or sewage system, or water supply and sewage system, for which payment is not provided for pursuant to clause (i), or any portion thereof, or the payment by the county or city of moneys (reduced by any amounts paid to the sanitary district pursuant to clause (i)) sufficient for, and to be applied to, the payment of the principal of and interest on such bonded indebtedness or portion thereof not assumed by the county or city and for which payment is not provided for pursuant to clause (i), or a combination of such assumption and payment whereby the payment of the principal of and interest on all such bonds shall be made or provided for.

The county or city may limit its assumption of such sanitary district's bonded indebtedness to payment from the revenues to be derived from rates, rentals, fees and charges for the use and services of such water or sewage system, or water and sewage system. If at any time the revenues derived from rates, rentals, fees and charges for the use and services of such unified system are insufficient to provide for the operation and maintenance of the system and for payment of principal of and interest on such

bonded indebtedness of the sanitary district as they become due, the sanitary district shall levy an annual tax upon all property in such sanitary district subject to local taxation to pay such principal and interest as they become due.

Nothing contained in the immediately preceding sentence shall, however, be construed to relieve the county or city of its obligations under any such agreement to impose rates, rentals, fees and charges for the use and services of such system sufficient to pay the costs of operation and maintenance and to provide for the payment of such principal and interest. Such agreement shall also provide for the assumption by the county or city of the contracts for materials and services pertaining to such water supply or sewage system or water supply and sewage system, entered into by the sanitary district and existing on the day of such acquisition.

Moneys to be applied to the payment of sanitary district bonded indebtedness under this section shall be applied to such payment upon the earlier of the stated maturity of such bonds or the first date after the acquisition that such bonds may be redeemed in accordance with their terms. Pending such application, such moneys may be invested by the governing bodies in investments permitted by subdivisions 1, 2 and 3 of § 2.2-4500, exclusive of revenue bonds. Amounts earned from time to time on the investment of such moneys and not required for the payment of the principal of and interest and premium, if any, on such bonded indebtedness shall be paid to such county or city and applied to water supply or sewerage purposes, or both. The county or city may enter into a contract with any bank or trust company within or outside the Commonwealth, not inconsistent with the foregoing provisions, with respect to the safekeeping and application of the moneys set aside in accordance herewith for the payment of such bonded indebtedness of such sanitary district, the investment of such moneys and the safekeeping and application of the earnings on such investment.

If there is a sanitary district in any such county or city having both a water supply system and a sewage system, the governing bodies, in their discretion, may acquire either or both of such systems, and if there is a single indebtedness against both such systems and the governing bodies elect to acquire only one such system, then the governing body is authorized and empowered to assume such indebtedness in whole or in part. Any such water or sewage system or water and sewage system acquired by any county or city hereunder shall constitute a "project" as defined in § 15.2-2602, and such county or city in respect of such project shall have all the powers granted by the Public Finance Act (§ 15.2-2600 et seq.). Any acquisition pursuant to this section of a water supply or sewage system, or water supply and sewage system, of a sanitary district shall be made pursuant to an agreement entered into between the county or city and such district. No proceeding or approvals other than those specifically required by this section shall be required for the acquisition by the county or city from any sanitary district, or the conveyance to the county or city by any sanitary district, of any such system or systems.

1948, c. 154, § 15.1-293.1; 1972, c. 220; 1997, c. 587.

**§ 15.2-2117. Contracts with sewerage or water purification company, etc.**

Any locality may contract with any sewerage or water purification company to introduce, build, maintain and operate a system of sewerage and water purification or of sewers, pipes and conduits suitable, necessary and proper for the purification of the water supply or for the sewerage of any such locality, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions. The authority granted localities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of water and sewage systems.

Any locality may also require the owners or occupiers of the real estate within the limits of any such locality, which may front or abut on the line of any such sewers, pipes or conduits, to make connections with and to use such sewers, pipes and conduits in accordance with ordinances and regulations the governing body deems necessary to secure the proper sewerage thereof and to improve and secure good sanitary conditions. The locality may also enforce the observance of all such ordinances and regulations by the imposition and collection of fines and penalties.

Any locality, contracting with any company for the objects and purposes aforesaid may provide in any such contract for the fees and charges to be paid by the owners or occupiers of the properties within the limits of any such locality, to any such company for connecting with, tapping or using any such sewer, pipes or conduits introduced in any such locality as aforesaid.

Any locality may make and enforce all such ordinances as may be necessary and proper to compel the payment of such fees and charges and may also do all other acts and things that may be necessary to establish, enforce and maintain under any such contract a complete system of water and sewerage purification and sewerage for any such locality.

Code 1950, §§ 15-717, 15-718, 15-719; 1962, c. 623, §§ 15.1-294, 15.1-297, 15.1-298; 1997, c. 587; 2001, c. 120; 2002, c. 446.

**§ 15.2-2118. Lien for water and sewer charges and taxes imposed by localities.**

The governing body of any county adjoining a city lying wholly within the Commonwealth and with a population of more than 75,000 according to the 1970 or any subsequent census and any county having a density of population of more than 600 per square mile according to the 1960 or any subsequent census, Botetourt, Caroline, Culpeper, Cumberland, Franklin, Gloucester, Goochland, Hanover, Isle of Wight, New Kent, Orange and any town located therein, Prince George, Rockingham, Smyth, Spotsylvania, Stafford, and York Counties; the Cities of Fairfax, Manassas Park, Newport News, Petersburg, Richmond, Roanoke, and Suffolk; and the Towns of Abingdon, Blacksburg, Clifton Forge, Front Royal, Kenbridge, Onancock, and Urbanna may by ordinance provide that taxes or charges hereafter made, imposed, or incurred for water or sewers or use thereof within or outside such locality shall be a lien on the real estate served by such waterline or sewer. Where residential rental real estate is involved, no lien shall attach (i) unless the user of the water or sewer services is also the owner of the

real estate or (ii) unless the owner of the real estate negotiated or executed the agreement by which such water or sewer services were provided to the property.

Code 1950, § 15-717.1; 1950, p. 896; 1962, cc. 511, 623, § 15.1-295; 1977, c. 66; 1978, c. 478; 1980, c. 323; 1990, c. 382; 1991, c. 172; 1993, c. 359; 1994, c. 627; 1997, c. 587; 1998, cc. 313, 568; 1999, cc. 311, 767, 841; 2000, c. 287; 2002, c. 193; 2003, c. 191; 2004, cc. 24, 712; 2005, c. 730; 2006, cc. 645, 749; 2007, cc. 152, 886; 2008, cc. 332, 428; 2010, c. 631; 2011, cc. 340, 509, 533; 2012, cc. 354, 441, 620; 2014, cc. 430, 694.

**§ 15.2-2118.1. Lien for gas utilities charges and taxes imposed by localities.**

The governing body of any locality with a municipally-owned gas utility may by ordinance provide that taxes or charges hereafter made, imposed or incurred for gas service within or outside such locality shall be a lien on the real estate served by such gas utility. Where residential rental real estate is involved, no lien shall attach (i) unless the user of the gas utility services is also the owner of the real estate or (ii) unless the owner of the real estate negotiated or executed the agreement by which such gas utility services were provided to the property. Nothing herein shall authorize a locality to require that municipal gas service be contracted for in the name of the owner of residential rental real estate if the lease between the owner and any tenant for such residential rental real estate provides that the tenant shall contract for such gas service.

2001, c. 761.

**§ 15.2-2119. Fees and charges for water and sewer services provided to a property owner.**

A. For water and sewer services provided by localities, fees and charges may be charged to and collected from (i) any person contracting for the same; (ii) the owner who is the occupant of the property or where a single meter serves multiple units; (iii) a lessee or tenant in accordance with § 15.2-2119.4 with such fees and charges applicable for water and sewer services (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system; or (iv) any user of a municipality's water or sewer system with respect to combined sanitary and storm water sewer systems where the user is a resident of the municipality and the purpose of any such fee or charge is related to the control of combined sewer overflow discharges from such systems. Such fees and charges shall be practicable and equitable and payable as directed by the respective locality operating or providing for the operation of the water or sewer system.

B. Such fees and charges, being in the nature of use or service charges, shall, as nearly as the governing body deems practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the

sewage disposal system, or any combination of such factors, or on such other basis as the governing body may determine. Such fees and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees and charges is hereby declared to be revenue of such sewage disposal system.

C. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions.

D. If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall at that time be owed as provided for by general law, and the owner of such real estate shall, until such fees and charges are paid with such penalty and interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system. If such owner does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or person supplying water or sewage disposal services for the use of such real estate shall notify such owner of the delinquency. If such owner does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or person supplying water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the locality or person supplying such services shall provide the owner with written notice of such cessation.

E. Such fees and charges, and any penalty and interest thereon, shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.

A lien may be placed on the property when the owner has been advised in writing that a lien may be placed upon the property if the owner fails to pay any delinquent water and sewer charges. Such written notice shall be provided at least 30 days in advance of recordation of any lien with a copy of the bill for delinquent water and sewer charges to allow the property owner a reasonable opportunity to pay the amount of the outstanding balance and avoid the recordation of a lien against the property. The lien may be in the amount of (i) up to the number of months of delinquent water or sewer charges when the water or sewer is, or both are, provided to the property owner; (ii) any applicable penalties and interest on such delinquent charges; and (iii) reasonable attorney fees and other costs of collection not exceeding 20 percent of such delinquent charges. In no case shall a lien for less than $25 be placed against the property.

F. Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, that provides and operates sewer services outside its boundaries may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide sewer services to any other users outside its boundaries.

G. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such delinquent charges is entered in the official records of the office of the clerk of the circuit court in the jurisdiction in which the real estate is located. The clerk shall make and index the entries in the clerk's official records for a fee of $5 per entry, to be paid by the locality and added to the amount of the lien.

H. The lien on any real estate may be discharged by the payment to the locality of the total lien amount and the interest which has accrued to the date of the payment. The locality shall deliver a fully executed lien release substantially in the form set forth in this subsection to the person making the payment. The locality shall provide the fully executed lien release to the person who made payment within 10 business days of such payment if the person who made such payment did not personally appear at the time of such payment. Upon presentation of such lien release, the clerk shall mark the lien satisfied. There shall be no separate clerk's fee for such lien release. For purposes of this section, a lien release of the water and sewer lien substantially in the form as follows shall be sufficient compliance with this section:

Prepared By and When

Recorded Return to:

Tax Parcel/GPIN Number:

CERTIFICATE OF RELEASE OF WATER AND SEWER SERVICE LIEN

Pursuant to Va. Code Annotated § 15.2-2119 (H), this release is exempt from recordation fees.

Date Lien Recorded: Instrument Deed Book No.:

Grantee for Index Purposes:

Claim Asserted: Delinquent water and sewer service charges in the amount of $.

Description of Property: [Insert name of property owner and tax map parcel/GPIN Number]

The above-mentioned lien is hereby released.

BY:

TITLE:

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF , to-wit:

Acknowledged, subscribed, and sworn to before me this day of
by as of the [Insert Water/Sewer
Provider Name] on behalf of [Insert Water/Sewer Provider Name].

Notary Public

My commission expires:

Notary Registration Number:

Code 1950, § 15-739.2; 1950, p. 1611; 1962, c. 623, § 15.1-321; 1991, c. 476; 1994, c. 932; 1997, cc. 12, 587; 1998, c. 223; 2001, c. 13; 2005, c. 912; 2011, cc. 529, 580; 2012, c. 766; 2016, cc. 415, 528; 2017, c. 736.

**§ 15.2-2119.1. Credit for excessive water and sewer charges.**
A locality or authority, as such term is defined in § 15.2-5101, may provide a partial credit for excessive water and sewer charges where high water usage is caused by damaged pipes, leaks, accidents, or other intentional or unintentional causes.

1998, c. 178; 2017, c. 736.

**§ 15.2-2119.2. Discounted fees and charges for certain low-income, elderly, or disabled customers.**
The City of Richmond or any locality that is the owner of a water and sewer system and that has a population density of 200 persons per square mile or less, and the Towns of Altavista and Louisa, by ordinance may develop criteria for providing discounted water and sewer fees and charges for low-income, elderly, or disabled customers.

2013, cc. 361, 487; 2014, cc. 387, 514, 796; 2020, c. 149.

**§ 15.2-2119.3. Sustainable infrastructure financial assistance.**
The City of Richmond may by ordinance develop criteria for financial assistance to customers for plumbing repairs and the replacement of water-inefficient appliances.

2014, cc. 387, 522.

**§ 15.2-2119.4. Fees and charges for water and sewer services provided to a tenant or lessee of the property owner.**
A. Notwithstanding any provision of law, general or special, the provisions of this section apply to any locality or authority, as such term is defined in § 15.2-5101.

B. A locality or authority providing water or sewer services to a lessee or tenant of the property owner shall do so directly to the tenant after (i) obtaining from the property owner a written or electronic authorization to obtain water and sewer services in the name of such lessee or tenant and (ii) if the

locality or authority decides to use the lien rights afforded under subsection G of § 15.2-2119, collecting a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality or authority for not less than three and no more than five months of water and sewer charges. When the property owner has provided the lessee or tenant with written authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant, nothing herein shall be construed to authorize the locality or authority to require (a) the property owner to put water and sewer services in the name of such property owner, except in the case where a single meter serves multiple tenant units, or (b) a security deposit or a guarantee of payment from such property owner. The property owner, lessee, or tenant may provide a copy of the lease or rental agreement to the locality or authority in lieu of the written authorization.

C. For purposes of this section, a written or electronic authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows, or a copy of the lease or rental agreement, shall be sufficient compliance with this section:

DATE

[INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

RE: [INSERT FULL TENANT NAME AND ADDRESS]

To Whom It May Concern:

[INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS] and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME].

Signed:

PROPERTY OWNER

D. If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall be owed, as provided for by general law, by the lessee or tenant. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or authority supplying water or sewage disposal services for the use of such real estate shall notify such lessee or tenant of the delinquency. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or authority supplying water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the

locality or authority supplying such services shall provide the lessee or tenant with written notice of such cessation, with a copy to the property owner.

E. If the lessee or tenant does not pay the full amount of charges, penalty, and interest for water or the use and services of the sewage disposal system in a timely manner as set out herein, in addition to cessation of such service, the locality or authority shall employ reasonable collection efforts and practices to collect amounts due from the lessee or tenant prior to sending written notice to, or taking any collection or legal action against, the property owner regarding the delinquency of payment of such lessee or tenant. For the purposes of this section, "reasonable collection efforts and practices" include (i) applying the security deposit paid by the lessee or tenant held by the locality or authority to the payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program (§ 58.1-520 et seq.) or placing the account with a debt collection service.

F. Only after the locality or service authority has taken the reasonable collection efforts set forth in subsection E of § 15.2-2119 and practices to collect such fees and charges from the lessee or tenant may the locality or service authority proceed to notify the property owner of such outstanding lien obligation of such lessee or tenant and thereafter to record a lien against the property owner by using the lien recordation and release of lien processes as set out in § 15.2-2119 and only after notice to the property owner as required in § 15.2-2119. Such a lien, up to three months of delinquent water and sewer charges, shall constitute a lien against the property ranking on a parity with liens for unpaid taxes.

G. If a lien is recorded against the property owner and the property owner pays any of the delinquent obligations of such former lessee or tenant, upon payment of the outstanding balance, or any portion thereof, or of any amounts of such fees and charges owed by the former tenant, the property owner shall be entitled to receive any refunds and shall be subrogated against the former tenant in place of the locality or authority in the amount paid by the property owner. The locality or authority shall execute all documents necessary to perfect such subrogation in favor of the property owner.

H. Unless a lien has been recorded against the property owner, the locality or authority shall not deny service to a new tenant who is requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges charged for the use and services in the name of the former previous tenant. In addition, the locality or authority shall provide information relative to a former tenant or current tenant to the property owner upon request of the property owner. If the property owner provides the locality or authority a request to be notified of a tenant's delinquent water or sewer bill and provides an email address, the locality or authority shall send the property owner notice when a tenant's water or sewer bill has become 15 days delinquent.

I. When a locality or authority does not require a lessee or tenant to pay a security deposit to the locality or authority as a condition precedent to turning on water or sewer services in the name of the lessee or tenant, such locality or authority shall waive its lien rights against the property owner. All other provisions of this section shall apply.

J. The locality or authority shall not require a security deposit from the lessee or tenant to obtain water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the locality or authority a landlord authorization letter that has attached documentation showing that such lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a security deposit shall not prevent a locality from exercising its lien rights as authorized under this section. All other provisions of this section shall apply.

2017, c. 736.

**§ 15.2-2120. Enforcement of liens for water or sewer charges.**

A. Any lien for water and sewer charges when properly docketed in the clerk's office may be enforced in the same manner as taxes due a locality or by cutting off water or sewer service provided the public health or safety will not be endangered thereby.

B. Such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, until and except from the time that the amount of such fees and charges are entered in a judgment lien book in the circuit court for the locality wherein the real estate or a part thereof is located. It shall be the duty of the circuit court clerk to cause entries to be made and indexed therein from time to time upon certification by the locality.

C. Such lien on any real estate may be discharged by the payment to the locality of the total amount of such lien and the interest which may accrue to the date of such payment. It shall be the duty of the locality to deliver a certificate thereof to the person paying the same, and upon presentation thereof, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Code 1950, § 15-717.2; 1950, p. 896; 1962, c. 623, § 15.1-296; 1977, c. 66; 1979, c. 239; 1994, c. 432; 1997, c. 587.

**§ 15.2-2121. Regulations as to water, sewer and other facilities in subdivisions and development plans.**

Any locality which has adopted regulations under Chapter 22 (§ 15.2-2200 et seq.) governing the use and development of land may also adopt regulations, subject to the provisions of Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1, fixing requirements as to the extent to which and the manner in which water, sewer and other utility mains, piping, conduits, connections, pumping stations and other facilities in connection therewith shall be installed as a condition precedent to the approval of an original plat of a subdivision or a development plan adopted pursuant to § 15.2-2286, or alteration of any such plat or a development plan adopted pursuant to § 15.2-2286. Such regulations may (i) require the water source to be an approved source of supply capable of furnishing the needs of the eventual inhabitants of such subdivision proposed to be served thereby, (ii) include requirements as to the size and nature of the water and sewer and other utility mains, pipes, conduits, connections, pumping stations or other facilities installed or to be installed in connection with the proposed water or sewer systems and (iii) include requirements to extend and connect to abutting or adjacent public water or sewer systems.

Code 1950, § 15-719.1; 1954, c. 592; 1962, c. 623, § 15.1-299; 1970, c. 572; 1997, c. 587; 2005, c. 567.

## Article 3 - SEWAGE DISPOSAL SYSTEMS GENERALLY

**§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.** For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § 62.1-44.19.

2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.

3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.

4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.

6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and

shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.

9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of §§ 15.2-2119 through 15.2-2119.4.

10. Establish standards for the use and services of sanitary, combined and stormwater sewer systems, treatment works and appurtenances operated and maintained by any locality, including but not limited to implementation of applicable pretreatment requirements pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) and the federal Clean Water Act (33 U.S.C. § 1251 et seq.). Such sewer use standards may be implemented by ordinance, regulation, permit or contract of the locality or of the wastewater authority or sanitation district, where applicable, and violations thereof may be enforced by the same subject to the following conditions and limitations:

a. No order assessing a civil penalty for a violation shall be issued until after the user has been provided an opportunity for a hearing, except with the consent of the user. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on any authorized representative of the user at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed penalty. At the hearing the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the locality. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the locality shall make findings of fact and conclusions of law and issue the order.

b. No order issued by the locality shall assess civil penalties in excess of the maximum amounts established in subdivision (8a) of § 62.1-44.15, except with the consent of the user. The actual amount of any penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty, provided, however, that in accordance with subdivision 10 d, a locality may establish a uniform schedule of civil penalties for specified types of violations. In addition to civil penalties, the order may include a monetary assessment for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other expenses resulting from the violation. Civil penalties in excess of the maximum amounts established in subdivision (8a) of § 62.1-44.15 may be imposed only by a court in amounts determined in its discretion but not to exceed the maximum amounts established in § 62.1-44.32.

c. Any order issued by the locality, whether or not such order assesses a civil penalty, shall inform the user of his right to seek reconsideration or review within the locality, if authorized, and of his right to judicial review of any final order by appeal to circuit court on the record of proceedings before the locality. To commence an appeal, the user shall file a petition in circuit court within 30 days of the date of the order, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support such findings.

d. In addition, a locality may, by ordinance, establish a uniform schedule of civil penalties for violations of fats, oils, and grease standards; infiltration and inflow standards; and other specified provisions of any ordinance (other than industrial pretreatment requirements of the State Water Control Law (§ 62.1-44.2 et seq.) or federal Clean Water Act (33 U.S.C. § 1251 et seq.). The schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than $100 for the initial summons, not more than $150 for each additional summons and not more than a total amount of $3,000 for a series of specified violations arising from the same operative set of facts. The locality may issue a civil summons ticket for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any such trial, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding, and no civil action authorized by this section shall proceed while a criminal action is pending.

e. This subdivision shall neither preclude a locality from proceeding directly in circuit court to compel compliance with its sewer use standards or seek civil penalties for violation of the same nor be interpreted as limiting any otherwise applicable legal remedies or sanctions. Each day during which a violation is found to have existed shall constitute a separate violation, and any civil penalties imposed under this subdivision shall be applied to the purpose of abating, preventing or mitigating environmental pollution.

f. For purposes of enforcement of standards established under this subdivision, "locality" shall mean the locality's director of public utilities or other designee of the locality with responsibility for administering and enforcing sewer use standards or, in the case of a wastewater authority or sanitation district, its chief executive.

Code 1950, § 15-739.1; 1950, p. 1610; 1954, c. 332; 1962, c. 623, § 15.1-320; 1979, c. 181; 1991, c. 194; 1997, cc. 12, 587; 2010, c. 198; 2017, c. 736.

**§ 15.2-2123. Sewage treatment plants to include certain capability.**

Whenever the governing body of a locality or a combination of governing bodies of two or more localities is using the authority of this chapter to construct a new sewage treatment plant, or a hydraulic expansion or major upgrade of an existing sewage treatment plant, the facility shall be designed and constructed so that it has the capability to treat the septage from all onsite sewage disposal systems, which are not adequately served by another approved disposal site, located in the area of the locality or combination thereof to be served by such plant. However, the locality or combination thereof may limit the amount of septage that the sewage treatment plant is designed to accept in order to eliminate or reduce a disproportionate engineering, design, or fiscal burden that may be placed on the sewage treatment plant or its users, to utilize cost-effective regional approaches, or to address engineering design considerations including protection of biological treatment processes.

The locality or combination thereof shall notify the Department of Environmental Quality of the septage treatment capability of the sewage treatment plant prior to the Department's issuance of a state certificate to construct for such new, expanded, or upgraded facility. The locality or combination thereof shall provide a copy of such notification to the Board of Health to assist the Board of Health in its long-range planning pursuant to § 32.1-163.2.

This notification requirement shall not apply to any new project for which a preliminary engineering report has been submitted to the Department of Environmental Quality on or before December 31, 2008.

1986, c. 329, § 15.1-317.1; 1997, c. 587; 2008, c. 389.

**§ 15.2-2124. Contracts between localities as to sewers, pumping stations, etc., to prevent pollution.**
Any two or more localities may enter into contracts for the acquisition, construction, maintenance and operation of sewers, pumping stations, ventilation stations, treatment plants or works and any other plants and structures and all appurtenances necessary thereto as the localities deem proper to prevent the pollution of streams, lakes, ponds, bays, estuaries, inlets and other waters within and adjacent to such localities.

Any contract shall also set forth, as nearly as may be ascertainable, the amount of money necessary for the acquisition, construction, maintenance and operation of any works or structures and the part thereof to be provided by each locality.

Code 1950, § 15-738; 1962, c. 623, § 15.1-318; 1997, c. 587.

**§ 15.2-2125. Board, etc., for supervision of such works.**
Localities contracting with each other pursuant to § 15.2-2124 may also provide in the contract (i) for a board, commission or other body as deemed appropriate; (ii) for the supervision, general management and operation of such works or structures; and (iii) may prescribe their authority, duties and compensation.

Code 1950, § 15-739; 1962, c. 623, § 15.1-319; 1997, c. 587.

## Article 4 - APPROVAL OF SEWAGE SYSTEMS BY COUNTIES

### § 15.2-2126. Notice to governing body required prior to construction.

Any person, including municipal corporations, that proposes to establish a sewage system consisting of pipelines or conduits, pumping stations, force mains or sewerage treatment plants, or any of them, or an extension of any existing system which is designed to serve three or more connections and used for conducting or treating sewage, as that term is defined in Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1, to serve or to be capable of serving three or more connections shall, at least sixty days prior to commencing construction thereof, notify in writing the governing body of the county in which such sewage system is to be located and shall appear at a regular meeting thereof and notify such governing body in person. However, a town proposing to construct or expand a sewage system shall not be required to provide notice in writing or in person to a county if the county itself does not operate a sewage system or provide sewerage services.

In any county having a population of more than 70,000 according to the 1950 or any subsequent census or a county adjoining a city having a population of 230,000 or more according to the 1950 or any subsequent census, no extension of an existing system for the purpose of serving three or more connections shall be made by any person, firm or corporation, other than a municipal corporation, until a plan of such proposed extension, with proof of capacity to serve, has been filed with, and a permit for the extension has been obtained from, the sanitation engineer or other county official, if any, designated therefor by the board of supervisors.

Code 1950, § 15-739.7; 1954, c. 382; 1956, c. 655; 1958, c. 284; 1962, c. 623, § 15.1-326; 1974, c. 246; 1990, c. 501; 1997, c. 587.

### § 15.2-2127. Disapproval of system by governing body; failure to disapprove within seventy days.

The governing body of any county notified of the proposed establishment of a sewage system or of the extension of any existing sewage system under § 15.2-2126 is authorized to disapprove the same, if it finds that such sewage system is not capable of serving the proposed number of connections by reason of inadequate pipes, conduits, pumping stations, force mains, or sewage treatment plants or is otherwise inadequate to render the proposed service. If, at the expiration of seventy days from the date on which the applicant appeared before the governing body, such governing body has not disapproved the application, the applicant may proceed with the construction and installation of such sewage system, provided he first gives notice to the chairman of the governing body by registered mail of his intention to proceed.

Code 1950, § 15-739.8; 1954, c. 382; 1956, c. 273; 1958, c. 65; 1962, c. 623, § 15.1-327; 1997, c. 587.

### § 15.2-2128. Denial of application for sewage system by governing body of county or town which has adopted master plan for sewerage.

Notwithstanding any other provision of general law relating to the approval of sewage systems, the governing body of any county or town which has adopted a master plan for a sewage system is author-

ized to deny an application for a sewage system if such denial appears to it to be in the best interest of the inhabitants of the county or town.

1968, c. 300, § 15.1-327.1; 1997, c. 587.

### § 15.2-2129. Contents of notice to governing body; further information.

The applicant shall state in the notice to the governing body required by § 15.2-2126 the number and nature of the connections to which service will be given under the certificate applied for. The governing body may require such further information as it deems desirable in order to pass upon the application.

Code 1950, § 15-739.9; 1954, c. 382; 1962, c. 623, § 15.1-328; 1997, c. 587.

### § 15.2-2130. Extensions to systems.

No person, including municipal corporations, which has constructed or installed a sewage system after having complied with the provisions of this article, shall extend the service in excess of the number of connections for which approval was originally given. In case any such extension is desired, the person shall proceed in the same manner as in the case of an original application under this article.

Code 1950, § 15-739.10; 1954, c. 382; 1962, c. 623, § 15.1-329; 1974, c. 246; 1997, c. 587.

### § 15.2-2131. Article not applicable to hotel corporations.

No provision of this article shall apply to a corporation whose principal business is the operation of a hotel and which may extend the use of its surplus sewage facilities to a limited number of patrons.

Code 1950, § 15-739.11; 1954, c. 382; 1962, c. 623, § 15.1-330; 1997, c. 587.

### § 15.2-2132. Noncompliance with article; separate offense.

Any person who fails or refuses to notify the governing body of the county in which any such sewage system is to be constructed or installed, or to notify such governing body of any proposed extension beyond the number of connections for which approval was originally given, and thereafter constructs and installs any such system, or having given such notice and the same having been disapproved, proceeds to construct or install any such system, shall be guilty of a misdemeanor and punished as provided in § 15.2-2133. Each day of operation without notifying the governing body as above required, or after disapproval by the governing body, shall constitute a separate offense.

Code 1950, § 15-739.12; 1954, c. 382; 1962, c. 623, § 15.1-331; 1997, c. 587.

### § 15.2-2133. Penalty; enjoining violation.

Any person violating any provision of this article shall be guilty of a Class 2 misdemeanor and, in addition, may be enjoined from further violation of this article.

Code 1950, § 15-739.13; 1954, c. 382; 1962, c. 623, § 15.1-332; 1991, c. 710; 1997, c. 587.

## Article 5 - WATER SUPPLY SYSTEMS GENERALLY

### § 15.2-2134. Construction of dams, etc., for purpose of providing public water supply; approval by governing body of locality.

Every locality is authorized to make expenditures from its general fund in order to acquire land, participate in the construction of dams and perform all other necessary acts for the purpose of providing a public water supply for the agricultural, residential, governmental and industrial development of the locality; however, such dam shall not be constructed nor any land acquired therefor when the dam would be located in another locality without the approval of such locality's governing body. No such approval shall be required when the dam is in the process of construction, or the site has been purchased, or plans for its construction were filed with any appropriate agency of the federal, state, or local government on or before July 1, 1976.

In any case in which approval by such locality's governing body is withheld, the party seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

Code 1950 (Suppl.), §§ 15-20.8, 15-26.1; 1959, Ex. Sess., c. 18; 1960, c. 515; 1962, cc. 492, 623, § 15.1-37; 1975, c. 573; 1976, c. 69; 1997, c. 587.

**§ 15.2-2135. Disputes between jurisdictions involving dams or water impoundment; constitution of special court; vacancies occurring during trial.**

A. The special court to hear a case between jurisdictions involving a dam or water impoundment shall be composed of three judges of circuit courts remote from the jurisdictions of the parties involved. The judges shall be designated by the Chief Justice of the Supreme Court of Virginia. The special court shall sit without a jury.

B. If a vacancy occurs on the special court at any time prior to the final disposition of the case, the vacancy shall be filled by designation of another judge and the proceeding shall continue.

1976, c. 69, § 15.1-37.1:1; 1997, c. 587.

**§ 15.2-2136. Powers of special court; rules of decision; order controlling subsequent conduct of case.**

The court, in making its decision, shall balance the equities in the case, enter an order setting forth what it deems fair and reasonable terms and conditions, and direct the land acquisition to be in conformity therewith. It shall have power to:

1. Determine the metes and bounds of the land to be acquired, and may include a greater or smaller area than that described in the petition;

2. Require the payment by the acquiring party of a sum to be determined by the special court, payable on the effective date of acquisition, and provide for compensation for the value of any improvements also acquired;

3. Limit the number of expert witnesses, as well as require each expert witness who will testify to file a statement of his qualifications;

4. Take other action as may aid in the disposition of the case.

The special court shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

1976, c. 69, § 15.1-37.1:2; 1997, c. 587.

**§ 15.2-2137. Special court; hearing and decision.**

A. The special court shall hear the case upon the evidence introduced as evidence is introduced in civil cases.

B. The special court shall determine the necessity for and expediency of the acquisition of land or other proposed action and the best interests of the parties.

C. If a majority of the special court is of the opinion that the proposed action is not necessary or expedient, the petition shall be dismissed. If a majority of the court is satisfied of the necessity for and expediency of the proposed action, it shall determine the terms and conditions of the action and shall enter an order granting the petition. In all contested cases, the special court shall render a written opinion. The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted.

1976, c. 69, § 15.1-37.1:3; 1979, c. 671; 1997, c. 587.

**§ 15.2-2138. Dispute between jurisdictions; additional parties.**

Any locality whose territory is affected by the proceedings or any person affected by the proceedings may appear and shall be made a party defendant to the case.

1976, c. 69, § 15.1-37.1:4; 1997, c. 587.

**§ 15.2-2139. Special court; costs.**

The costs in the proceedings before the special court shall be paid by the party instituting the proceedings and shall be the same as in other civil cases; the costs shall also include the per diem and expenses of the court reporter, if any, and, in the discretion of the court, a reasonable allowance to the court for secretarial services in connection with the preparation of the written opinion. In the event of an appeal, the Supreme Court of Virginia shall determine by whom the appellate costs shall be paid.

1976, c. 69, § 15.1-37.1:5; 1997, c. 587.

**§ 15.2-2140. Dispute between jurisdictions; appeals.**

A. An appeal may be granted by the Supreme Court of Virginia, or any judge thereof, to any party from the judgment of the special court, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence. The special court shall certify the facts in the case to the Supreme Court, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. In any case, by consent of all parties of record, a motion to dismiss may be made at any time before final judgment on appeal.

B. If the judgment of the special court is reversed on appeal, or if the judgment is modified, the Supreme Court shall enter such order as the special court should have entered, and the order shall be final.

1976, c. 69, § 15.1-37.1:6; 1979, c. 671; 1997, c. 587; 2003, c. 940.

**§ 15.2-2141. Conflicting petitions for same territory; petition seeking territory in two or more counties.**

A. When proceedings for the acquisition of land by a locality are pending and a petition is filed seeking the acquisition of the same land or a portion thereof to another locality, the case shall be heard by the special court in which the original proceedings are pending. The special court shall consolidate the cases and hear them together, and shall make such decision as is just, taking into consideration the interest of all parties to each case.

B. When the land sought by a locality lies in two or more counties, all such counties shall be made parties defendant to the case. The motion or petition shall be addressed to the circuit court of the county in which the larger part of the land is located. The provisions of §§ 15.2-2135 through 15.2-2141 shall apply, mutatis mutandis, to any such proceedings.

1976, c. 69, § 15.1-37.1:7; 1997, c. 587.

**§ 15.2-2142. Certain localities may construct dams across navigable streams; permission from Chief of Engineers, Secretary of Army and State Attorney General; approval of governing body.**

Any locality authorized by its charter or by general law to construct a dam in connection with its public water supply system and which has secured permission from the Chief of Engineers and the Secretary of the Army and the authorization of the Attorney General of Virginia with the consent and approval of the Governor, may construct such dam in and across the bed of any navigable river, stream or tributary in this Commonwealth; however, such dam shall not be constructed nor any land acquired therefor when the dam would be located in another locality without the approval of such locality's governing body. No such approval shall be required when the dam is in the process of construction, the site has been purchased, or plans for its construction were filed with any appropriate agency of the federal, state, or local government on or before July 1, 1976.

In any case in which the approval by such locality's governing body is withheld, the party seeking such approval may petition the Chief Justice of the Supreme Court of Virginia for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

Code 1950, § 15-20.7; 1962, c. 402, § 15.1-37.1; 1975, c. 573; 1976, c. 69; 1997, c. 587.

**§ 15.2-2143. Water supplies and facilities.**

Every locality may provide and operate within or outside its boundaries water supplies and water production, preparation, distribution and transmission systems, facilities and appurtenances for the purpose of furnishing water for the use of its inhabitants; or may contract with others for such purposes and services. Fees and charges for the services of such systems shall be fair and reasonable and payable as directed by the locality. Except in counties which are not otherwise authorized, a locality may require the connection of premises with facilities provided for furnishing water; charge and collect compensation for water thus furnished; and may provide penalties for the unauthorized use thereof.

No locality, after July 1, 1976, shall construct, provide or operate outside its boundaries any water supply system prior to obtaining the consent of the locality in which the system is to be located. No consent shall be required for the operation of any such water supply system in existence on July 1, 1976, in the process of construction or for which the site has been purchased, or for its orderly expansion.

In any case in which the approval by such locality's governing body is withheld, the party seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, which provides and operates outside its boundaries any such water supply system may provide water supplies to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide water supplies to any other users outside its boundaries.

Code 1950, § 15-77.39; 1958, c. 328; 1962, c. 623, § 15.1-875; 1975, c. 573; 1976, c. 69; 1997, c. 587; 1998, cc. 224, 328.

**§ 15.2-2144. Inspection of water supplies.**

A. Every locality may regulate and inspect public and private water supplies; the production, preparation, transmission and distribution of water; and the sanitation of establishments, systems, facilities and equipment in or by means of which water is produced, prepared, transmitted and distributed. It may prevent the pollution of such water supplies; and, without liability to the owner thereof, may prevent the transmission or distribution of water when it is found to be polluted, adulterated, impure or dangerous.

B. Every public water supply operator shall at least annually test the public water supply for the presence of methyl tertiary-butyl ether (MTBE). The locality shall maintain a record of testing conducted pursuant to this subsection. If the results of any test conducted pursuant to this subsection indicates the presence of MTBE in excess of 15 parts per billion, the locality shall immediately notify the Department of Environmental Quality and the Department of Health. The Division of Consolidated Laboratory Services shall maintain and make available, upon the request of any person, a list of laboratories, accredited under the provisions of the federal Safe Drinking Water Act (42 U.S.C. § 300f et seq.) to analyze samples, located throughout the Commonwealth that possess the technical expertise to analyze water samples for the presence of MTBE. Any lab seeking accreditation under the Safe Drinking Water Act may contact the Division of Consolidated Laboratory Services. The Division of Consolidated Laboratory Services shall establish a fee system to offset the costs of tests performed on behalf of public water supply operators. Such test may be conducted simultaneously with other tests.

Notwithstanding the provisions of this subsection, the State Board of Health, acting pursuant to its authority regarding public water supplies, may establish an alternative schedule for water supply testing, which shall apply in lieu of this subsection, for any public waterworks where annual testing is not

otherwise required, if it determines that an alternative schedule is appropriate to protect the public health and promote the public welfare.

Code 1950, § 15-77.18; 1958, c. 328; 1962, c. 623, § 15.1-854; 1997, c. 587; 2000, c. 1004; 2004, c. 438.

### § 15.2-2145. Sale of water and use of streets by one city in another.

No city which owns or controls a waterworks system and which is authorized by its charter, or by general law, to sell or supply water to persons, firms or industries residing or located outside of its city limits shall be permitted to sell, supply or dispose of its water to the inhabitants, firms, corporations or industries of any other city, without the consent of such latter city; nor shall it operate any part of its waterworks system or occupy or use the streets, lanes, parks or other public places for such purpose in such latter city without first obtaining consent.

Code 1950, § 15-748; 1950, p. 851; 1962, c. 623, § 15.1-334; 1970, c. 583; 1997, c. 587.

### § 15.2-2146. Powers of localities to acquire certain waterworks system.

For the purpose of providing an adequate water supply or of acquiring, maintaining or enlarging a waterworks system, including chronically noncompliant waterworks, as defined in § 32.1-167, any locality, in addition to other powers conferred by law, may acquire, as provided in § 15.2-1800, within or outside or partly within and partly outside the limits of the locality, the property, in whole or in part, whensoever acquired, of any private or public service corporation operating a waterworks system or chartered for the purpose of acquiring or operating such a system. Such property shall include its lands, plants, works, buildings, machinery, pipes, mains, wells, basins, reservoirs and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, whether such property, or any part thereof, is essential to the purposes of the corporation or not. However, any locality condemning property hereunder shall furnish water, at appropriate rates, to the customers of any water company whose property is condemned. The provisions of § 25.1-102 shall not apply in the case of condemnation of an existing water or sewage disposal system in its entirety.

Code 1950, § 15-749; 1958, c. 401; 1962, c. 623, § 15.1-335; 1966, c. 170; 1987, c. 200; 1997, c. 587; 2003, c. 940; 2007, cc. 648, 774.

### § 15.2-2147. City acquiring plant within one mile of another city.

If any city acquires by purchase, lease, condemnation or otherwise, the property, rights and franchises of any private or public service corporation operating a waterworks system, whose plant is located within one mile of the corporate limits of any other city and whose mains and pipes are laid in the streets of such other city, and could thereby prevent the other city from procuring water from the plant of such corporation, the city so acquiring such property shall establish and maintain the same fees for water under similar conditions and circumstances and furnish the same quality and pressure of water, all conditions considered, to all consumers of the same class in the other city as is furnished to consumers in the city acquiring the property.

Code 1950, § 15-751; 1962, c. 623, § 15.1-337; 1997, c. 587.

### § 15.2-2148. Contracts for water supply.

Nothing in this article shall be construed to prevent a locality from contracting with another locality for the acquisition of a water supply or for the use and management of the water supply of either of them in any manner and upon any terms that they may see fit.

Code 1950, § 15-752; 1962, c. 623, § 15.1-338; 1997, c. 587.

## Article 6 - APPROVAL OF WATER SUPPLY SYSTEMS BY COUNTIES

### § 15.2-2149. Notice to county and State Board of Health required prior to construction.

Any person, including municipal corporations, that proposes to establish a water supply consisting of a well, springs, or other source and the necessary pipes, conduits, mains, pumping stations, and other facilities in connection therewith, to serve or to be capable of serving three or more connections shall notify the State Board of Health and shall notify in writing the governing body of the county in which such water system is to be located and shall appear at a regular meeting thereof and notify such governing body in person.

In any county having a population of more than 60,000 according to the 1960 or any subsequent census or a county adjoining a city having a population of 200,000 or more according to the 1960 or any subsequent census, no extension of an existing system for the purpose of serving three or more connections shall be made by any person, firm or corporation, other than a municipal corporation, until a plan of such proposed extension, with proof of capacity to serve, has been filed with, and a permit for extension has been obtained from, the sanitation engineer or other county official, if any, designated therefor by the board of supervisors.

Code 1950, § 15-754.1; 1954, c. 455; 1956, c. 636; 1958, c. 128; 1962, c. 623, § 15.1-341; 1964, c. 191; 1974, c. 246; 1997, c. 587.

### § 15.2-2150. When approval of State Board of Health not required.

The approval of the State Board of Health shall not be required unless such water supply serves or proposes to serve at least the number of persons for which the approval of the State Board of Health is required under § 32.1-172.

Code 1950, § 15-754.2; 1954, c. 455; 1962, c. 623, § 15.1-342; 1997, c. 587.

### § 15.2-2151. Disapproval of system by governing body of counties; failure to disapprove within seventy days.

The governing body of any county notified of the proposed establishment of a water system or of the extension of any existing water system under the second paragraph of § 15.2-2149 may disapprove the same, if it finds that such water system does not have an adequate source of supply, or that the system is not capable of serving the proposed number of connections by reason of inadequate pipes, mains, conduits, pumping stations, or otherwise. If, at the expiration of seventy days from the date on which the applicant appeared before the governing body, such governing body has not disapproved

the application, the applicant may proceed with the construction and installation of such water system, provided he first gives notice to the chairman of the governing body by registered mail of his intention to proceed.

Code 1950, § 15-754.3; 1954, c. 455; 1956, c. 273; 1958, c. 128; 1962, c. 623, § 15.1-343; 1997, c. 587.

### § 15.2-2152. Contents of notice to governing body; further information.

The applicant shall state in the notice to the governing body required by § 15.2-2149 the number and nature of the connections to which service will be given under the certificate applied for. The governing body may require such further information as it deems desirable in order to pass upon the application.

Code 1950, § 15-754.4; 1954, c. 455; 1962, c. 623, § 15.1-344; 1997, c. 587.

### § 15.2-2153. Extensions to systems.

No person that has constructed or installed a water system after having complied with the provisions of this article shall extend the service in excess of the number of connections for which approval was originally given. In case any such extension is desired, the person shall proceed in the same manner as in the case of an original application under this article.

Code 1950, § 15-754.5; 1954, c. 455; 1962, c. 623, § 15.1-345; 1974, c. 246; 1997, c. 587.

### § 15.2-2154. Article not applicable to hotel corporations.

No provision of this article shall apply to a corporation whose principal business is the operation of a hotel and which from its surplus facilities may furnish water to a limited number of patrons.

Code 1950, § 15-754.6; 1954, c. 455; 1962, c. 623, § 15.1-346; 1997, c. 587.

### § 15.2-2155. Noncompliance with article; separate offenses.

Any person that fails or refuses to notify the governing body of the county in which any such water system is to be constructed or installed, or to notify such governing body of any proposed extension beyond the number of connections for which approval was originally given, or that fails or refuses to notify the State Board of Health of the proposed construction or installation of any such system, and thereafter constructs and installs any such system, or, having given such notice and the same having been disapproved, proceeds to construct or install any such system, shall be guilty of a misdemeanor and punished as provided in § 15.2-2156. Each day of operation without notifying the governing body or State Board of Health as above required, or after disapproval by the governing body, shall constitute a separate offense.

Code 1950, § 15-754.7; 1954, c. 455; 1962, c. 623, § 15.1-347; 1974, c. 246; 1997, c. 587.

### § 15.2-2156. Penalty; enjoining violation.

Any person violating any provision of this article shall be guilty of a Class 2 misdemeanor and, in addition, may be enjoined from further violation of this article.

Code 1950, § 15-754.8; 1954, c. 455; 1962, c. 623, § 15.1-348; 1991, c. 710; 1997, c. 587.

## Article 7 - MISCELLANEOUS SERVICES, ETC., IN CERTAIN LOCALITIES

### § 15.2-2157. Onsite sewage systems when sewers not available; civil penalties.

A. Any locality may require the installation, maintenance and operation of, regulate and inspect onsite sewage systems or other means of disposing of sewage when sewers or sewerage disposal facilities are not available; without liability to the owner thereof, may prevent the maintenance and operation of onsite sewage systems or such other means of disposing of sewage when they contribute or are likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious and dangerous diseases; and may regulate and inspect the disposal of human excreta.

B. Any locality that (i) has a record of the location of alternative and conventional onsite sewage systems and alternative discharging systems; (ii) has notified owners of their maintenance responsibility for such systems; and (iii) has a method to identify property transfer may adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions for the operation and maintenance of alternative and conventional onsite sewage systems and alternative discharging systems, as defined in § 32.1-163, that are not abated or remedied within 30 days after receipt of notice of violation from the local health director or his designee. No civil action authorized under this section shall proceed while a criminal action is pending and no criminal action shall proceed if the violation has been abated or remedied through civil enforcement.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than $100 for the initial summons and not more than $150 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties exceeding a total of $3,000. If the violation is not abated after the imposition of the maximum fine, the locality may pursue other remedies as provided by law. Designation of a particular ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, and dangerous diseases.

The local health director or his designee may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the

burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

This section shall be not interpreted to allow the imposition of civil penalties for activities related to land development.

C. When sewers or sewerage disposal facilities are not available, a locality shall not prohibit the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating.

D. A locality shall not require maintenance standards and requirements for alternative onsite sewage systems that exceed those allowed under or established by the State Board of Health pursuant to § 32.1-164.

E. The State Health Commissioner shall require, as a precondition to the issuance of an alternative onsite sewage system permit pursuant to § 32.1-164 to serve a residential structure, that the property owner record an instrument identifying by reference the applicable maintenance regulations for each component of the system in the land records of the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the onsite sewage system is to be located, which shall be transferred with the title to the property upon the sale or transfer of the land that is the subject of the permit.

Code 1950, § 15-77.20; 1958, c. 328; 1962, c. 623, § 15.1-856; 1997, c. 587; 2005, c. 814; 2007, c. 924; 2009, cc. 786, 846; 2016, c. 721.

**§ 15.2-2157.1. Permit for onsite sewage disposal system installation in certain counties.**

Augusta County may require any person desiring to install a septic tank or other onsite sewage disposal system to secure a permit to do so. A reasonable fee may be prescribed, not to exceed $150, for processing an application for such a permit.

2001, c. 204; 2007, cc. 813, 880, 920.

**§ 15.2-2158. Fee for street lighting.**

A. Frederick County, which provides street lighting service to certain of its residents, may by ordinance charge a fee for the provision of the service, not to exceed the actual cost incurred by the county to procure, develop, and maintain such service, including a reasonable reserve.

B. So long as the benefits of any street lighting can be shown to inure to the specific benefit of identifiable neighborhoods or discrete customers in approximately equivalent amounts, the fee may be calculated by dividing the total amount of the street lighting charge by the number of affected customers.

C. The fee authorized by this section with which the owner of any such property has been charged and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and administered and enforced in the same manner as provided in Chapter 39 (§ 58.1-3900 et seq.) of Title 58.1.

1993, c. 402, § 15.1-360.1; 1997, c. 587.

## § 15.2-2159. Fee for solid waste disposal by counties.

A. Accomack, Augusta, Floyd, Highland, Pittsylvania, Russell, and Wise Counties may by ordinance, and after a public hearing, levy a fee for the disposal of solid waste not to exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving the landfill and for such reserves as may be necessary for capping and closing such landfill in the future. Russell and Southampton Counties may by ordinance, and after a public hearing, levy a fee for the management of solid waste not to exceed the actual cost incurred by the county in removing and disposing of solid waste. Such fee as collected shall be deposited in a special account to be expended only for the purposes for which it was levied. Except in Floyd, Pittsylvania, Russell, Southampton, and Wise Counties, such fee shall not be used to purchase or subsidize the purchase of equipment used for the collection of solid waste. In Augusta, Highland, Pittsylvania, and Southampton Counties, such fee (i) may only be levied upon persons whose residential solid waste is disposed of at a county landfill or county solid waste collection or disposal facility and (ii) shall not be levied upon persons whose residential waste is not disposed of in such landfill or facility if such nondisposal is documented by the collector or generator of such waste as required by ordinance of such county. Documentation provided by a collector of such waste pursuant to clause (ii) shall not be disclosed by the county to any other person.

B. Any fee imposed by subsection A when combined with any other fee or charge for disposal of waste shall not exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving its landfill and for such reserves as may be necessary for capping and closing such landfill in the future or, in the case of Southampton County, such fee shall not exceed the costs and fees expended by the county in removing and disposing of solid waste.

C. Any county which imposes the fee allowed under subsection A may enter into a contractual agreement with any water or heat, light, and power company or other corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 except Appalachian Power Company and any cooperative formed under or subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 of Title 56 for the collection of such fee. The agreement may include a commission for such service in the form of a deduction from the fee remitted. The commission shall be provided for by ordinance, which shall set the rate not to exceed five percent of the amount of fees due and collected.

D. Accomack, Highland, Pittsylvania, Russell, Southampton, and Wise Counties have the following authority regarding collection of said fee:

1. To prorate said fee depending upon the period a resident or business is located in said county during the year of fee levy;

2. To levy penalty for late payment of fee as set forth in § 58.1-3916 of the Code of Virginia;

3. To levy interest on unpaid fees as set forth in § 58.1-3916 of the Code of Virginia;

4. To credit the fee first against the most delinquent use fee account owing;

5. To require payment of the fee prior to approval of an application for rezoning, special exception, variance or other land use permit; and

6. To provide discounts to the standard fee rates for older persons, as defined in § 51.5-135, and disabled persons based on ability to pay.

E. Pittsylvania and Southampton Counties may by ordinance provide an exemption from the fee for the disposal of solid waste to any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability in accordance with the standards set forth in § 58.1-3219.5.

1991, c. 541, § 15.1-362.1; 1993, cc. 733, 763; 1995, c. 633; 1996, cc. 313, 621; 1997, cc. 234, 587; 2001, c. 338; 2002, c. 275; 2003, cc. 25, 48; 2006, cc. 102, 743; 2012, cc. 765, 803, 835; 2013, c. 699; 2014, c. 727; 2020, cc. 1117, 1118.

**§ 15.2-2160. Provision of telecommunications services.**

A. Any locality that operates an electric distribution system may provide telecommunications services, including local exchange telephone service as defined in § 56-1, within or outside its boundaries if the locality obtains a certificate pursuant to § 56-265.4:4. Such locality may provide telecommunications services within any locality in which it has electric distribution system facilities as of March 1, 2002. Any locality providing telecommunications services on March 1, 2002, may provide telecommunications, Internet access, broadband, information, and data transmission services within any locality within 75 miles of the geographic boundaries of its electric distribution system as such system existed on March 1, 2002. The BVU Authority may provide telecommunications, Internet access, broadband, information, and data transmission services as provided in the BVU Authority Act (§ 15.2-7200 et seq.).

B. A locality that has obtained a certificate pursuant to § 56-265.4:4 shall (i) comply with all applicable laws and regulations for the provision of telecommunications services; (ii) make a reasonable estimate of the amount of all federal, state, and local taxes (including income taxes and consumer utility taxes) that would be required to be paid or collected for each fiscal year if the locality were a for-profit provider of telecommunications services, (iii) prepare reasonable estimates of the amount of any franchise fees and other state and local fees (including permit fees and pole rental fees), and right-of-way charges that would be incurred in each fiscal year if the locality were a for-profit provider of telecommunications services, (iv) prepare and publish annually financial statements in accordance with generally accepted accounting principles showing the results of operations of its provision of telecommunications services, and (v) maintain records demonstrating compliance with the provisions of this section that shall be made available for inspection and copying pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Each locality that has obtained a certificate pursuant to § 56-265.4:4 shall provide nondiscriminatory access to for-profit providers of telecommunications services on a first-come, first-served basis to rights-of-way, poles, conduits or other permanent distribution facilities owned, leased or

operated by the locality unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities.

D. The prices charged and the revenue received by a locality for providing telecommunications services shall not be cross-subsidized by other revenues of the locality or affiliated entities, except (i) in areas where no offers exist from for-profit providers of such telecommunications services, or (ii) as permitted by the provisions of subdivision B 5 of § 56-265.4:4. The provisions of this subsection shall not apply to Internet access, broadband, information, and data transmission services provided by any locality providing telecommunications services on March 1, 2002.

E. No locality providing such services shall acquire by eminent domain the facilities or other property of any telecommunications service provider to offer cable, telephone, data transmission or other information or online programming services.

F. Public records of a locality that has obtained a certificate pursuant to § 56-265.4:4, which records contain confidential proprietary information or trade secrets pertaining to the provision of telecommunications service, shall be exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.). As used in this subsection, a public record contains confidential proprietary information or trade secrets if its acquisition by a competing provider of telecommunications services would provide the competing provider with a competitive benefit. However, the exemption provided by this subsection shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

G. As used in this section, "locality" shall mean any county, city, town, authority, or other governmental entity which provides or seeks to provide telecommunications services. Every locality shall comply with the requirements of § 56-265.4:4 or 56-484.7:1 unless otherwise specifically exempt. Any locality that has obtained a certificate pursuant to § 56-265.4:4, and which surrenders or transfers such certificate shall continue to remain subject to subsections C, D, and E if any substantial part of its telecommunications assets or operations are transferred to an entity in which the locality has the right to appoint board members, directors, or managers.

2002, cc. 479, 489; 2003, c. 720; 2005, c. 258; 2006, cc. 73, 76; 2010, cc. 117, 210; 2016, cc. 724, 725.

## Chapter 22 - PLANNING, SUBDIVISION OF LAND AND ZONING

## Article 1 - GENERAL PROVISIONS

### § 15.2-2200. Declaration of legislative intent.

This chapter is intended to encourage localities to improve the public health, safety, convenience, and welfare of their citizens and to plan for the future development of communities to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the need for mineral resources and the needs of agriculture, industry, and business be recognized in future growth; that the concerns of

military installations be recognized and taken into account in consideration of future development of areas immediately surrounding installations and that where practical, installation commanders shall be consulted on such matters by local officials; that residential areas be provided with healthy surroundings for family life; that agricultural and forestal land be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds.

Code 1950, §§ 15-891.1, 15-900, 15-916, 15-961; 1950, pp. 487, 889; 1956, c. 497; 1962, c. 407, § 15.1-427; 1975, c. 641; 1981, c. 418; 1996, cc. 585, 600; 1997, c. 587; 2013, cc. 149, 213.

**§ 15.2-2201. Definitions.**

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

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division,

any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and reparation.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

Code 1950, § 15-961.3; 1962, c. 407, § 15.1-430; 1964, c. 547; 1966, c. 344; 1975, c. 641; 1976, c. 642; 1977, c. 566; 1978, c. 320; 1987, c. 8; 1989, c. 384; 1990, c. 685; 1993, c. 770; 1995, c. 603; 1997, c. 587; 2008, cc. 635, 718; 2011, c. 237; 2012, c. 554; 2013, cc. 149, 213; 2015, c. 597; 2017, c. 216.

**§ 15.2-2202. Duties of state agencies; electric utilities.**

A. The Department of Environmental Quality shall distribute a copy of the environmental impact report submitted to the Department for every major state project pursuant to regulations promulgated under § 10.1-1191 to the chief administrative officer of every locality in which each project is proposed to be located. The purpose of the distribution is to enable the locality to evaluate the proposed project for environmental impact, consistency with the locality's comprehensive plan, local ordinances adopted pursuant to this chapter, and other applicable law and to provide the locality with an opportunity to comment. The Department shall distribute the reports to localities, solicit their comments, and consider

their responses in substantially the same manner as the Department solicits and receives comments from state agencies.

B. In addition to the information supplied under subsection A, every department, board, bureau, commission, or other agency of the Commonwealth which is responsible for the construction, operation, or maintenance of public facilities within any locality shall, upon the request of the local planning commission having authority to prepare a comprehensive plan, furnish reasonable information requested by the local planning commission relative to the master plans of the state agency which may affect the locality's comprehensive plan. Each state agency shall collaborate and cooperate with the local planning commission, when requested, in the preparation of the comprehensive plan to the end that the local comprehensive plan will coordinate the interests and responsibilities of all concerned. The state agency shall notify the chief administrative officer of the locality when updates to its land use plans are completed and available.

C. Every state agency responsible for the construction, operation or maintenance of public facilities within the Commonwealth shall send a notice addressed to the chief administrative officer of every locality in which the agency intends to undertake a capital project involving new construction costing at least $500,000. The notice shall occur at the initiation of the environmental impact report process. This notice shall include a project description and a point of contact with contact information for the project. A notice shall also be given during the planning phase of the project and prior to preparation of construction and site plans and shall inform localities that preliminary construction and site plans will be available for distribution, upon the request of the locality. Agencies shall not be required to give such notice prior to acquisition of property. The purpose of the notice and distribution is to enable the locality to evaluate the project for consistency with local ordinances other than building codes and to provide the locality with an opportunity to submit comments to the agency during the planning phase of a project. Upon receipt of a request from a locality, the state agency shall transmit a copy of the plans to the locality for comment.

D. Every institution of higher education responsible for the construction, operation or maintenance of public facilities within the Commonwealth shall send a notice addressed to the chief administrative officer of every locality in which the institution intends to undertake a capital project involving new construction costing at least $500,000. The notice shall occur at the initiation of the environmental impact report process. This notice shall include a project description and a point of contact with contact information for the project. A notice shall also be given during the planning phase of the project and prior to preparation of construction and site plans and shall inform the locality that preliminary construction and site plans will be available for distribution, upon request of the locality. Institutions shall not be required to give such notice prior to acquisition of property. The purpose of the notice and distribution is to enable the locality to evaluate the project for consistency with local ordinances other than building codes and to provide the locality with an opportunity to submit comments to the agency during the planning phase of a project. Upon receipt of a request from a locality, the institution shall transmit a copy of the plans to the locality for comment.

E. Every electric utility that is responsible for the construction, operation, and maintenance of electric transmission lines of 150 kilovolts or more shall furnish reasonable information requested by the local planning commission having authority to prepare a comprehensive plan within the utility's certificated service area relative to any electric transmission line of 150 kilovolts or more that may affect the locality's comprehensive plan. If the locality seeks to include the designation of corridors or routes for electric transmission lines of 150 kilovolts or more in its comprehensive plan, the local planning commission shall give the electric utility a reasonable opportunity for consultation about such corridors or routes. The electric utility shall notify the chief administrative officer of every locality in which the electric utility plans to undertake construction of any electric transmission line of 150 kilovolts or more, prior to the filing of any application for approval of such construction with the State Corporation Commission, of its intention to file any such application and shall give the locality a reasonable opportunity for consultation about such line.

F. Nothing in this section shall be construed to require any state agency or electric utility to duplicate any submission required to be made by the agency or the electric utility to a locality under any other provision of law.

G. Nothing herein shall be deemed to abridge the authority of any state agency or the State Corporation Commission regarding the facilities now or hereafter coming under its jurisdiction. However, failure of any state agency to strictly comply with subsection C will justify entry of an injunction on behalf of the locality.

H. The provisions of this section shall not apply to highway, transit or other projects, as provided in subsection B of § 10.1-1188.

I. The provisions of this section shall not apply to the entering of any option by any state agency or electric utility for any projects listed in subsection C, D or E.

1993, c. 786, § 15.1-428.1; 1997, c. 587; 2001, c. 281; 2007, c. 761; 2011, c. 699.

**§ 15.2-2203. Existing planning commissions and boards of zoning appeals; validation of plans previously adopted.**

Upon the effective date of this chapter, planning commissions, by whatever name designated, and boards of zoning appeals heretofore established shall continue to operate as though created under the terms of this chapter. All actions lawfully taken by such commissions and boards are hereby validated and continued in effect until amended or repealed in accordance with this chapter.

The adoption of a comprehensive or master plan or any general development plans under the authority of prior acts is hereby validated and shall continue in effect until amended under the provisions of this chapter.

Code 1950, § 15-961.2; 1962, c. 407, § 15.1-429; 1975, c. 641; 1997, c. 587.

**§ 15.2-2204. (Effective until July 1, 2022) Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.**

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. In any instance in which a locality in Planning District 23 has submitted a timely notice request to such newspaper and the newspaper fails to publish the notice, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport,

excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. 774; 1995, c. 178; 1996, cc. 613, 667; 1997, c. 587; 2001, c. 406;

2002, c. 634; 2004, cc. 539, 799; 2005, c. 514; 2007, cc. 761, 813; 2011, c. 457; 2012, c. 548; 2013, cc. 149, 213; 2020, cc. 22, 761.

**§ 15.2-2204. (Effective July 1, 2022) Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.**

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport,

excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. 774; 1995, c. 178; 1996, cc. 613, 667; 1997, c. 587; 2001, c. 406;

2002, c. 634; 2004, cc. 539, 799; 2005, c. 514; 2007, cc. 761, 813; 2011, c. 457; 2012, c. 548; 2013, cc. 149, 213.

**§ 15.2-2205. Additional notice of planning or zoning matters.**

Any locality may give, in addition to any specific notice required by law, notice by direct mail or any other means of any planning or zoning matter it deems appropriate.

1980, c. 545, § 15.1-33.1; 1981, c. 266; 1997, c. 587.

**§ 15.2-2206. When locality may require applicant to give notice; how given.**

Any locality may by ordinance require that a person applying to the local governing body, local planning commission or board of zoning appeals pursuant to this chapter be responsible for all required notices. The locality shall require that notice be given as provided by § 15.2-2204.

The locality may provide that, in the case of a condominium or of a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessee's association, respectively, in lieu of each individual unit owner.

The applicant may rely upon records of the local real estate assessor's office to ascertain the names of persons entitled to notice.

A certification of notice and a listing of the persons to whom notice has been sent shall be supplied by the applicant as required by the local governing body at least five days prior to the first hearing.

The governing body shall allow any person entitled to notice to waive such right in writing.

Nothing herein shall be construed so as to affect the validity of any ordinance or amendment adopted prior to July 1, 1992.

1992, c. 517, § 15.1-431.1; 1997, c. 587.

**§ 15.2-2207. Public notice of juvenile residential care facilities in certain localities.**

In any locality without an applicable zoning ordinance, the local governing body may provide by ordinance that any party desiring to establish a public or private detention home, group home or other residential care facility for children in need of services or for delinquent or alleged delinquent youth must first provide public notice and participate in a public hearing in accordance with § 15.2-2204.

1994, c. 372, § 15.1-503.4; 1997, c. 587.

**§ 15.2-2208. Restraining violations of chapter.**

A. Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding.

B. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator or governing body may record a memorandum of lis pendens pursuant to § 8.01-268. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after 180 days. If the local government has initiated an enforcement

proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Code 1950, §§ 15-840, 15-851, 15-969; 1962, c. 407, § 15.1-499; 1997, c. 587; 2008, c. 583.

**§ 15.2-2208.1. Damages for unconstitutional grant or denial by locality of certain permits and approvals.**

A. Notwithstanding any other provision of law, general or special, any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, including a special exception, special use permit, conditional use permit, rezoning, site plan, plan of development, and subdivision plan, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or the Constitution of Virginia, shall be entitled to an award of compensatory damages and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without the unconstitutional condition and may be entitled to reasonable attorney fees and court costs.

B. In any proceeding, once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial provided only that the applicant objected to the condition in writing prior to such grant or denial.

C. Any action brought pursuant to this section shall be filed with the circuit court having jurisdiction of the land affected or the greater part thereof, and the court shall hear and determine the case as soon as practical, provided that such action is filed within the time limit set forth in subsection C or D of § 15.2-2259, subsection D or E of § 15.2-2260, or subsection F of § 15.2-2285, as may be applicable.

2014, cc. 671, 717.

**§ 15.2-2209. Civil penalties for violations of zoning ordinance.**

Notwithstanding subdivision A 5 of § 15.2-2286, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance. The schedule of offenses shall not include any zoning violation resulting in injury to any persons, and the existence of a civil penalty shall not preclude action by the zoning administrator under subdivision A 4 of § 15.2-2286 or action by the governing body under § 15.2-2208.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than $200 for the initial summons and not more than $500 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000. Designation of a particular zoning ordinance violation for a civil penalty pursuant to

this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total $5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.

1985, c. 417, § 15.1-499.1; 1986, c. 97; 1987, cc. 78, 99; 1988, cc. 513, 813, 869, 895; 1989, c. 566; 1990, cc. 473, 495; 1992, c. 298; 1993, c. 823; 1994, c. 342; 1995, c. 494; 1996, c. 421; 1997, c. 587; 2003, c. 192; 2006, c. 248; 2008, c. 727.

**§ 15.2-2209.1. Extension of approvals to address housing crisis.**

A. Notwithstanding the time limits for validity set out in § 15.2-2260 or 15.2-2261, or the provisions of subsection F of § 15.2-2260, any subdivision plat valid under § 15.2-2260 and outstanding as of January 1, 2017, and any recorded plat or final site plan valid under § 15.2-2261 and outstanding as of January 1, 2017, shall remain valid until July 1, 2020, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality. Any other plan or permit associated with such plat or site plan extended by this subsection shall likewise be extended for the same time period.

B. Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2017, and related to new residential or commercial development, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2020, or longer as agreed to by the locality. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years.

C. Notwithstanding any other provision of this chapter, for any rezoning action approved pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303, valid and outstanding as of January 1, 2017, and related to new residential or commercial development, any proffered condition that requires the landowner or developer to incur significant expenses upon an event related to a stage or level of development shall be extended until July 1, 2020, or longer as agreed to by the locality. However, the extensions in this subsection shall not apply (i) to land or right-of-way dedications pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303, (ii) when completion of the event related to the stage or level of development has occurred, or (iii) to events required to occur on a specified date certain or within a specified time period. Any proffered condition included in a special exception, special use permit, or conditional use permit shall only be extended if it satisfies the provisions of this subsection.

D. The extension of validity provided in subsection A and the extension of certain deadlines as provided in subsection B shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force; however, if the locality has enacted a bonding moratorium or deferral option, the performance bonds and agreements or other financial guarantees of completion may be waived or modified by the locality, in which case the extension of validity provided in subsection A and the extension of certain deadlines provided in subsection B shall apply. The landowner or developer must comply with the terms of any bonding moratorium or deferral agreement with the locality in order for the extensions referred to in this subsection to be effective.

2009, c. 196; 2011, c. 272; 2012, c. 508; 2017, c. 660.

**§ 15.2-2209.2. Public infrastructure maintenance bonds.**

In order to protect existing public infrastructure, the City of Charlottesville may by ordinance require public infrastructure maintenance bonds from developers and property owners in conjunction with the construction of single-family and two-family homes in instances where the provisions of a subdivision ordinance are not applicable and all required performance and maintenance bonds have been released. Such maintenance bonds shall not exceed an amount reasonably necessary to maintain and repair publicly owned streets, sidewalks, and infrastructure depicted or provided for in the approved plan, plat, permit application, or similar document for which such bond is applicable, on site or immediately adjacent to the construction, and shall not be used for the purpose of repairing damage to infrastructure that preexisted the construction, unless otherwise agreed upon by the developer,

property owner, and the locality. The maximum bond shall not exceed $5,000 and shall only be required at the time of issuance of a certificate of occupancy. The ordinance shall make provision for the inspection of bonded improvements within five business days of completion and the release of any performance guarantee within five business days of such inspection.

2011, cc. 692, 711.

## Article 2 - LOCAL PLANNING COMMISSIONS

### § 15.2-2210. Creation of local planning commissions; participation in planning district commissions or joint local commissions.

Every locality shall by resolution or ordinance create a local planning commission in order to promote the orderly development of the locality and its environs. In accomplishing the objectives of § 15.2-2200 the local planning commissions shall serve primarily in an advisory capacity to the governing bodies.

Any locality may participate in a planning district commission in accordance with Chapter 42 (§ 15.2-4200 et seq.) of this title or a joint local commission in accordance with § 15.2-2219.

1975, c. 641, § 15.1-427.1; 1997, c. 587.

### § 15.2-2211. Cooperation of local planning commissions and other agencies.

The planning commission of any locality may cooperate with local planning commissions or legislative and administrative bodies and officials of other localities so as to coordinate planning and development among the localities. The planning commission of any locality shall consult with the installation commander of any military installation that will be affected by potential development within the locality so as to reasonably protect the military installation against any adverse effects that might be caused by the development. Planning commissions may appoint committees and may adopt rules as needed to effect such cooperation. Planning commissions may also cooperate with state and federal officials, departments and agencies. Planning commissions may request from such departments and agencies, and such departments and agencies of the Commonwealth shall furnish, such reasonable information which may affect the planning and development of the locality.

Code 1950, § 15-961.1; 1962, c. 407, § 15.1-428; 1975, c. 641; 1997, c. 587; 2013, cc. 149, 213.

### § 15.2-2212. Qualifications, appointment, removal, terms and compensation of members of local planning commissions.

A local planning commission shall consist of not less than five nor more than fifteen members, appointed by the governing body, all of whom shall be residents of the locality, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. The local governing body may require each member of the commission to take an oath of office.

One member of the commission may be a member of the governing body of the locality, and one member may be a member of the administrative branch of government of the locality. The term of each of

these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The local governing bodies may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing governing body. Vacancies shall be filled by appointment for the unexpired term only.

Members may be removed for malfeasance in office. Notwithstanding the foregoing provision, a member of a local planning commission may be removed from office by the local governing body without limitation in the event that the commission member is absent from any three consecutive meetings of the commission, or is absent from any four meetings of the commission within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

The local governing body may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.

Code 1950, §§ 15-901, 15-916, 15-963; 1956, cc. 282, 497; 1960, c. 309; 1962, c. 407, § 15.1-437; 1973, c. 160; 1974, c. 521; 1986, c. 208; 1988, c. 256; 1997, c. 587; 2006, c. 687.

### § 15.2-2213. Advisory members.

A member of a local planning commission may, with the consent of both governing bodies, serve as an advisory member of the local planning commission of a contiguous locality.

Code 1950, § 15-963.1; 1962, c. 407, § 15.1-438; 1997, c. 587.

### § 15.2-2214. Meetings.

The local planning commission shall fix the time for holding regular meetings. The commission, by resolution adopted at a regular meeting, may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required. The commission shall cause a copy of such resolution to be inserted in a newspaper having general circulation in the locality at least seven days prior to the first meeting held pursuant to the adopted schedule.

Commissions shall meet at least every two months. However, in any locality with a population of not more than 7,500, the commission shall be required to meet at least once each year.

Special meetings of the commission may be called by the chairman or by two members upon written request to the secretary. The secretary shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof.

Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.

Code 1950, § 15-963.2; 1962, c. 407, § 15.1-439; 1990, c. 664; 1997, c. 587; 2003, c. 403.

**§ 15.2-2215. Quorum majority vote.**

A majority of the members shall constitute a quorum and no action of the local planning commission shall be valid unless authorized by a majority vote of those present and voting.

Code 1950, § 15-963.3; 1962, c. 407, § 15.1-440; 1974, c. 99; 1975, c. 641; 1997, c. 587.

**§ 15.2-2216. Facilities for holding of meetings and preservation of documents; appropriations for expenses.**

The governing body may provide the local planning commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the commission.

Code 1950, § 15-963.4; 1962, c. 407, § 15.1-441; 1997, c. 587.

**§ 15.2-2217. Officers, employees and consultants; expenditures; rules and records; special surveys.**

The local planning commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. If authorized by the governing body the commission may (i) create and fill such other offices as it deems necessary; (ii) appoint such employees and staff as it deems necessary for its work; and (iii) contract with consultants for such services as it requires. The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the governing body.

The commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record. Upon request of the commission, the governing body or other public officials may, from time to time, for the purpose of special surveys under the direction of the commission, assign or detail to it any members of the staffs of county or municipal administrative departments, or such governing body or other public official may direct any such department employee to make for the commission special surveys or studies requested by the local commission.

Code 1950, § 15-963.5; 1962, c. 407, § 15.1-442; 1997, c. 587.

**§ 15.2-2218. County planning commission serving as commission of town.**

The governing body of any town may designate, with the consent of the governing body of a contiguous county, by ordinance, the county planning commission as the local planning commission of the town.

A county commission designated as a town commission shall have all the powers and duties granted under this chapter to a local planning commission.

Any town designating a county commission as its local planning commission may contract annually to pay the county a proportionate part of the expenses properly chargeable for the planning service

rendered the town, and any such payments may be appropriated to the county planning commission in addition to any funds budgeted for planning purposes.

Code 1950, §§ 15-900, 15-903, 15-963.6; 1950, p. 487; 1962, c. 407, § 15.1-443; 1997, c. 587.

**§ 15.2-2219. Joint local planning commissions.**

Any one or more adjoining or adjacent counties or municipalities including any municipality within any such county may by agreement provide for a joint local planning commission for any two or more of such counties and municipalities. The agreement shall provide for the number of members of the commission and how they shall be appointed, in what proportion the expenses of the commission shall be borne by the participating localities, and any other matters pertinent to the operation of the commission as the joint local planning commission for the localities. Any commission so created shall have, as to each participating locality, the powers and duties granted to and imposed upon local planning commissions under this chapter.

Code 1950, §§ 15-900, 15-903, 15-963.6; 1950, p. 487; 1962, c. 407, § 15.1-443; 1997, c. 587.

**§ 15.2-2220. Duplicate planning commission authorized for certain local governments.**

The Cities of Chesapeake and Hampton may by ordinance establish a duplicate planning commission solely for the purpose of considering matters arising from the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). Sections 15.2-2210 through 15.2-2222 shall apply to the commission, mutatis mutandis.

The procedure, timing requirements and appeal to the circuit court set forth in §§ 15.2-2258 through 15.2-2261 shall apply to the considerations of this commission, mutatis mutandis.

To distinguish the planning commission authorized by this section from planning commissions required by § 15.2-2210, the commission established hereunder shall have the words "Chesapeake Bay Preservation" in its title.

The governing body of a city that establishes a commission pursuant to this section, in its sole discretion by ordinance, may abolish the duplicate planning commission.

1993, c. 738, § 15.1-502.1; 1997, c. 587; 2007, c. 813.

**§ 15.2-2221. Duties of commissions.**

To effectuate this chapter, the local planning commission shall:

1. Exercise general supervision of, and make regulations for, the administration of its affairs;

2. Prescribe rules pertaining to its investigations and hearings;

3. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the governing body;

4. Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;

5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;

6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;

7. Prepare and submit an annual budget in the manner prescribed by the governing body of the county or municipality; and

8. If deemed advisable, establish an advisory committee or committees.

Code 1950, § 15-963.7; 1962, c. 407, § 15.1-444; 1997, c. 587.

**§ 15.2-2222. Expenditures; gifts and donations.**

The local planning commission may expend, under regular local procedure as provided by law, sums appropriated to it for its purposes and activities.

A locality may accept gifts and donations for commission purposes. Any moneys so accepted shall be deposited with the appropriate governing body in a special nonreverting commission fund to be available for expenditure by the commission for the purpose designated by the donor. The disbursing officer of the locality may issue warrants against such special fund only upon vouchers signed by the chairman and the secretary of the commission.

Code 1950, §§ 15-905, 15-917, 15-963.8; 1962, c. 407, § 15.1-445; 1997, c. 587.

**§ 15.2-2222.1. Coordination of state and local transportation planning.**

A. 1. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223, any part of a comprehensive plan pursuant to § 15.2-2228, or any amendment to any comprehensive plan as described in § 15.2-2229, the locality shall submit such plan or amendment to the Department of Transportation for review and comment if the plan or amendment will substantially affect transportation on state-controlled highways as defined by regulations promulgated by the Department. The Department's comments on the proposed plan or amendment shall relate to plans and capacities for construction of transportation facilities affected by the proposal.

2. If the submitting locality is located within Planning District 8, the Department of Transportation shall also determine the extent to which the proposed plan or amendment will increase traffic congestion or, to the extent feasible, reduce the mobility of citizens in the event of a homeland security emergency and shall include such information as part of its comments on the proposed plan or amendment. In making such determination, the Department shall specify by name and location any transportation facility within the scope of the review specified in subdivision 1 having a functional classification of minor arterial or higher for which an increase in traffic volume is expected to exceed the capacity of the facility as a result of the proposed plan or amendment. Such information shall be provided concurrently to the submitting locality and the Northern Virginia Transportation Authority. Further, to the extent that such information is readily available, the Department shall also include in its comments an assessment of the measures and estimate of the costs necessary to mitigate or ameliorate the congestion or reduction in mobility attributable to the proposed plan or amendment.

3. Within 30 days of receipt of such proposed plan or amendment, the Department may request, and the locality shall agree to, a meeting between the Department and the local planning commission or other agent to discuss the plan or amendment, which discussions shall continue as long as the participants may deem them useful. The Department shall make written comments within 90 days after receipt of the plan or amendment, or by such later deadline as may be agreed to by the parties in the discussions.

B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of Transportation within 10 business days of receipt thereof if the proposal will substantially affect transportation on state-controlled highways. Such application shall include a traffic impact statement if required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days of its receipt of such traffic impact statement, the Department shall either (i) provide written comment on the proposed rezoning to the locality or (ii) schedule a meeting, to be held within 60 days of its receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and guidelines of the Department, engineering and design considerations, any adopted regional or statewide plans, and short-term and long-term traffic impacts on and off site. If the locality is in Planning District 8, the Department's review shall specify by name and location any transportation facility within the scope of the review specified in subdivision A 1 having a functional classification of minor arterial or higher for which an increase in traffic volume is expected to exceed the capacity of the facility as a result of the proposed plan or amendment. The Department shall complete its initial review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives the rezoning proposal from the locality. Notwithstanding the foregoing provisions of this subsection, such review by the Department shall be of a more limited nature and scope in cases of rezoning a property consistent with a local comprehensive plan that has already been reviewed by the Department as provided in this section.

C. If a locality has not received written comments within the timeframes specified in subsection B, the locality may assume that the Department has no comments.

D. The review requirements set forth in this section shall be supplemental to, and shall not affect, any requirement for review by the Department of Transportation or the locality under any other provision of law. Nothing in this section shall be deemed to prohibit any additional consultations concerning land development or transportation facilities that may occur between the Department and localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

E. The Department shall impose fees and charges for the review of applications, plans and plats pursuant to subsections A and B, and such fees and charges shall not exceed $1,000 for each review. However, no fee shall be charged to a locality or other public agency. Furthermore, no fee shall be

charged by the Department to a citizens' organization or neighborhood association that proposes comprehensive plan amendments through its local planning commission or local governing body.

2006, cc. 527, 563; 2007, c. 792; 2010, c. 121; 2011, cc. 647, 888; 2012, c. 770; 2014, c. 766; 2016, c. 370; 2017, c. 536.

## Article 3 - THE COMPREHENSIVE PLAN

### § 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

A. The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan shall recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. In developing the plan, the locality shall take into consideration how to align transportation infrastructure and facilities with affordable, accessible housing and community services that are located within the territory in order to facilitate community integration of the elderly and persons with disabilities. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

2. The transportation plan shall include a map that shall show road and transportation improvements, including the cost estimates of such road and transportation improvements from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality

while considering the current and future needs of the planning district within which the locality is situated.

3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B of § 33.2-214, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208. The locality shall consult with the Virginia Department of Transportation to assure such consistency is achieved. The transportation plan need reflect only those changes in the annual update of the Six-Year Improvement Program that are deemed to be significant new, expanded, or relocated roadways.

4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the locality shall submit such plan or amendment to the Department for review and comment. The Department shall conduct its review and provide written comments to the locality on the consistency of the transportation plan or any amendment to the provisions of subdivision 1. The Department shall provide such written comments to the locality within 90 days of receipt of the plan or amendment, or such other shorter period of time as may be otherwise agreed upon by the Department and the locality.

5. The locality shall submit a copy of the adopted transportation plan or any amendment to the transportation plan to the Department for informational purposes. If the Department determines that the transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in accordance with subsection F of § 33.2-214.

6. If the adopted transportation plan designates corridors planned to be served by mass transit, as defined in § 33.2-100, a portion of its allocation from (i) the Northern Virginia Transportation Authority distribution specified in subdivision B 1 of § 33.2-2510, (ii) the commercial and industrial real property tax revenue specified in § 58.1-3221.3, and (iii) the secondary system road construction program, as described in Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2, may be used for the purpose of utility undergrounding in the planned corridor, if the locality matches 100 percent of the state allocation.

7. Each locality's amendments or updates to its transportation plan as required by subdivisions 2 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

D. The comprehensive plan shall include the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

E. The comprehensive plan shall consider strategies to provide broadband infrastructure that is sufficient to meet the current and future needs of residents and businesses in the locality. To this end, local planning commissions may consult with and receive technical assistance from the Center for Innovative Technology, among other resources.

1975, c. 641, § 15.1-446.1; 1976, c. 650; 1977, c. 228; 1988, c. 268; 1989, c. 532; 1990, c. 19; 1993, cc. 116, 758; 1996, cc. 585, 600; 1997, c. 587; 2003, c. 811; 2004, cc. 691, 799; 2005, cc. 466, 699; 2006, cc. 527, 563, 564; 2007, c. 761; 2012, cc. 729, 733; 2013, cc. 561, 585, 646, 656; 2014, cc. 397, 443; 2018, cc. 420, 691, 796, 828.

**§ 15.2-2223.1. Comprehensive plan to include urban development areas.**

A. For purposes of this section:

"Commercial" means property devoted to usual and customary business purposes for the sale of goods and services and includes, but is not limited to, retail operations, hotels, motels and offices. "Commercial" does not include residential dwelling units, including apartments and condominiums, or agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or distributing.

"Commission" means the Commission on Local Government.

"Developable acreage," solely for the purposes of calculating density within the urban development area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets, railways, and public utilities and (ii) other existing public lands and facilities.

"Population growth" means the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. In computing its population growth, a locality may exclude the inmate population of any new or expanded correctional facility that opened within the time period between the two censuses.

"Urban development area" means an area designated by a locality that is (i) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for redevelopment or infill development.

B. Any locality may amend its comprehensive plan to incorporate one or more urban development areas.

1. Urban development areas are areas that may be appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, any proportional combination thereof, or any other combination or arrangement that is adopted by a locality in meeting the intent of this section.

2. The urban development areas designated by a locality may be sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Where an urban development area in a county with the urban county executive form of government includes planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not more than 40 years. Future residential and commercial growth shall be based on official estimates of either the Weldon Cooper Center for Public Service of the University of Virginia, the Virginia Employment Commission, the United States Bureau of the Census, or other official government projections required for federal transportation planning purposes.

3. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the review of the comprehensive plan and in accordance with the most recent available population growth estimates and projections.

4. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall be shown on future land use maps contained in such comprehensive plan.

5. Urban development areas, if designated, shall incorporate principles of traditional neighborhood design, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of subdivision street widths and turning radii at subdivision street intersections.

6. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

7. A portion of one or more urban development areas may be designated as a receiving area for any transfer of development rights program established by the locality.

C. No locality that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.

D. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas to promote orderly and efficient development of their region.

E. Any county that amends its comprehensive plan pursuant to subsection B may designate one or more urban development areas in any incorporated town within such county, if the council of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county. However, if a town has established an urban development area within its corporate boundaries, the county within which the town is located shall not include the town's projected population and commercial growth when initially determining or reexamining the size and boundary of any other urban development area within the county.

F. To the extent possible, federal, state and local transportation, housing, water and sewer facility, economic development, and other public infrastructure funding for new and expanded facilities shall be directed to designated urban development areas or to such similar areas that accommodate growth in a manner consistent with this section.

2007, c. 896; 2009, c. 327; 2010, cc. 465, 528; 2011, c. 561; 2012, cc. 192, 518, 805, 836.

**§ 15.2-2223.2. Comprehensive plan to include coastal resource management guidance.**
Beginning in 2013, any locality in Tidewater Virginia, as defined in § 62.1-44.15:68, shall incorporate the guidance developed by the Virginia Institute of Marine Science pursuant to subdivision 9 of § 28.2-1100 into the next scheduled review of its comprehensive plan. The Department of Conservation and Recreation, Virginia Marine Resources Commission, and the Virginia Institute of Marine Science shall provide technical assistance to any such locality upon request.

2011, c. 885.

**§ 15.2-2223.3. Comprehensive plan shall incorporate strategies to combat projected sea-level rise and recurrent flooding.**
Beginning July 1, 2015, any locality included in the Hampton Roads Planning District Commission shall incorporate into the next scheduled and all subsequent reviews of its comprehensive plan strategies to combat projected relative sea-level rise and recurrent flooding. Such review shall be coordinated with the other localities in the Hampton Roads Planning District Commission. The Department of Conservation and Recreation, the Department of Emergency Management, the Marine

Resources Commission, Old Dominion University, and the Virginia Institute of Marine Science shall provide technical assistance to any such locality upon request. Where federal regulations as effective July 1, 2015 require a local hazard mitigation plan for participation in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program, such a plan may also be incorporated into the comprehensive plan. For a locality not participating in the FEMA Community Rating System, the comprehensive plan may include an action plan and time frame for such participation.

2015, c. 186.

**§ 15.2-2223.4. Comprehensive plan shall provide for transit-oriented development.**
Beginning July 1, 2020, each city with a population greater than 20,000 and each county with a population greater than 100,000 shall consider incorporating into the next scheduled and all subsequent reviews of its comprehensive plan strategies to promote transit-oriented development for the purpose of reducing greenhouse gas emissions through coordinated transportation, housing, and land use planning. Such strategies may include (i) locating new housing development, including low-income, affordable housing, in closer proximity to public transit options; (ii) prioritizing transit options with reduced overall carbon emissions; (iii) increasing development density in certain areas to reduce density in others; or (iv) other strategies designed to reduce overall carbon emissions in the locality.

2020, c. 14.

**§ 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.**
A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, groundwater and surface water availability, quality, and sustainability, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, dam break inundation zones and potential impacts to downstream properties to the extent that information concerning such information exists and is available to the local planning authority, the transmission of electricity, broadband infrastructure, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of Mines, Minerals and Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:

1. An official map;

2. A capital improvements program;

3. A subdivision ordinance;

4. A zoning ordinance and zoning district maps;

5. A mineral resource map;

6. A recreation and sports resource map; and

7. A map of dam break inundation zones.

Code 1950, § 15-964.1; 1962, c. 407, § 15.1-447; 1975, c. 641; 1977, c. 228; 1980, c. 322; 1981, c. 418; 1988, c. 438; 1990, c. 97; 1991, c. 280; 1993, cc. 758, 770; 1996, cc. 585, 600; 1997, c. 587; 2006, c. 564; 2007, c. 761; 2008, c. 491; 2018, cc. 420, 691.

**§ 15.2-2225. Notice and hearing on plan; recommendation by local planning commission to governing body; posting of plan on website.**

Prior to the recommendation of a comprehensive plan or any part thereof, the local planning commission shall (i) post the comprehensive plan or part thereof that is to be considered for recommendation on a website that is maintained by the commission or on any other website on which the commission generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof being considered for recommendation, (ii) give notice in accordance with § 15.2-2204, and (iii) hold a public hearing on the plan. After the public hearing, the commission may approve, amend and approve, or disapprove the plan. Upon approval, the commission shall by resolution recommend the plan, or part thereof, to the governing body and a copy shall be certified to the governing body. Any comprehensive plan or part thereof approved by the commission pursuant to this section shall be posted on a website that is maintained by the commission or on any other website on which the commission generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof approved by the commission and certified to the governing body. Inadvertent failure to post information on a website in accordance with this section shall not invalidate action taken by the local planning commission following notice and public hearing as required herein.

Code 1950, §§ 15-908, 15-921, 15-922, 15-964.2, 15-964.3; 1958, c. 389; 1962, c. 407, §§ 15.1-448, 15.1-449; 1968, c. 735; 1975, c. 641; 1976, c. 642; 1997, c. 587; 2009, c. 605.

**§ 15.2-2226. Adoption or disapproval of plan by governing body.**

After certification of the plan or part thereof, the governing body shall post the comprehensive plan or part thereof certified by the local planning commission on a website that is maintained by the governing body or on any other website on which the governing body generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof being considered for adoption. After a public hearing with notice as required by § 15.2-2204, the governing body shall proceed to a consideration of the plan or part thereof and shall approve and adopt, amend and adopt, or disapprove the plan. In acting on the plan or part thereof, or any amendments to the plan, the governing body shall act within 90 days of the local planning commission's recommending resolution; however, if a comprehensive plan amendment is initiated by the locality for more than 25 parcels, the governing body shall act within 150 days of the local planning commission's recommending resolution. Any comprehensive plan or part thereof adopted by the governing body pursuant to this section shall be posted on a website that is maintained by the local governing body or on any other website on which the governing body generally posts information, and that is available to the public or that clearly describes how the public may access information regarding the plan or part thereof adopted by the local governing body. Inadvertent failure to post information on a website in accordance with this section shall not invalidate action taken by the governing body following notice and public hearing as required herein.

Code 1950, § 15-964.4; 1962, c. 407, § 15.1-450; 1975, c. 641; 1976, c. 642; 1997, c. 587; 2000, c. 893; 2009, c. 605; 2020, cc. 132, 760.

**§ 15.2-2227. Return of plan to local planning commission; resubmission.**

If the governing body disapproves the plan, then it shall be returned to the local planning commission for its reconsideration, with a written statement of the reasons for its disapproval.

The commission shall have sixty days in which to reconsider the plan and resubmit it, with any changes, to the governing body.

Code 1950, § 15-964.5; 1962, c. 407, § 15.1-451; 1997, c. 587.

**§ 15.2-2228. Adoption of parts of plan.**

As the work of preparing the comprehensive plan progresses, the local planning commission may, from time to time, recommend, and the governing body approve and adopt, parts thereof. Any such part shall cover one or more major sections or divisions of the locality or one or more functional matters.

Code 1950, §§ 15-906, 15-921, 15-964.6; 1958, c. 389; 1962, c. 407, § 15.1-452; 1997, c. 587.

**§ 15.2-2229. Amendments.**

After the adoption of a comprehensive plan, all amendments to it shall be recommended, and approved and adopted, respectively, as required by § 15.2-2204. If the governing body desires an amendment, it may prepare such amendment and refer it to the local planning commission for public hearing or direct the local planning commission to prepare an amendment and submit it to public hearing within 60 days or such longer timeframe as may be specified after written request by the governing

body. In acting on any amendments to the plan, the governing body shall act within 90 days of the local planning commission's recommending resolution; however, if a comprehensive plan amendment is initiated by the locality for more than 25 parcels, the governing body shall act within 150 days of the local planning commission's recommending resolution. If the local planning commission fails to make a recommendation on the amendment within the aforesaid timeframe, the governing body may conduct a public hearing, which shall be advertised as required by § 15.2-2204.

Code 1950, §§ 15-908, 15-921, 15-964.7; 1958, c. 389; 1962, c. 407, § 15.1-453; 1975, c. 641; 1997, c. 587; 2000, c. 893; 2010, c. 821; 2020, cc. 132, 760.

**§ 15.2-2230. Plan to be reviewed at least once every five years.**

At least once every five years the comprehensive plan shall be reviewed by the local planning commission to determine whether it is advisable to amend the plan.

Code 1950, § 15-964.8; 1962, c. 407, § 15.1-454; 1975, c. 641; 1997, c. 587.

**§ 15.2-2230.1. Public facilities study.**

In addition to reviewing the comprehensive plan, the planning commission may make a study of the public facilities, including existing facilities, which would be needed if the comprehensive plan is fully implemented. The study may include estimations of the annual prospective operating costs for such facilities and any revenues, including tax revenues, that may be generated by such facilities. For purposes of the study, public facilities may include but need not be limited to water and sewer lines and treatment plants, schools, public safety facilities, streets and highways. The planning commission may forward the study to the local governing body or any other local, regional, state or federal agency that the planning commission believes might benefit from its findings. The study shall also be forwarded to any utility companies or franchised cable operators that may be impacted by such public facilities. The utility companies, the franchised cable operators, and the locality shall cooperate and coordinate in the relocation of such utilities and cable lines as may be appropriate to avoid unnecessary delays in the construction of public facilities and capital projects by the affected localities, consistent with the service obligations of the utility companies and franchised cable operators. For purposes of this section, the term "utility company" shall not include a municipal utility that operates outside its locality's boundaries.

1998, c. 609; 2012, c. 553.

**§ 15.2-2231. Inclusion of incorporated towns in county plan; inclusion of adjacent unincorporated territory in municipal plan.**

Any county plan may include planning of incorporated towns to the extent to which, in the county local planning commission's judgment, it is related to planning of the unincorporated territory of the county as a whole. However, the plan shall not be considered as a comprehensive plan for any incorporated town unless recommended by the town commission, if any, and adopted by the governing body of the town.

Any municipal plan may include the planning of adjacent unincorporated territory to the extent to which, in the municipal local planning commission's judgment, it is related to the planning of the incorporated territory of the municipality. However, the plan shall not be considered as a comprehensive plan for such unincorporated territory unless recommended by the county commission and approved and adopted by the governing body of the county.

Code 1950, §§ 15-922, 15-964.9; 1962, c. 407, § 15.1-455; 1997, c. 587.

**§ 15.2-2232. Legal status of plan.**

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

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

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or

similar work and normal service extensions of public utilities or public service corporations shall not require approval unless such work involves a change in location or extent of a street or public area.

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

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

F. On any application for a telecommunications facility, the commission's decision shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission.

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

H. A solar facility subject to subsection A shall be deemed to be substantially in accord with the comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar facilities by right; (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated by an eligible customer-generator or eligible agricultural customer-generator under § 56-594 or 56-594.01 or by a small

agricultural generator under § 56-594.2; or (iii) the locality waives the requirement that solar facilities be reviewed for substantial accord with the comprehensive plan. All other solar facilities shall be reviewed for substantial accord with the comprehensive plan in accordance with this section. However, a locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

Code 1950, §§ 15-909, 15-923, 15-964.10; 1958, c. 389; 1960, c. 567; 1962, c. 407, § 15.1-456; 1964, c. 528; 1966, c. 596; 1968, c. 290; 1975, c. 641; 1976, c. 291; 1978, c. 584; 1982, c. 39; 1987, c. 312; 1989, c. 532; 1990, c. 633; 1997, cc. 587, 858; 1998, c. 683; 2007, c. 801; 2009, cc. 670, 690; 2012, cc. 803, 835; 2016, c. 613; 2018, cc. 175, 318; 2020, c. 665.

## Article 4 - THE OFFICIAL MAP

### § 15.2-2233. Maps to be prepared in localities; what map shall show.

In localities where no official map exists, or where an existing official map is incomplete, the local planning commission may make, or cause to be made, a map showing the location of any:

1. Legally established public street, alley, walkway, waterway, and public area of the locality; and

2. Future or proposed public street, alley, walkway, waterway and public area.

No future or proposed street or street line, waterway, nor public area, shall be shown on an official map unless and until the centerline of the street, the course of the waterway, or the metes and bounds of the public area, have been fixed or determined in relation to known, fixed and permanent monuments by a physical survey or aerial photographic survey thereof. In addition to the centerline of each street, the map shall indicate the width of the right-of-way thereof. Local planning commissions are hereby empowered to make or cause to be made the surveys required herein.

After adoption by the governing body of an official map, the local governing body may acquire in any way permitted by law property which is or may be needed for the construction of any street, alley, walkway, waterway or public area shown on the map. When an application for a building permit is made to a locality for an area shown on the official map as a future or proposed right-of-way, the locality shall have sixty days to either grant or deny the building permit. If the permit is denied for the sole purpose of acquiring the property, the locality has 120 days from the date of denial to acquire the property, either through negotiation or by filing condemnation proceedings. If the locality has not acted within the 120 day period, the building permit shall be issued to the applicant provided all other requirements of law have been met.

Code 1950, § 15-965; 1962, c. 407, § 15.1-458; 1976, c. 619; 1988, c. 436; 1995, c. 264; 1997, c. 587.

### § 15.2-2234. Adoption; filing in office of clerk of court.

After the official map has been prepared and recommended by the local planning commission it shall be certified by the commission to the governing body of the locality. The governing body may then approve and adopt the map by a majority vote of its membership and publish it as the official map of

the locality. No official map shall be adopted by the governing body or have any effect until approved by ordinance duly passed by the governing body of the locality after a public hearing, preceded by public notice as required by § 15.2-2204.

Within thirty days after adoption of the official map the governing body shall cause it to be filed in the office of the clerk of the circuit court.

Code 1950, § 15-965.1; 1962, c. 407, § 15.1-459; 1997, c. 587.

**§ 15.2-2235. Additions and modifications.**

The governing body may by ordinance make, from time to time, other additions to or modifications of the official map by placing thereon the location of any proposed street, street widening, street vacation, waterway, impounding structures and their dam break inundation zones, or public area in accordance with the procedures applicable to the locality.

Prior to making any such additions or modifications to the official map, the governing body shall refer the additions or modifications to the local planning commission for its consideration. The commission shall take action on the proposed additions or modifications within sixty days and report its recommendations to the governing body.

Upon receipt of the report of the commission, the governing body shall hold a public hearing on the proposed addition or modification to the official map and shall give notice of the hearing in accordance with § 15.2-2204. All such reports of the commission, when delivered to the governing body, shall be available for public inspection.

Any ordinance embodying additions to or modifications of the official map shall be adopted by at least the vote required for original adoption of the official map. After the public hearing and the final passage of such ordinance, the additions or modifications shall become a part of the official map of the locality. All changes, additions or modifications of the official map shall be filed with the clerk of the court as provided in § 15.2-2234.

Code 1950, § 15-965.2; 1962, c. 407, § 15.1-460; 1988, c. 436; 1997, c. 587; 2008, c. 491.

**§ 15.2-2236. Periodic review and readoption.**

The official map and any additions thereto or modifications thereof shall be reviewed within five years from the date of adoption or readoption of the map by the governing body. The procedure by the local planning commission and the governing body in connection with the review shall conform to that prescribed as to original adoption of the map. Neither the official map nor any additions thereto or modifications thereof shall be of any force or effect for more than five years after adoption or readoption of the map unless readopted by the governing body.

Code 1950, § 15-965; 1962, c. 407, § 15.1-461; 1997, c. 587.

**§ 15.2-2237. Consultation with Commonwealth Transportation Board; copies of map and ordinance to be sent to Commonwealth Transportation Board.**

During the preparation of an official map the local planning commission shall consult with the Commonwealth Transportation Board or its local representative as to any streets under the jurisdiction of the Board, and prior to recommendation of the map to the governing body it shall submit the map to the Board for comment. Any recommendations of the Board, not incorporated in the official map, shall be forwarded to the governing body when the map is recommended by the commission. When any locality has adopted an official map in accordance with the terms of this chapter a certified copy of the map and ordinance adopting it shall be sent to the Board.

Code 1950, § 15-965.4; 1962, c. 407, § 15.1-462; 1988, c. 436; 1997, c. 587.

**§ 15.2-2238. Authority of counties under Article 2 (§ 33.2-705 et seq.) of Chapter 7 not affected.**
The provisions of this article shall not affect the exercise of the authority contained in Article 2 (§ 33.2-705 et seq.) of Chapter 7 by counties that have withdrawn their roads from the secondary state highway system.

Code 1950, § 15-965.5; 1962, c. 407, § 15.1-463; 1997, c. 587.

## Article 5 - CAPITAL IMPROVEMENT PROGRAMS

**§ 15.2-2239. Local planning commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.**
A local planning commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on the comprehensive plan of the locality for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality, at such time as it or he shall direct. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and life cycle costs, including any road improvement and any transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the comprehensive plan, and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the locality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

Localities may use value engineering for any capital project. For purposes of this section, "value engineering" has the same meaning as that in § 2.2-1133.

Code 1950, § 15-966; 1962, c. 407, § 15.1-464; 1975, c. 641; 1976, c. 650; 1996, c. 553; 1997, c. 587; 2006, c. 565; 2011, c. 658.

## Article 6 - LAND SUBDIVISION AND DEVELOPMENT

**§ 15.2-2240. Localities to adopt ordinances regulating subdivision and development of land.**

The governing body of every locality shall adopt an ordinance to assure the orderly subdivision of land and its development.

Code 1950, §§ 15-781, 15-967; 1950, p. 183; 1962, c. 407, § 15.1-465; 1975, c. 641; 1997, c. 587.

**§ 15.2-2241. Mandatory provisions of a subdivision ordinance.**

A. A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.);

2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

3. For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;

4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;

5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the governing body or its designated administrative agency; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii)

furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 10 percent of the estimated construction costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of any section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

As used in this section, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose as set forth in §§ 15.2-2258 through 15.2-2261;

6. For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement. If the final subdivision plat is recorded and does not include conveyance of a common or shared easement as provided herein, the local planning commission or agent designated by the governing body to review and act on submitted subdivision plats shall not be responsible to enforce the requirements of this subdivision;

7. For monuments of specific types to be installed establishing street and property lines;

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater;

9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244; and

11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245.

B. No locality shall require that any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or improvement unless such facility or improvement is shown or described on the approved plat or plan of the project for which such guarantee is being furnished. Furthermore, the terms, conditions, and specifications contained in any agreement, contract, performance agreement, or similar document, however described or delineated, between a locality or its governing body and an owner or developer of property entered into pursuant to this chapter in conjunction with any performance guarantee, as described in this subsection, shall be limited to those items depicted or provided for in the approved plan, plat, permit application, or similar document for which such performance guarantee is applicable.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, cc. 587, 737; 2002, c. 517; 2004, c. 952; 2006, c. 670; 2008, cc. 491, 718; 2009, cc. 193, 194; 2010, cc. 149, 766; 2011, c. 512; 2012, c. 468.

**§ 15.2-2241.1. Bonding requirements for the acceptance of dedication for public use of certain facilities.**

Notwithstanding the provisions of § 15.2-2241, provided the developer and the governing body have agreed on the delineation of sections within a proposed development, the developer shall not be required to furnish to the governing body a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

2007, c. 420.

**§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.**

A. As used in this section, unless the context requires a different meaning:

"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

B. As part of the local legislative approval process or as a condition of approval of a site plan, a locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning, and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.

2019, cc. 743, 744.

**§ 15.2-2242. Optional provisions of a subdivision ordinance.**

A subdivision ordinance may include:

1. Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

2. A requirement (i) for the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision and (ii) that all buildings constructed on lots resulting from subdivision of a larger tract that abuts or adjoins a public water or sewer system or main shall be connected to that public water or sewer system or main subject to the provisions of § 15.2-2121.

3. A requirement that, in the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the Department of Transportation or the localities enacting the ordinances. Grantors of any subdivision lots to which such statement applies must include the statement on each deed of conveyance thereof. However, localities in their ordinances may establish minimum standards for construction of streets that will not be built to state standards.

For streets constructed or to be constructed, as provided for in this subsection, a subdivision ordinance may require that the same procedure be followed as that set forth in provision 5 of § 15.2-2241. Further, the subdivision ordinance may provide that the developer's financial commitment shall continue until such time as the local government releases such financial commitment in accordance with provision 11 of § 15.2-2241.

4. Reasonable provision for the voluntary funding of off-site road improvements and reimbursements of advances by the governing body. If a subdivider or developer makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the governing body may agree to reimburse the subdivider or developer from such funds as the governing body may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the governing body on the following terms and conditions:

a. The governing body shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.

b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.

c. The governing body may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including but not limited to real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or development in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

5. In Arlington County, Fairfax County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, provisions for payment by a subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road improvements, located outside the property limits of the land owned or controlled by him but serving an area having related traffic needs to which his subdivision or development will contribute, to reimburse an initial subdivider or developer who has advanced such costs or constructed such road improvements. Such ordinance may apply to road

improvements constructed after July 1, 1988, in Fairfax County; in Arlington County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, such ordinance may only apply to road improvements constructed after the effective date of such ordinance.

Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include reasonable standards to identify the area having related traffic needs, to determine the total estimated or actual cost of road improvements required to adequately serve the area when fully developed in accordance with the comprehensive plan or as required by proffered conditions, and to determine the proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted index of road construction costs, whichever is less.

For any subdivision ordinance adopted pursuant to provision 5 of this section after February 1, 1993, no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered conditions pursuant to § 15.2-2303 for offsite road improvements and such proffered conditions have been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent development or subdivision pursuant to Article 8 (§ 15.2-2317 et seq.) of Chapter 22, or (iii) the subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having related traffic needs.

The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that such costs are to be collected at the time of the issuance of a temporary or final certificate of occupancy or functional use and occupancy within the development, whichever shall come first. The ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and subsequent subdividers and developers.

Such ordinance provisions may provide that no certificate of occupancy shall be issued to a subsequent developer or subdivider until (i) the initial developer certifies to the locality that the subsequent developer has made the required reimbursement directly to him as provided above or (ii) the subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to the initial developer.

6. Provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision only when so requested by the subdivider.

7. Provisions, in any town with a population between 14,500 and 15,000, granting authority to the governing body, in its discretion, to use funds escrowed pursuant to provision 5 of § 15.2-2241 for improvements similar to but other than those for which the funds were escrowed, if the governing body (i) obtains the written consent of the owner or developer who submitted the escrowed funds; (ii) finds that the facilities for which funds are escrowed are not immediately required; (iii) releases the owner or developer from liability for the construction or for the future cost of constructing those improvements for which the funds were escrowed; and (iv) accepts liability for future construction of these improvements. If such town fails to locate such owner or developer after making a reasonable attempt to do so, the town may proceed as if such consent had been granted. In addition, the escrowed funds to be used for such other improvement may only come from an escrow that does not exceed a principal amount of $30,000 plus any accrued interest and shall have been escrowed for at least five years.

8. Provisions for clustering of single-family dwellings and preservation of open space developments, which provisions shall comply with the requirements and procedures set forth in § 15.2-2286.1.

9. Provisions requiring that where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk or when the provision of a sidewalk, the need for which is substantially generated and reasonably required by the proposed development, is in accordance with the locality's adopted comprehensive plan, a locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed. Nothing in this paragraph shall alter in any way any authority of localities or the Department of Transportation to require sidewalks on any newly constructed street or highway.

10. Provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development that meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

11. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.

12. Provisions, in any town located in the Northern Virginia Transportation District, granting authority to the governing body to require the dedication of land for sidewalk, curb, and gutter improvements on the property being subdivided or developed if the property is designated for such improvements on the locality's adopted pedestrian plan.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, c. 587; 2000, cc. 652, 711; 2002, c. 703; 2005, c. 567; 2006, cc. 421, 514, 533, 903; 2007, c. 813; 2014, c. 619; 2018, c. 550; 2019, cc. 461, 462.

**§ 15.2-2243. Payment by subdivider of the pro rata share of the cost of certain facilities.**

A. A locality may provide in its subdivision ordinance for payment by a subdivider or developer of land of the pro rata share of the cost of providing reasonable and necessary sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development; however, no such payment shall be required until such time as the governing body or a designated department or agency thereof has established a general sewer, water, and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located or the governing body has committed itself by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the amount necessary to protect water quality based upon the pollutant loading caused by the subdivision or development or to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of storm water runoff to be actually caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the pollutant loading caused by the subdivision or development or the volume and velocity of storm water runoff, the governing body shall take into account the effect of all on-site storm water facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefor.

B. A locality that has adopted an ordinance pursuant to subsection A may also provide in its subdivision ordinance that, when adequate water, sewerage, or drainage facilities are not available to serve a proposed subdivision or development, the subdivider or developer of the property may be permitted to install reasonable and necessary water, sewerage, and drainage facilities, located on or outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the utility needs of the development or subdivision, including reasonably anticipated capacity, extensions, or maintenance considerations of a utility service plan for the service area. The ordinance may provide that such subdivider or developer may be entitled to

reimbursement of a portion of its costs by any subsequent subdivider or developer that utilizes the installed water, sewerage or drainage facilities or from connection fees paid for lots within its development, and the ordinance may limit the duration of the reimbursements. The locality is authorized to administer by ordinance and by adopted reasonable policies and procedures standards for installation of such water, sewerage, and drainage facilities and parameters for pro rata reimbursement or connection or capacity fee reimbursement. The provisions of this subsection shall not be deemed to limit the authority of (i) localities that have not adopted an ordinance pursuant to subsection A or (ii) authorities established pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) to establish policies for reimbursement or credits from connection fees or to other utility fund sources to subdividers and developers constructing water, sewerage, or drainage facilities.

C. Each payment pursuant to subsection A received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program; however, in lieu of such payment the governing body may provide for the posting of a personal, corporate or property bond, cash escrow, or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such studies or construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All bonds, payments, cash escrows, or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer, and drainage programs is not commenced within 12 years from the date of the posting of the bond, payment, cash escrow, or other performance guarantee.

D. Any funds collected for pro rata programs under this section prior to July 1, 1990, shall continue to be held in separate, interest bearing accounts for the project or projects for which the funds were collected and any interest from such accounts shall continue to accrue to the benefit of the subdivider or developer until such time as the project or projects are completed or until such time as a general sewer and drainage improvement program is established to replace a prior sewer and drainage improvement program. If such a general improvement program is established, the governing body of any locality may abolish any remaining separate accounts and require the transfer of the assets therein into a separate fund for the support of each of the established sewer, water, and drainage programs. Upon the transfer of such assets, subdividers and developers who had met the terms of any existing agreements made under a previous pro rata program shall receive any outstanding interest which has accrued up to the date of transfer, and such subdividers and developers shall be released from any further obligation under those existing agreements. All bonds, payments, cash escrows, or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer, and drainage programs is not commenced within 12 years from the date of the posting of the bond, payment, cash escrow, or other performance guarantee.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, c. 587; 2001, c. 704; 2020, c. 820.

**§ 15.2-2243.1. Payment by developer or subdivider.**

A. If the Department of Conservation and Recreation determines that a plan of development proposed by a developer or subdivider is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure pursuant to § 10.1-606.3, a locality shall require, prior to its final approval of a subdivision or development, that a developer or subdivider of land submit an engineering study in conformance with the Virginia Soil and Water Conservation Board's standards under the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Impounding Structure Regulations (4VAC50-20). The study shall provide a contract-ready cost estimate for conducting the upgrades. The Department of Conservation and Recreation shall verify that the study conforms to the Board's standards. Following receipt of a study, the Department shall have 15 days to determine whether the study is complete. The Department shall notify the developer or subdivider of any specific deficiencies that cause the study to be determined to be incomplete. Following a determination that a submission is complete, the Department shall notify the developer or subdivider of its approval or denial within 45 days. Any decision shall be communicated in writing and shall state the reasons for any disapproval.

B. Following the completion of the engineering studies in accordance with subsection A, and prior to any development within the dam break inundation zone, a locality shall require that a developer or subdivider of land pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development or subdivision, together with administrative fees not to exceed one percent of the total amount of payment required or $1,000, whichever is less. Necessary upgrades shall not include costs associated with routine operation, maintenance, and repair, nor shall necessary upgrades include repairs or upgrades to the impounding structure not made necessary by the proposed development or subdivision.

C. Where a payment under subsection B is required, such payment shall be made by the developer or subdivider in accordance with the following provisions:

1. A locality may elect to receive such payment. Upon receipt, payments shall be kept in a separate account by the locality for each individual improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The locality may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made to justify the extension and the extension is approved by the Virginia Soil and Water Conservation Board prior to the expiration of the six-year period. Should the locality be unable

to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood Prevention and Protection Assistance Fund for the provision of grants and loans. Any locality maintaining an account in accordance with this section may charge an administrative fee, not to exceed one percent of the total amount of payment received or $1,000, whichever is less.

2. If the locality elects not to receive such payment, any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.19:1. The funds shall be held by the Virginia Resources Authority for each improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The Board may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made. Should the Department of Conservation and Recreation be unable to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood Prevention and Protection Assistance Fund for the provision of grants and loans. The Virginia Resources Authority shall not have any liability for the completion of any project associated with the moneys they manage in the Dam Safety, Flood Prevention and Protection Assistance Fund.

D. No locality shall be required to assume financial responsibility for upgrades except as an owner of an impounding structure.

E. The owner of the impounding structure shall retain all liability associated with upgrades in accordance with § 10.1-613.4.

2008, c. 491.

**§ 15.2-2244. Provisions for subdivision of a lot for conveyance to a family member.**

A. In any county a subdivision ordinance shall provide for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, including the family member's spouse, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have reasonable right-of-way of not less than 10 feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this section. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. In addition, any such locality may include aunts, uncles, nieces and nephews in its definition of immediate family.

B. Notwithstanding subsection A, in a county having the urban county executive form of government, a subdivision ordinance shall provide for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject

only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have frontage of not less than 10 feet or more than 20 feet on a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and the division shall not be for the purpose of circumventing a local subdivision ordinance. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring or parent of the owner.

C. Notwithstanding subsections A and B, a subdivision ordinance may include reasonable provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the immediate family of the property owner in (i) any county or city which has had population growth of 10 percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city or county adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. Such divisions shall be subject to all requirements of the Code of Virginia and to any requirements imposed by the local governing body.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, cc. 587, 718; 1998, c. 457; 2008, cc. 340, 717; 2009, cc. 283, 465; 2010, c. 216.

**§ 15.2-2244.1. Additional method for subdivision of a lot for conveyance to a family member.**

In addition to § 15.2-2244, a locality may include in its subdivision ordinance provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family, as defined in § 15.2-2244, of the property owner, if (i) the property has been owned for at least 15 consecutive years by the current owner or member of the immediate family and (ii) the property owner agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (ii), a locality may reduce or provide exceptions to the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with § 17.1-227. The locality may require that the subdivided lot is no more than one acre and otherwise meets any other express requirement contained in the Code of Virginia or imposed by the local governing body.

2006, c. 456; 2007, c. 856.

**§ 15.2-2244.2. Subdivision of a lot of property held in trust for a family member.**

In addition to §§ 15.2-2244 and 15.2-2244.1, a locality may include in its subdivision ordinance provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the

immediate family, as defined in § 15.2-2244, of beneficiaries of a trust, of land held in trust. All trust beneficiaries must (i) be immediate family members as defined in § 15.2-2244, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (iii), a locality may reduce or provide exceptions to the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with § 17.1-227. The locality may require that the subdivided lot is no more than one acre and otherwise meets any other express requirement contained in the Code of Virginia or imposed by the local governing body.

2011, c. 141.

**§ 15.2-2245. Provisions for periodic partial and final release of certain performance guarantees.**
A. A subdivision ordinance shall provide for the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this article within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of any public facilities required to be constructed hereunder unless the governing body or its designated administrative agency notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision.

B. If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

C. After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

D. No governing body or administrative agency shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said bond, escrow, letter of credit or other performance guarantee.

E. Upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of public facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least thirty percent of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the governing body or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

F. For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, c. 587; 2002, c. 779.

**§ 15.2-2245.1. Stormwater management ponds; removal of trees.**

A locality shall not require, but may permit, the removal of trees to create stormwater management ponds or facilities if the minimum adequate outfall requirements and the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) can otherwise be met.

1998, c. 221.

**§ 15.2-2246. Site plans submitted in accordance with zoning ordinance.**

Site plans or plans of development which are required to be submitted and approved in accordance with subdivision A 8 of § 15.2-2286 shall be subject to the provisions of §§ 15.2-2241 through 15.2-2245, mutatis mutandis.

Code 1950, §§ 15-781, 15-967.1; 1950, p. 183; 1962, c. 407, § 15.1-466; 1970, c. 436; 1973, cc. 169, 480; 1975, c. 641; 1976, c. 270; 1978, cc. 429, 439, 440; 1979, cc. 183, 188, 395; 1980, cc. 379, 381; 1981, c. 348; 1983, cc. 167, 609; 1984, c. 111; 1985, cc. 422, 455; 1986, c. 54; 1987, c. 717; 1988, cc. 279, 735; 1989, cc. 332, 393, 403, 495; 1990, cc. 170, 176, 287, 708, 973; 1991, cc. 30, 47, 288, 538; 1992, c. 380; 1993, cc. 836, 846, 864; 1994, c. 421; 1995, cc. 386, 388, 389, 452, 457, 474; 1996, cc. 77, 325, 452, 456; 1997, c. 587.

**§ 15.2-2247. Applicability of subdivision ordinance to manufactured homes.**

Any locality may designate by ordinance the areas within its jurisdiction in which manufactured homes may be located or manufactured home parks may be established, notwithstanding the absence of a zoning ordinance in such locality. Such ordinance may also apply to any of the provisions of §§ 15.2-2241 through 15.2-2245 in the regulation and governing of the location, establishment, and operation of manufactured homes or manufactured home parks. The ordinance may apply to any park or portion thereof licensed as a campground pursuant to Title 35.1 of this Code. In the event of irreconcilable conflict between the ordinance and state law, the state law shall supersede the ordinance.

1980, c. 539, § 15.1-466.1; 1981, c. 467; 1997, c. 587; 1999, c. 77.

**§ 15.2-2248. Application of certain municipal subdivision regulations beyond corporate limits of municipality.**

The subdivision regulations adopted by a municipality within the counties of Giles, Clarke, Culpeper, Loudoun or Mecklenburg shall apply within the corporate limits and may apply beyond, if the municipal ordinance so provides, within the distance therefrom set out below:

1. Within a distance of five miles from the corporate limits of cities having a population of one hundred thousand or more;

2. Within a distance of three miles from the corporate limits of cities having a population of less than one hundred thousand; and

3. Within a distance of two miles from the corporate limits of incorporated towns.

Where the corporate limits of two municipalities are closer together than the sum of the distances from their respective corporate limits as above set forth, the dividing line of jurisdiction shall be halfway between the limits of the overlapping boundaries.

The foregoing distances may be modified by mutual agreement between the governing bodies concerned, depending upon their respective areas of interest, provided such modified limits bear a reasonable relationship to natural geographic considerations or to the comprehensive plans for the area. Any such modification shall be set forth in the respective subdivision ordinances, by map or description or both.

No such regulations or amendments thereto shall be finally adopted by any such municipality until the governing body of the county in which such area is located shall have been duly notified in writing by the governing body of the municipality or its designated agent of such proposed regulations, and requested to review and approve or disapprove the same; and if such county fail to notify the governing body of such municipality of its disapproval of such plan within forty-five days after the giving of such notice, such plan shall be considered approved. Provided, however, that in any county which has a duly appointed planning commission, the governing body or the council shall send a copy of such proposed regulations or amendments thereof to such commission which shall review and recommend approval or disapproval of the same. The county commission shall not take any such action until notice has been given and a hearing held as prescribed by § 15.2-2204. Such hearing shall be held by the county commission within sixty days after the giving of notice by the municipality or its agent. Such commission shall forthwith after such hearing make its recommendations to the governing body of the county which shall within thirty days after such hearing notify the municipality of its approval or disapproval of such regulations and no regulations effective beyond the corporate limits shall be finally adopted by the municipality until notification by the governing body of the county, except that if the county fails to notify the governing body of the municipality of its disapproval of such regulations within ninety days after copy of the regulations or amendments thereof are received by the county commission, the regulations shall be deemed to have been approved.

Code 1950, §§ 15-786, 15-967.2; 1954, c. 584; 1962, c. 407, § 15.1-467; 1975, c. 641; 1977, c. 524; 1979, c. 251; 1980, c. 47; 1997, c. 587.

**§ 15.2-2249. Application of county subdivision regulations in area subject to municipal jurisdiction.**
The subdivision regulations adopted by the counties of Giles, Clarke, Culpeper, Loudoun or Mecklenburg shall apply in all the unincorporated territory of the county; provided, that no such regulations to be effective in the area of the county subject to municipal jurisdiction shall be finally adopted by the county until the governing body of the municipality shall have been notified in writing of such proposed regulations, and requested to review and approve or disapprove the same, and if such municipality fails to notify the governing body of the county of its disapproval of such regulations within forty-five days after the giving of such notice, the same shall be considered approved; and provided further, that if the municipality has a duly appointed planning commission, the governing body of the county or its agent shall give such notice to such commission as is required to be given the county planning commission by § 15.2-2248, and the provisions of that section shall apply, mutatis mutandis, to the actions of such commission and the governing bodies of the county and city, respectively.

Code 1950, §§ 15-787, 15-967.3; 1962, c. 407, § 15.1-468; 1979, c. 251; 1980, c. 47; 1982, c. 293, § 15.1-466.01; 1997, c. 587.

**§ 15.2-2250. Disagreement between county and municipality as to regulations.**
When a disagreement arises between the counties of Giles, Clarke, Culpeper, Loudoun or Mecklenburg and a municipality as to what regulations should be adopted for the area, and such difference cannot be amicably settled, then after ten days' prior written notice by either to the other, either or both

parties may petition the circuit court for the county wherein the area or a major part thereof lies to decide what regulations are to be adopted. The court shall hear the matter and enter an appropriate order.

Code 1950, §§ 15-788, 15-967.4; 1962, c. 407, § 15.1-469; 1979, c. 251; 1980, c. 47; 1997, c. 587.

**§ 15.2-2251. Local planning commission shall prepare and recommend ordinance; notice and hearing on ordinance.**

In every locality the local planning commission shall prepare and recommend the subdivision ordinance and transmit it to the governing body. The governing body of every locality shall approve and adopt a subdivision ordinance only after notice has been published, and a public hearing held, in accordance with § 15.2-2204.

Code 1950, §§ 15-782, 15-967.5; 1962, c. 407, § 15.1-470; 1975, c. 641; 1997, c. 587.

**§ 15.2-2252. Filing and recording of ordinance and amendments thereto.**

When a subdivision ordinance has been adopted, or amended, a certified copy of the ordinance and any and all amendments thereto shall be filed in the office of an official of the locality, designated in the ordinance, and in the clerk's office of the circuit court for each locality in which the ordinance is applicable.

Code 1950, §§ 15-783, 15-967.6; 1962, c. 407, § 15.1-471; 1975, c. 641; 1997, c. 587.

**§ 15.2-2253. Preparation and adoption of amendments to ordinance.**

A local planning commission on its own initiative may or at the request of the governing body of the locality shall prepare and recommend amendments to the subdivision ordinance. The procedure for amendments shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided that no amendment shall be adopted by the governing body of a locality without a reference of the proposed amendment to the commission for recommendation, nor until sixty days after such reference, if no recommendation is made by the commission.

Code 1950, § 15-967.7; 1962, c. 407, § 15.1-472; 1975, c. 641; 1997, c. 587.

**§ 15.2-2254. Statutory provisions effective after ordinance adopted.**

After the adoption of a subdivision ordinance in accordance with this chapter, the following provisions shall be effective in the territory to which the ordinance applies:

1. No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this article and of the subdivision ordinance.

2. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the local planning commission or by the governing body or its duly authorized agent, of the locality wherein the land to be subdivided is located; or by the commissions, governing bodies or agents, as the case may be, of each locality having a subdivision ordinance, in which any part of the land lies.

3. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a

subdivision ordinance applicable thereto. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

4. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than $500 for each lot or parcel of land so subdivided, transferred or sold and shall be required to comply with all provisions of this article and the subdivision ordinance. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

5. No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by § 17.1-223 shall apply to any failure to comply with the provisions of this subsection.

Code 1950, §§ 15-784, 15-785, 15-794.1, 15-967.8; 1962, c. 407, § 15.1-473; 1975, c. 641; 1997, c. 587; 2003, c. 408.

**§ 15.2-2255. Administration and enforcement of regulations.**

The administration and enforcement of subdivision regulations insofar as they pertain to public improvements as authorized in §§ 15.2-2241 through 15.2-2245 shall be vested in the governing body of the locality in which the improvements are or will be located.

Except as provided above, the governing body shall be responsible for administering and enforcing the provisions of the subdivision regulations through its local planning commission or otherwise.

Code 1950, §§ 15-788.1, 15-967.9; 1962, c. 407, § 15.1-474; 1975, c. 641; 1997, c. 587.

**§ 15.2-2256. Procedure to account for fees for common improvements.**

Upon a verified petition signed by the owners, other than the original subdivider, of ten percent of the lots in any subdivision, the board of directors or other governing body of the subdivision charged with collection of fees and the maintenance of common improvements shall render an annual report with a statement of account of all fees collected and the disposition of all funds derived from any fees assessed for the maintenance of common improvements to the lot owners. The board of directors or other governing body of the subdivision may charge the lot owners for the actual cost of copying the annual report.

1987, c. 501, § 15.1-474.1; 1997, c. 587.

**§ 15.2-2257. Procedure to modify certain covenants in Shenandoah County.**

Upon a verified petition signed by the owners, other than the original subdivider, of 10 percent of the lots in any subdivision previously recorded, the circuit court for Shenandoah County, in which such subdivision lies, shall have authority to conduct a hearing and modify any and all covenant provisions of any previously recorded deed of dedication or other document relating to road maintenance fees as to any roads located within the subdivision. Upon receipt of the petition, the court shall, if all owners of lots within such subdivision are not before the court, enter an order of publication under the provisions

of subdivision A 3 of § 8.01-316, making the owners of all lots not owned by petitioners parties to the cause, which shall then be docketed and set for trial on the chancery side of the court. Should the court, after hearing evidence and argument of counsel, find that the streets and roads in the subdivision require maintenance in excess of that provided for with the road maintenance funds specified in the covenants to permit emergency vehicles ready access to the residents of the subdivision to ensure the public health, safety, and welfare, the court may increase the fees required for road maintenance to the extent reasonably necessary to permit emergency vehicles ready access to the residents of the subdivision. The funds collected shall be accounted for as provided in § 15.2-2256. Nothing herein shall be construed to prohibit the members of a subdivision association from proceeding under the provisions of § 55.1-1825 or subsection C of § 55.1-2305, as applicable.

1987, c. 501, § 15.1- 474.2; 1997, c. 587; 1998, c. 623; 2019, c. 632.

**§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.**

Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the planning commission of the locality, or an agent designated by the governing body thereof for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision. When any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be identified on any plans or site plans required by this article. When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to the planning commission or other designated agent of the locality in which the tract of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

Code 1950, §§ 15-789, 15-967.10; 1952, c. 333; 1962, c. 407, § 15.1-475; 1964, c. 498; 1975, c. 641; 1977, c. 10; 1978, c. 283; 1979, c. 111; 1980, c. 73; 1986, c. 483; 1989, cc. 471, 495; 1990, c. 171; 1992, c. 843; 1993, c. 846; 1996, c. 353; 1997, c. 587; 2008, c. 491.

**§ 15.2-2259. Local planning commission to act on proposed plat.**

A. 1. Except as otherwise provided in subdivisions 2 and 3, the local planning commission or other agent shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The Commission or agent shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the plat to the appropriate state agency or agencies for review within 10 business days of receipt of such plat. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning commission or other

agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The local planning commission or other agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

2. The approval of plats, site plans, and plans of development solely involving parcels of commercial real estate by a local planning commission or other agent shall be governed by subdivision 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all real property used for commercial or industrial uses.

3. The local planning commission or other agent shall act on any proposed plat, site plan or plan of development within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The local planning commission or other agent shall not delay the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews. The Commission or agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat or plan by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the plat or plan to the appropriate state agency or agencies for review within 10 business days of receipt of such plat or plan. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning commission or other agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plat or plan.

In the review of a resubmitted proposed plat, site plan or plan of development that has been previously disapproved, the local planning commission or other agent shall consider only deficiencies it had identified in its review of the initial submission of the plat or plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of the resubmission of a plat or plan, the local planning commission or other agent shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the local planning commission or other agent's review shall be limited solely to the previously identified deficiencies that caused its disapproval.

The local planning commission or other agent shall act on any proposed plat, site plan or plan of development that it has previously disapproved within 45 days after the plat or plan has been

modified, corrected and resubmitted for approval. The failure of a local planning commission or other agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.

Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the local planning commission or other agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the local planning commission or other agent's review shall not be limited to only the previously identified deficiencies identified in the prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the local agent shall act upon a plat within 35 days.

C. If the commission or other agent fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider, after 10-days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

D. If a commission or other agent disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the

case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the commission or other agent.

Code 1950, §§ 15-789, 15-967.10; 1952, c. 333; 1962, c. 407, § 15.1-475; 1964, c. 498; 1975, c. 641; 1977, c. 10; 1978, c. 283; 1979, c. 111; 1980, c. 73; 1986, c. 483; 1989, cc. 471, 495; 1990, c. 171; 1992, c. 843; 1993, c. 846; 1996, c. 353; 1997, c. 587; 2003, c. 716; 2007, c. 202; 2008, c. 855; 2015, c. 420; 2018, c. 670.

**§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.**
A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the mandatory submission of preliminary subdivision plats for tentative approval for plats involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots. The local planning commission, or an agent designated by the commission or by the governing body to review preliminary subdivision plats shall complete action on the preliminary subdivision plats within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the preliminary subdivision plat to the appropriate state agency or agencies for review within 10 business days of receipt of such preliminary subdivision plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the preliminary subdivision plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a preliminary subdivision plat within 35 days.

C. If a commission has the responsibility of review of preliminary subdivision plats and conducts a public hearing, it shall act on the plat within 45 days after receiving approval from all state agencies. If the local agent or commission does not approve the preliminary subdivision plat, the local agent or commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or commission. With regard to plats involving commercial property, as that term is defined in subdivision A 2 of § 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259. However, no commission or agent shall be required to approve a preliminary subdivision plat in less than 60 days from the date

of its original submission to the commission or agent, and all actions on preliminary subdivision plats shall be completed by the agent or commission and, if necessary, state agencies, within a total of 90 days of submission to the local agent or commission.

D. If the commission or other agent fails to approve or disapprove the preliminary subdivision plat within 90 days after it has been officially submitted for approval, the subdivider after 10 days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

E. If a commission or other agent disapproves a preliminary subdivision plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the commission or other agent.

F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.

Code 1950, §§ 15-789, 15-967.10; 1952, c. 333; 1962, c. 407, § 15.1-475; 1964, c. 498; 1975, c. 641; 1977, c. 10; 1978, c. 283; 1979, c. 111; 1980, c. 73; 1986, c. 483; 1989, cc. 471, 495; 1990, c. 171; 1992, c. 843; 1993, c. 846; 1996, c. 353; 1997, c. 587; 2002, c. 530; 2006, c. 461; 2007, c. 202; 2008, cc. 426, 718, 855; 2009, c. 194; 2014, c. 393.

**§ 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.**

A. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the local planning commission or other agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirements remaining to be satisfied in order to

obtain a building permit are the posting of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or fees required by the locality in order to obtain the permit. However, any fees that are customarily due and owing at the time of the agency review of the site plan shall be paid in a timely manner.

B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final site plan, the local planning commission or other agent may grant one or more extensions of such approval for additional periods as the commission or other agent may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

2. If the commission or other agent denies an extension requested as provided herein and the subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of land subject to the recorded plat or final site plan, provided that such appeal is filed with the circuit court within sixty days of the written denial by the commission or other agency.

C. For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the recorded plat or site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

D. Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the provisions of any local ordinance adopted to comply with the requirements

of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

F. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in §§ 15.2-2270 through 15.2-2278.

Code 1950, §§ 15-789, 15-967.10; 1952, c. 333; 1962, c. 407, § 15.1-475; 1964, c. 498; 1975, c. 641; 1977, c. 10; 1978, c. 283; 1979, c. 111; 1980, c. 73; 1986, c. 483; 1989, cc. 471, 495; 1990, c. 171; 1992, c. 843; 1993, c. 846; 1996, c. 353; 1997, c. 587; 2008, c. 426; 2013, c. 509; 2020, c. 138.

**§ 15.2-2261.1. Recorded plat or final site plans; conflicting zoning conditions.**

If the provisions of a recorded plat or final site plan, which was specifically determined by the governing body and not its designee, to be in accordance with the zoning conditions previously approved pursuant to §§ 15.2-2296 through 15.2-2303, conflict with any underlying zoning conditions of such previous rezoning approval, the provisions of the recorded plat or final site plan shall control, and the zoning amendment notice requirements of § 15.2-2204 shall be deemed to have been satisfied.

2002, c. 551.

**§ 15.2-2262. Requisites of plat.**

Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, who shall endorse upon each plat a certificate signed by him setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat. However, nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans or plats of a proposed subdivision by the owner of the land, city planners, land planners, architects, landscape architects or others having training or experience in subdivision planning or design.

Code 1950, §§ 15-790, 15-967.11; 1962, c. 407, § 15.1-476; 1997, c. 587.

**§ 15.2-2263. Expedited land development review procedure.**

A. The Counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg, may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, licensed architects, licensed land surveyors, and landscape architects who are also licensed pursuant to § 54.1-408 and recommended for submission by persons who have received special training in the locality's land development ordinances and regulations. The purpose of the separate review procedure is to provide a procedure to expedite the locality's review of certain qualified land development plans. If a separate procedure is established, the locality shall establish within the adopted ordinance the criteria for qualification of persons and whose work is eligible to use the

separate procedure as well as a procedure for determining if the qualifications are met by persons applying to use the separate procedure. Persons who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and recommended for submission by plans examiners and certified by the appropriately licensed professional engineer, licensed architect, licensed land surveyor, or landscape architect shall qualify for the separate processing procedure.

B. The qualifications of those persons who may participate in this program shall include, but not be limited to, the following:

1. A bachelor of science degree in engineering, architecture, landscape architecture or related science or equivalent experience or a licensed land surveyor pursuant to § 54.1-408.

2. Successful completion of an educational program specified by the locality.

3. A minimum of two years of land development engineering design experience acceptable to the locality.

4. Attendance at continuing educational courses specified by the locality.

5. Consistent preparation and submission of plans which meet all applicable ordinances and regulations.

C. If an expedited review procedure is adopted by the board of supervisors or town council pursuant to the authority granted by this section, the board of supervisors or town council shall establish an advisory plans examiner board, which shall make recommendations to the board of supervisors or town council on the general operation of the program, on the general qualifications of those who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualification for such a program and on the general administration and operation of the program. In addition, the plans examiner board shall submit recommendations to the board of supervisors or town council as to those persons who meet the established qualifications for participation in the program, and the plans examiner board shall submit recommendations as to whether those persons who have previously qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The plans examiner board shall consist of six members who shall be appointed by the board of supervisors or town council for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The plans examiner board shall consist of three persons in private practice as licensed professional engineers or licensed land surveyors pursuant to § 54.1-408, at least one of whom shall be a licensed land surveyor; one person employed by the government of the locality; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All members of the board who serve as licensed engineers or as licensed surveyors must maintain their professional license as a condition of holding office and shall have at least two years of experience in land development procedures of the locality. The citizen member of the board shall meet the qualifications provided in § 54.1-107 and, notwithstanding the proscription of clause (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a public institution of higher education. The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of local ordinances and regulations relating to plans and how they are applied.

E. The separate processing system may include a review of selected or random aspects of plans rather than a detailed review of all aspects; however, it shall also include a periodic detailed review of plans prepared by persons who qualify for the system.

F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities and obligations that they would otherwise have with regard to the preparation of plans, nor shall it relieve the locality of its obligation to review other plans in the time periods and manner prescribed by law.

1991, c. 444, § 15.1-501.1; 1997, c. 587; 2007, c. 813; 2009, cc. 214, 309, 518.

**§ 15.2-2264. Statement of consent to subdivision; execution; acknowledgment and recordation; notice to commissioner of the revenue or board of real estate assessors.**

Every plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any." The statement shall be signed and duly acknowledged before an officer authorized to take acknowledgment of deeds. When thus executed and acknowledged, the plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of the circuit court for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing the statement, and under the name of the subdivision. Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted subdivisions.

Code 1950, §§ 15-791, 15-967.12; 1954, c. 421; 1962, c. 407, § 15.1-477; 1992, c. 581; 1997, c. 587.

**§ 15.2-2265. Recordation of approved plat as transfer of streets, termination of easements and rights-of-way, etc.**

The recordation of an approved plat shall operate to transfer, in fee simple, to the respective localities in which the land lies the portion of the premises platted as is on the plat set apart for streets, alleys or other public use and to transfer to the locality any easement indicated on the plat to create a public right of passage over the land. The recordation of such plat shall operate to transfer to the locality, or to such association or public authority as the locality may provide, such easements shown on the plat for the conveyance of stormwater, domestic water and sewage, including the installation and maintenance of any facilities utilized for such purposes, as the locality may require. Nothing contained in this article shall affect any right of a subdivider of land heretofore validly reserved. The clerk shall index in the name of all the owners of property affected by the recordation in the grantor's index any

plat recorded under this section. Nothing in this section shall obligate the locality, association or authority to install or maintain such facilities unless otherwise agreed to by the locality, association or authority.

When the authorized officials of a locality within which land is located, approve in accordance with the subdivision ordinances of the locality a plat or replat of land therein, then upon the recording of the plat or replat in the circuit court clerk's office, all rights-of-way, easements or other interest of the locality in the land included on the plat or replat, except as shown thereon, shall be terminated and extinguished, except that an interest acquired by the locality by condemnation, by purchase for valuable consideration and evidenced by a separate instrument of record, or streets, alleys or easements for public passage subject to the provisions of § 15.2-2271 or 15.2-2272 shall not be affected thereby. All public easements, except those for public passage, easements containing improvements, those that contain private utility facilities, common or shared easements for the use of franchised cable operators and public service corporations, may be relocated by recordation of plat or replat signed by the owner of the real property, approved by an authorized official of a locality, regardless of the manner of acquisition or the type of instrument used to dedicate the original easement. In the event the purpose of the easement is to convey stormwater drainage from a public roadway, the entity responsible for the operation of the roadway shall first determine that the relocation does not threaten either the integrity of the roadway or public passage. The clerk shall index the locality as grantor of any easement or portion thereof terminated and extinguished under this section.

Code 1950, §§ 15-792, 15-967.13; 1958, c. 460; 1962, c. 407, § 15.1-478; 1964, c. 564; 1974, c. 530; 1978, c. 590; 1995, cc. 431, 662; 1997, c. 587; 2000, c. 165; 2005, c. 937.

**§ 15.2-2266. Validation of certain plats recorded before January 1, 1975.**

Any subdivision plat recorded prior to January 1, 1975, if otherwise valid, is hereby validated and declared effective even though the technical requirements for recordation existing at the time such plat was recorded were not complied with.

1968, c. 279, § 15.1-478.1; 1997, c. 587; 2007, c. 279.

**§ 15.2-2267. Petition to restrict access to certain public streets.**

Notwithstanding the provisions of § 15.2-2265, when the streets in a subdivision have not been accepted into the highway system and serve only, or are primarily for, the general welfare of the inhabitants of the subdivision and do not serve as a connector to other public rights-of-way, then upon petition to the governing body of the locality, signed by the owners of two-thirds of the subdivision lots, including the subdivider if he has an interest in the subdivision, requesting that they be allowed to restrict ingress and egress to the subdivision, the governing body may permit the restriction subject to the following conditions:

1. The restriction may be abolished at any time in the sole discretion of the governing body,

2. The restriction shall not be asserted in opposition to the public ownership,

3. The streets shall not be blocked to ingress and egress of government or public service company vehicles,

4. Necessary maintenance of the streets will be paid for by the owners, and

5. Such other conditions as may be imposed by the governing body.

1980, c. 358, § 15.1-478.2; 1997, c. 587.

**§ 15.2-2268. Localities not obligated to pay for grading, paving, etc.**

Nothing herein shall be construed as creating an obligation upon any locality to pay for grading or paving, or for sidewalk, sewer, curb and gutter improvements or construction.

Code 1950, § 15-967.14; 1962, c. 407, § 15.1-479; 1997, c. 587.

**§ 15.2-2269. Plans and specifications for utility fixtures and systems to be submitted for approval.**

A. If the owners of any such subdivision desire to construct in, on, under, or adjacent to any streets or alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems, they shall present plans or specifications therefor to the governing body of the locality in which the subdivision is located or its authorized agent, for approval. If the subdivision is located beyond the corporate limits of a municipality but within the limits set forth in § 15.2-2248, such plans and specifications shall be presented for approval to the governing body of such municipality, or its authorized agent, if the county has not adopted a subdivision ordinance. The governing body, or agent, shall have 45 days in which to approve or disapprove the same. In event of the failure of any governing body, or its agent, to act within such period, such plans and specifications may be submitted, after ten days' notice to the locality, to the circuit court for such locality for its approval or disapproval, and its approval thereof shall, for all purposes of this article be treated and considered as approval by the locality or its authorized agent.

B. Any state agency or public authority authorized by state law making a review of any plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plans, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plan approval. If a state agency or public authority by state law does not approve the plan, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259, with respect to the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a preliminary subdivision plat within 35 days.

Code 1950, § 15-967.15; 1962, c. 407, § 15.1-480; 1997, c. 587; 2007, c. 202; 2008, c. 718.

**§ 15.2-2270. Vacation of interests granted to a locality as a condition of site plan approval.**

Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of the following methods:

1. By a duly executed and acknowledged written instrument of the owner of the land which has been or is to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the governing body or authorized agent of the locality where the land lies consents to the vacation. The instrument shall be recorded in the same clerk's office wherein is recorded the written instrument describing the interest in real property to be vacated. The execution and recordation of the instrument shall operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly were held by the governing body; or

2. By ordinance of the governing body in the locality in which the property which is the subject of an approved site plan lies, provided that no interest shall be vacated in an area in which facilities, for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245, have been constructed.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the interest of the governing body to be vacated by reference to the recorded instrument on which it was created and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land over which the governing body's interest is located. Upon appeal, the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is to be developed in accordance with the approved site plan, will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the instrument creating the governing body's interest is recorded.

The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the instrument which created the governing body's interest so vacated and to divest all public rights in and to the property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

1990, c. 813, § 15.1-480.1; 1997, c. 587.

**§ 15.2-2271. Vacation of plat before sale of lot therein; ordinance of vacation.**

Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

1. With the consent of the governing body, or its authorized agent, of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated,

duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or

2. By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

Code 1950, §§ 15-793, 15-967.16; 1950, p. 722; 1962, c. 407, § 15.1-481; 1964, c. 564; 1987, c. 404; 1997, c. 587.

**§ 15.2-2272. Vacation of plat after sale of lot.**

In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the plat and also signed on behalf of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the governing body. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust

or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which the plat is recorded.

2. By ordinance of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

Roads within the secondary system of highways may be vacated under either of the preceding methods and the action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or special exception application approved following public hearings required by § 15.2-2204 and provided the Commissioner of Highways or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of special exception approval. All abandonments of roads within the secondary system of highways sought to be effected according to either of the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

Code 1950, §§ 15-793, 15-967.17; 1950, p. 722; 1962, c. 407, § 15.1-482; 1975, c. 641; 1990, c. 719; 1994, c. 341; 1997, c. 587.

**§ 15.2-2273. Fee for processing application under § 15.2-2271 or § 15.2-2272.**

Any locality may prescribe and charge a reasonable fee not exceeding $150 for processing an application pursuant to § 15.2-2271 or § 15.2-2272 for the vacating of any plat.

1970, c. 161, § 15.1-482.1; 1975, c. 641; 1978, c. 554; 1984, c. 285; 1997, c. 587.

**§ 15.2-2274. Effect of vacation under § 15.2-2272.**

The recordation of the instrument as provided under subdivision 1 of § 15.2-2272 or of the ordinance as provided under subdivision 2 of § 15.2-2272 shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the centerline of any

streets, alleys or easements for public passage so vacated in the owners of abutting lots free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any street, alley or easement for public passage is located on the periphery of the plat, the title for the entire width thereof shall vest in the abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be revested in the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 free and clear of any rights of public use in the same.

Code 1950, §§ 15-793, 15-967.18; 1950, p. 722; 1962, c. 407, § 15.1-483; 1964, c. 564; 1997, c. 587.

**§ 15.2-2275. Relocation or vacation of boundary lines.**

Any locality may provide, as a part of its subdivision ordinance, that the boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision (i) approved as provided in the subdivision ordinance or (ii) properly recorded prior to the applicability of a subdivision ordinance, and executed by the owner or owners of the land as provided in § 15.2-2264. The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

Alternatively, a locality may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the local governing body or its designee. The deed shall reference the recorded plat by which the lot line was originally created.

1982, c. 294, § 15.1-483.1; 1993, c. 121; 1997, cc. 524, 545, 587; 2005, c. 338.

**§ 15.2-2276. Duty of clerk when plat vacated.**

The clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

Code 1950, §§ 15-794, 15-967.20; 1962, c. 407, § 15.1-485; 1997, c. 587.

**§ 15.2-2277. Franklin County may require that notice be given to deed grantees of certain disclaimers regarding responsibility for roads; county eligible to have certain streets taken into secondary system.**

Franklin County may by ordinance require that the clerk of the circuit court for the county, when a division of land creates any parcels equal to or greater than five acres, notify every grantee shown on the recorded deed for such parcel (i) that any roads constructed to serve parcels of five acres or more will not be accepted by the Virginia Department of Transportation or by the county unless the roads meet applicable subdivision street standards of the Department and (ii) that neither the Department nor the county will maintain such roads until such time as the roads are brought into compliance with

applicable subdivision street standards of the Department in effect at the time and without cost to funds administered by the Department or the county. The notice shall be by first-class mail to the address shown on the recorded deed.

The county shall be deemed to have met the definition of "county" pursuant to § 33.2-335 upon adoption of such ordinance and shall be eligible to have certain streets taken into the secondary system pursuant to § 33.2-335 without additional action being necessitated with regard to subdivision ordinances.

1990, c. 906, § 15.1-465.1; 1997, c. 587.

### § 15.2-2278. Vacating plat of subdivision.

Any plat of subdivision recorded in any clerk's office, whether or not pursuant to this article, may be vacated in the manner prescribed by § 15.2-2272 and the provisions of §§ 15.2-2274 and 15.2-2276 shall be applicable to such vacation.

1964, c. 564, § 15.1-365; 1997, c. 587.

### § 15.2-2279. Ordinances regulating the building of houses and establishing setback lines.

Any locality may by ordinance regulate the building of houses in the locality including the adoption of off-street parking requirements, minimum setbacks and side yards and the establishment of minimum lot sizes.

Any locality may by ordinance require that no building be constructed within thirty-five feet of any street or roadway and may provide for exceptions to such requirement whenever a large portion of existing buildings along a section of street or roadway is within thirty-five feet of such street or roadway. The provisions of such an ordinance shall not apply within the limits of any town which has enacted a zoning ordinance or has adopted an ordinance establishing minimum setbacks.

1970, c. 452, § 15.1-29.2; 1987, c. 399; 1997, c. 587.

## Article 7 - ZONING

### § 15.2-2280. Zoning ordinances generally.

Any locality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

1. The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;

2. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

3. The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures,

including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; or

4. The excavation or mining of soil or other natural resources.

Code 1950, §§ 15-819, 15-844, 15-968; 1962, c. 407, § 15.1-486; 1966, c. 344; 1969, Ex. Sess., c. 1; 1972, c. 789; 1975, c. 641; 1997, c. 587.

### § 15.2-2281. Jurisdiction of localities.

For the purpose of zoning, the governing body of a county shall have jurisdiction over all the unincorporated territory in the county, and the governing body of a municipality shall have jurisdiction over the incorporated area of the municipality.

Code 1950, §§ 15-819, 15-844, 15-968; 1962, c. 407, § 15.1-486; 1966, c. 344; 1969, Ex. Sess., c. 1; 1972, c. 789; 1975, c. 641; 1997, c. 587.

### § 15.2-2282. Regulations to be uniform.

All zoning regulations shall be uniform for each class or kind of buildings and uses throughout each district, but the regulations in one district may differ from those in other districts.

Code 1950, §§ 15-820, 15-845, 15-968.2; 1962, c. 407, § 15.1-488; 1997, c. 587.

### § 15.2-2283. Purpose of zoning ordinances.

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas and working waterfront development areas; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding

armories operated by the Virginia National Guard; and (xii) to provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.) or state and federal fair housing laws, as applicable. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § 62.1-255.

Code 1950, §§ 15-821, 15-968.3; 1962, c. 407, § 15.1-489; 1966, c. 344; 1968, c. 407; 1975, c. 641; 1976, c. 642; 1980, c. 321; 1983, c. 439; 1988, c. 439; 1989, cc. 447, 449; 1990, cc. 19, 169, 384; 1992, c. 812; 1993, cc. 758, 884; 1997, c. 587; 2004, c. 799; 2008, c. 491; 2017, c. 216; 2018, c. 757.

**§ 15.2-2283.1. Prohibition of sexual offender treatment office in residentially zoned subdivision.**
Notwithstanding any other provision of law, no individual shall knowingly provide sex offender treatment services to a person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 in an office or similar facility located in a residentially zoned subdivision.

2007, c. 878; 2020, c. 829.

**§ 15.2-2284. Matters to be considered in drawing and applying zoning ordinances and districts.**
Zoning ordinances and districts shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agricultural and forestal land, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the locality.

Code 1950, §§ 15-821, 15-968.4; 1962, c. 407, § 15.1-490; 1966, c. 344; 1974, c. 526; 1978, c. 279; 1981, c. 418; 1983, c. 530; 1989, cc. 447, 449; 1997, c. 587; 2008, c. 491.

**§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.**
A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

Code 1950, §§ 15-822, 15-846, 15-968.7; 1962, c. 407, § 15.1-493; 1964, c. 279; 1968, c. 652; 1970, c. 216; 1972, c. 818; 1975, c. 641; 1984, c. 175; 1988, cc. 573, 733, 856; 1989, c. 359; 1990, c. 475; 1991, c. 235; 1996, c. 867; 1997, c. 587; 2019, c. 483.

**§ 15.2-2286. Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent taxes; penalties.**

A. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any or all of the following matters:

1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.

2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and pending the orderly amendment of the ordinance.

3. For the granting of special exceptions under suitable regulations and safeguards; notwithstanding any other provisions of this article, the governing body of any locality may reserve unto itself the right to issue such special exceptions. Conditions imposed in connection with residential special use permits, wherein the applicant proposes affordable housing, shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the approving body shall consider the impact of the conditions upon the affordability of housing.

The governing body or the board of zoning appeals of the Cities of Hampton and Norfolk may impose a condition upon any special exception or use permit relating to retail alcoholic beverage control licensees which provides that such special exception or use permit will automatically expire upon a change of ownership of the property, a change in possession, a change in the operation or management of a facility, or the passage of a specific period of time.

The governing body of the City of Richmond may impose a condition upon any special use permit issued after July 1, 2000, relating to retail alcoholic beverage licensees which provides that such special use permit shall be subject to an automatic review by the governing body upon a change in possession, a change in the owner of the business, or a transfer of majority control of the business entity. Upon review by the governing body, it may either amend or revoke the special use permit after notice and a public hearing as required by § 15.2-2206.

4. For the administration and enforcement of the ordinance including the appointment or designation of a zoning administrator who may also hold another office in the locality. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His authority shall include (i) ordering in writing the remedying of any condition found in violation of the ordinance; (ii) insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311; and (iii) in specific cases, making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law regarding determinations of rights accruing under § 15.2-2307 or subsection C of § 15.2-2311.

Whenever the zoning administrator has reasonable cause to believe that any person has engaged in or is engaging in any violation of a zoning ordinance that limits occupancy in a residential dwelling unit, which is subject to a civil penalty that may be imposed in accordance with the provisions of § 15.2-2209, and the zoning administrator, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, he may request that the attorney for the locality petition the judge of the general district court for his jurisdiction for a subpoena duces tecum against any such person refusing to produce such data or information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued the subpoena to quash it.

Notwithstanding the provisions of § 15.2-2311, a zoning ordinance may prescribe an appeal period of less than 30 days, but not less than 10 days, for a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations.

Where provided by ordinance, the zoning administrator may be authorized to grant a modification from any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the zoning administrator shall constitute a decision within the purview of § 15.2-2311, and may be appealed to the board of zoning appeals as provided by that section. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by § 15.2-2314.

The zoning administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period. If the decision or determination by the zoning administrator could impair the ability of an adjacent property owner to satisfy the minimum storage capacity and yield requirements for a residential drinking well pursuant to § 32.1-176.4 or any regulation adopted thereunder, the zoning administrator shall provide a copy of such decision or determination to such adjacent property owner so affected.

5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not more than $1,000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,000; any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than $2,000.

However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to $2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to $7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.). A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

6. For the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto.

7. For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the governing body may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated (i) by resolution of the governing body; (ii) by motion of the local planning commission; or (iii) by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the governing body or the local planning commission, who shall forward such petition to the governing body; however, the ordinance may provide for the consideration of proposed amendments only at specified intervals of time, and may further provide that substantially the same petition will not be reconsidered within a specific period, not exceeding one year. Any such resolution or motion by such governing body or commission proposing the rezoning shall state the above public purposes therefor.

In any county having adopted such zoning ordinance, all motions, resolutions or petitions for amendment to the zoning ordinance, and/or map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or

consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the zoning ordinance or map, or both. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this subdivision.

8. For the submission and approval of a plan of development prior to the issuance of building permits to assure compliance with regulations contained in such zoning ordinance.

9. For areas and districts designated for mixed use developments or planned unit developments as defined in § 15.2-2201.

10. For the administration of incentive zoning as defined in § 15.2-2201.

11. For provisions allowing the locality to enter into a voluntary agreement with a landowner that would result in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning classification. The locality may establish reasonable guidelines for determining the amount of excess real estate tax collected and the method and duration for applying the tax credit. For purposes of this section, "downzoning" means a zoning action by a locality that results in a reduction in a formerly permitted land use intensity or density.

12. Provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development that meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

13. Provisions to incorporate generally accepted national environmental protection and product safety standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects, such as those developed for existing product certifications and standards including the National Sanitation Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2.

14. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.

15. For the enforcement of provisions of the zoning ordinance that regulate the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance with applicable local, state and federal fair housing laws.

16. For the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The zoning administrator or his agent may make an affidavit under oath before a magistrate or court of competent jurisdiction and, if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court grant the zoning administrator or his agent an inspection warrant to enable the zoning administrator or his agent to enter the subject dwelling for the purpose of determining whether violations of the zoning ordinance exist. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the zoning administrator or his agents shall return the warrant to the clerk of the circuit court of the city or county wherein the inspection was made. The zoning administrator or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

B. Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, cc. 529, 543, 587; 1998, c. 385; 1999, c. 792; 2000, cc. 764, 817; 2001, c. 240; 2002, cc. 547, 703; 2005, cc. 625, 677; 2006, cc. 304, 514, 533, 903; 2007, cc. 821, 937; 2008, cc. 297, 317, 343, 581, 593, 720, 777; 2009, c. 721; 2012, cc. 304, 318; 2014, c. 354; 2017, c. 398; 2018, c. 726; 2020, cc. 312, 402, 442, 443, 893, 894.

**§ 15.2-2286.1. Provisions for clustering of single-family dwellings so as to preserve open space.**

A. The provisions of this section shall apply to any county or city that had a population growth rate of 10% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census. However, the requirements of this section shall not apply to any such county or city that has a population density of more than 2,000 people per square mile, according to the most recent report of the United States Bureau of the Census.

B. Any such locality shall provide in its zoning or subdivision ordinances, applicable to a minimum of 40% of the unimproved land contained in residential and agricultural zoning district classifications, standards, conditions, and criteria for the clustering of single-family dwellings and the preservation of open space developments. In establishing such standards, conditions, and criteria, the governing body may, in its discretion, include any provisions it determines appropriate to ensure quality development, preservation of open space, and compliance with its comprehensive plan and land use ordinances. A cluster development is otherwise subject to applicable land use ordinances of the locality; however, the locality shall not impose more stringent land use requirements for such cluster development.

The locality shall not prohibit extension of water or sewer from an adjacent property to a cluster development provided the cluster development is located within an area designated for water and sewer service by a county, city, or town or public service authority.

For any "open space" or "conservation areas" established in a cluster development, the locality shall not (i) require in such areas identification of slopes, species of woodlands or vegetation and whether any of such species are diseased, the locations of species listed as endangered, threatened, or of special concern, or riparian zones or require the applicant to provide a property resource map showing such matters in any conservation areas, other than that which may be required to comply with an ordinance adopted pursuant to § 15.2-961 or 15.2-961.1 or applicable state law; (ii) require such areas be excluded from the calculation of density in a cluster development or exclude land in such areas because of prior land-disturbing activities; (iii) prohibit roads from being located in such areas for purposes of access to the cluster development, but the locality may require such roads be designed to mitigate the impact on such areas; (iv) prohibit stormwater management areas from being located in such areas; or (v) require that lots in the cluster development directly abut such areas or a developed pathway providing direct access to such areas.

For purposes of this section, "open space" or "conservation areas" shall mean the same as "open-space land" in § 10.1-1700.

The density calculation of the cluster development shall be based upon the same criteria for the property as would otherwise be permitted by applicable land use ordinances. As a locality provides for the clustering of single-family dwellings and the preservation of open space developments, it may vary provisions for such developments for each different residential zoning classification within the locality. For purposes of this section, "unimproved land" shall not include land owned or controlled by the locality, the Commonwealth or the federal government, or any instrumentality thereof or land subject to a conservation easement.

If proposals for the clustering of single-family dwellings and the preservation of open space developments comply with the locality's adopted standards, conditions, and criteria, the development and open space preservation shall be permitted by right under the local subdivision ordinance. The implementation and approval of the cluster development and open space preservation shall be done

administratively by the locality's staff and without a public hearing. No local ordinance shall require that a special exception, special use, or conditional use permit be obtained for such developments. However, any such ordinance may exempt (a) developments of two acres or less and (b) property located in an Air Installation Compatible Use Zone from the provisions of this subdivision.

C. Additionally, a locality may, at its option, provide for the clustering of single-family dwellings and the preservation of open space at a density calculation greater than the density permitted in the applicable land use ordinance. To implement and approve such increased density development, the locality may, at its option, (i) establish and provide, in its zoning or subdivision ordinances, standards, conditions, and criteria for such development, and if the proposed development complies with those standards, conditions, and criteria, it shall be permitted by right and approved administratively by the locality's staff in the same manner provided in subsection A, or (ii) approve the increased density development upon approval of a special exception, special use permit, conditional use permit, or rezoning.

D. Notwithstanding any of the requirements of this section to the contrary, any local government land use ordinance in effect as of June 1, 2004, that provides for the clustering of single-family dwellings and preservation of open space development by right in at least one residential zoning classification without requiring either a special exception, special use permit, conditional use permit, or other discretionary approval may remain in effect at the option of the locality and will be deemed to be in compliance with this section. Any other locality may adopt provisions for the clustering of single-family dwellings, following the procedures set out in this section, in its discretion.

2006, c. 903; 2011, cc. 519, 549.

**§ 15.2-2287. Localities may require oath regarding property interest of local officials.**

A zoning ordinance may provide that petitions brought by property owners, contract purchasers or the agents thereof, shall be sworn to under oath before a notary public or other official before whom oaths may be taken, stating whether or not any member of the local planning commission or governing body has any interest in such property, either individually, by ownership of stock in a corporation owning such land, partnership, as the beneficiary of a trust, or the settlor of a revocable trust or whether a member of the immediate household of any member of the planning commission or governing body has any such interest.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587.

**§ 15.2-2287.1. Disclosures in land use proceedings.**

A. The provisions of this section shall apply in their entirety to the County of Loudoun.

B. Each individual member of the board of supervisors, the planning commission, and the board of zoning appeals in any proceeding before each such body involving an application for a special exception or variance or involving an application for amendment of a zoning ordinance map, which does not constitute the adoption of a comprehensive zoning plan, an ordinance applicable throughout the locality, or an application filed by the board of supervisors that involves more than 10 parcels that are owned by different individuals, trusts, corporations, or other entities, shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of any business or financial relationship that such member has, or has had within the 12-month period prior to such hearing, (i) with the applicant in such case; or (ii) with the title owner, contract purchaser or lessee of the land that is the subject of the application, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium; or (iii) if any of the foregoing is a trustee (other than a trustee under a corporate mortgage or deed of trust securing one or more issues of corporate mortgage bonds), with any trust beneficiary having an interest in such land; or (iv) with the agent, attorney or real estate broker of any of the foregoing. For the purpose of this subsection, "business or financial relationship" means any relationship (other than any ordinary customer or depositor relationship with a retail establishment, public utility, or bank) such member, or any member of the member's immediate household, either directly or by way of a partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class, has, or has had within the 12-month period prior to such hearing, with the applicant in the case, or with the title owner, contract purchaser, or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or with any of the other persons above specified. For the purpose of this subsection "business or financial relationship" also means the receipt by the member, or by any person, firm, corporation, or committee in his behalf, from the applicant in the case or from the title owner, contract purchaser, or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or from any of the other persons above specified, during the 12-month period prior to the hearing in such case, of any gift or donation having a value of more than $100, singularly or in the aggregate.

If at the time of the hearing in any such case such member has a relationship of employee-employer, agent-principal, or attorney-client with the applicant in the case or with the title owner, contract purchaser, or lessee of the subject land except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or with any of the other persons above specified, that member shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of such employee-employer, agent-principal, or attorney-client relationship and shall be ineligible to vote or participate in any way in such case or in any hearing thereon.

C. In any case described in subsection B pending before the board of supervisors, planning commission, or board of zoning appeals, the applicant in the case shall, prior to any hearing on the matter, file with the board or commission a statement in writing and under oath identifying by name and last known address each person, corporation, partnership, or other association specified in the first paragraph of subsection B. The requirements of this section shall be applicable only with respect to those so identified.

D. Any person knowingly and willfully violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

2008, c. 532; 2014, c. 743.

**§ 15.2-2288. Localities may not require a special use permit for certain agricultural activities.**
A zoning ordinance shall not require that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. For the purposes of this section, production agriculture and silviculture is the bona fide production or harvesting of agricultural products as defined in § 3.2-6400, including silviculture products, but shall not include the processing of agricultural or silviculture products, the above ground application or storage of sewage sludge, or the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act. However, localities may adopt setback requirements, minimum area requirements and other requirements that apply to land used for agriculture or silviculture activity within the locality that is zoned as an agricultural district or classification. Nothing herein shall require agencies of the Commonwealth or its contractors to obtain a special exception or a special use permit under this section.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2012, c. 455; 2014, c. 435.

**§ 15.2-2288.01. Localities shall not require a special use permit for certain small-scale conversion of biomass to alternative fuel.**
A. As used in this section, unless the context requires a different meaning:

"Biomass" means agricultural-related materials including vineyard, grain or crop residues; straws; aquatic plants; and crops and trees planted for energy production.

"Small-scale conversion of biomass" means the conversion of any renewable biomass into heat, power, or biofuels.

B. A zoning ordinance shall not require that a special exception or special use permit be obtained for the small-scale conversion of biomass if: (i) at least 50 percent of the feedstock is produced either on site or by the owner of the conversion equipment; (ii) any structure used for the processing of the

feedstock into energy occupies less than 4,000 square feet, not including the space required for storage of feedstock; and (iii) the owner of the farm notifies the administrative head of the locality in which the processing occurs. Localities may adopt reasonable requirements for setback, minimum lot area, and restrictions on the hours of operation and maximum noise levels applicable to the small-scale conversion of biomass. No setback, lot area, hours of operation or noise requirements may be more restrictive than similar provisions for other agricultural structures or activities.

2009, c. 363.

**§ 15.2-2288.1. Localities may not require a special use permit for certain residential uses.**
No local ordinance shall require as a condition of approval of a subdivision plat, site plan, or plan of development, or issuance of a building permit, that a special exception, special use, or conditional use permit be obtained for the development and construction of residential dwellings at the use, height and density permitted by right under the local zoning ordinance. Nothing herein shall restrict the use of the special exception, special use, or conditional use permit process on application of a property owner for (i) a cluster or town center as an optional form of residential development at a density greater than that permitted by right, or otherwise permitted by local ordinance; (ii) use in an area designated for steep slope mountain development; (iii) use as a utility facility to serve a residential development; or (iv) nonresidential uses including but not limited to home businesses, home occupations, day care centers, bed and breakfast inns, lodging houses, private boarding schools, and shelters established for the purpose of providing human services to the occupants thereof.

1999, c. 1041; 2002, c. 703.

**§ 15.2-2288.2. Localities may not require special use permit for certain temporary structures.**
A zoning ordinance shall not require that a special exception or special use permit be obtained in order to erect a tent on private property (i) intended to serve as a temporary structure for a period of three days or less and (ii) that will be used primarily for private or family-related events including, but not limited to, weddings and estate sales.

2006, c. 249.

**§ 15.2-2288.3. (Effective until July 1, 2021) Licensed farm wineries; local regulation of certain activities.**
A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the

public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;

4. The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

2006, c. 794; 2007, cc. 611, 657; 2009, cc. 416, 546; 2015, cc. 38, 730.

**§ 15.2-2288.3. (Effective July 1, 2021) Licensed farm wineries; local regulation of certain activities.**
A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and

events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 6 of § 4.1-206.1:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;

4. The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

2006, c. 794; 2007, cc. 611, 657; 2009, cc. 416, 546; 2015, cc. 38, 730; 2020, cc. 1113, 1114.

**§ 15.2-2288.3:1. (Effective until July 1, 2021) Limited brewery license; local regulation of certain activities.**

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at

such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;

2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;

3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board of Directors of the Alcoholic Beverage Control Authority;

4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2014, c. 365; 2015, cc. 38, 730.

**§ 15.2-2288.3:1. (Effective July 1, 2021) Limited brewery license; local regulation of certain activities.**

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 4 of § 4.1-206.1 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 4 of § 4.1-206.1:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;

2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;

3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board of Directors of the Alcoholic Beverage Control Authority;

4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 4 of § 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2014, c. 365; 2015, cc. 38, 730; 2020, cc. 1113, 1114.

**§ 15.2-2288.3:2. (Effective until July 1, 2021) Limited distiller's license; local regulation of certain activities.**

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;

2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;

3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2015, c. 695.

**§ 15.2-2288.3:2. (Effective July 1, 2021) Limited distiller's license; local regulation of certain activities.**

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206.1 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206.1:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;

2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;

3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2015, c. 695; 2020, cc. 1113, 1114.

**§ 15.2-2288.4. Extension of expiration dates for special use permits.**

Notwithstanding any other provision of law, any special use permit that was valid and outstanding as of January 1, 2009, is extended to July 1, 2011, regardless of whether such expiration or schedule exists by operation of statute, proffer, permit, local ordinance, or local custom. Nothing in this section shall impair the ability of any person to apply for additional extensions of time beyond the period specified in this section where permitted by other law.

2009, c. 636.

**§ 15.2-2288.5. Meaning of "cemetery" for purposes of zoning.**

A. A "cemetery" for purposes of this chapter shall have the meaning set forth in § 54.1-2310.

B. Nothing in this section shall exempt a licensed funeral home or cemetery from any applicable zoning regulation.

C. The following uses shall be included in the approval of a cemetery without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion sediment control.

D. Mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas that are shown in a legislative approval for the specific cemetery obtained at the request of the owner shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission required by an ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

2012, cc. 414, 478.

**§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.**

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;

2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;

3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or

4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

2014, cc. 153, 494.

**§ 15.2-2288.7. Local regulation of solar facilities.**

A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned residential shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned residential, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

B. An owner of real property zoned agricultural may install a solar facility on the roof of a residential dwelling on such property, or on the roof of another building or structure on such property, to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such

property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned agricultural, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

C. An owner of real property zoned commercial, industrial, or institutional may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned commercial, industrial, or institutional shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or institutional, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned mixed-use shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned mixed-use, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

E. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any zoning classification in addition to that provided in this section. A locality may also, by ordinance, require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance in addition to other applicable laws and regulations affecting such disposal.

2018, cc. 495, 496.

**§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.**

A. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for any solar photovoltaic (electric energy) project.

B. The governing body of such locality may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.

C. Once a condition is granted pursuant to subsection B, such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

2020, cc. 385, 414.

**§ 15.2-2289. Localities may provide by ordinance for disclosure of real parties in interest.**

In addition to the powers granted by this chapter, localities may provide by ordinance that the local planning commission, governing body or zoning appeals board may require any applicant for a special exception, or a special use permit, amendment to the zoning ordinance or variance to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

1970, c. 573, § 15.1-486.1; 1975, cc. 575, 641; 1976, c. 370; 1980, c. 604; 1986, c. 173; 1988, c. 408; 1989, cc. 25, 232; 1992, c. 596; 1993, c. 288; 1994, c. 192; 1997, c. 587; 2006, cc. 9, 317.

**§ 15.2-2290. Uniform regulations for manufactured housing.**

A. Localities adopting and enforcing zoning ordinances under the provisions of this article shall provide that, in all agricultural zoning districts or districts having similar classifications regardless of name or designation where agricultural, horticultural, or forest uses such as but not limited to those described in § 58.1-3230 are the dominant use, the placement of manufactured houses that are on a permanent foundation and on individual lots shall be permitted, subject to development standards that are equivalent to those applicable to site-built single family dwellings within the same or equivalent zoning district.

B. Localities adopting and enforcing zoning regulations under the provisions of this article may, to provide for the general purposes of zoning ordinances, adopt uniform standards, so long as they apply to all residential structures erected within the agricultural zoning district or other districts identified in subsection A of this section incorporating such standards. The standards shall not have the effect of excluding manufactured housing.

C. Local zoning ordinances adopting provisions consistent with this section shall not relieve lots or parcels from the obligations relating to manufactured housing units imposed by the terms of a restrictive covenant.

1990, c. 840, § 15.1-486.4; 1991, c. 198; 1995, cc. 540, 583; 1997, c. 587.

**§ 15.2-2291. Assisted living facilities and group homes of eight or fewer; single-family residence.**

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

1990, c. 814, § 15.1-486.3; 1993, c. 373; 1997, c. 587; 1998, c. 585; 2007, c. 813; 2008, c. 601; 2009, cc. 813, 840; 2010, cc. 796, 847; 2012, cc. 476, 507; 2014, c. 238.

**§ 15.2-2292. (Effective until July 1, 2021) Zoning provisions for family day homes.**

A. Zoning ordinances for all purposes shall consider a family day home as defined in § 63.2-100 serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home as defined in § 63.2-100 serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance and all other applicable local ordinances, the zoning administrator shall issue the permit sought. If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration. The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

1994, cc. 781, 798, § 15.1-486.5; 1997, c. 587; 2014, c. 771; 2015, cc. 758, 770; 2019, cc. 380, 442.

**§ 15.2-2292. (Effective July 1, 2021) Zoning provisions for family day homes.**

A. Zoning ordinances for all purposes shall consider a family day home as defined in § 22.1-289.02, serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home, as defined in § 22.1-289.02, serving five through

12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance and all other applicable local ordinances, the zoning administrator shall issue the permit sought. If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration. The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

1994, cc. 781, 798, § 15.1-486.5; 1997, c. 587; 2014, c. 771; 2015, cc. 758, 770; 2019, cc. 380, 442; 2020, cc. 860, 861.

**§ 15.2-2292.1. Zoning provisions for temporary family health care structures.**

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

"Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to $100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

2010, c. 296; 2013, c. 178.

**§ 15.2-2293. Airspace subject to zoning ordinances.**

A. A zoning ordinance shall be applicable to the superjacent airspace of any nonpublic-owned land area.

B. Airspace superjacent or subjacent to any public highway, street, lane, alley or other way in this Commonwealth not required for the purpose of travel, or other public use, by the Commonwealth or other political jurisdiction owning it, shall be subject to the zoning ordinance of the locality in which the airspace is located.

C. Airspace not provided for in subsection B herein that is superjacent to any land owned by the Commonwealth or other political jurisdiction and occupied by a nonpolitical entity or person shall be subject to the zoning ordinance that would be applicable if the land were owned by a private person.

1979, c. 431, § 15.1-491.01; 1997, c. 587.

**§ 15.2-2293.1. Placement of amateur radio antennas.**

Any ordinance involving the placement, screening or height of antennas shall reasonably accommodate amateur radio antennas and shall impose the minimum regulation necessary to accomplish the locality's legitimate purpose. In localities having a population density of 120 persons or less per square mile according to the 1990 United States census, no local ordinance shall (i) restrict amateur radio antenna height to less than 200 feet above ground level as permitted by the Federal Communications Commission or (ii) restrict the number of support structures. In localities having a population density of more than 120 persons per square mile according to the 1990 United States census, no local ordinance shall (i) restrict amateur radio antenna height to less than 75 feet above ground level or (ii) restrict the number of support structures. Reasonable and customary engineering practices shall be followed in the erection of amateur radio antennas. This section shall not preclude any locality, by ordinance, from regulating amateur radio antennas with regard to reasonable requirements relating to the use of screening, setback, placement, and health and safety requirements.

1998, c. 642.

**§ 15.2-2293.2. Regulation of helicopter use.**

No local zoning ordinance shall impose a total ban on departures and landings within the locality by non-commercial helicopters for personal use, but local zoning ordinances may require a special exception, special use permit, or conditional use permit for repetitive helicopter landings and departures on the same parcel of land in some or all zoning districts. Special exceptions or special use permits may be made subject to reasonable conditions for the protection or benefit of owners and occupants of neighboring parcels, including but not limited to conditions related to compliance with applicable regulations of the Federal Aviation Administration.

2012, c. 506.

**§ 15.2-2294. Airport safety zoning.**

Every locality (i) in whose jurisdiction a licensed airport or United States government or military air facility is located or (ii) over whose jurisdiction the approach slopes and other safety zones of a licensed airport, including United States government or military air facility extend shall, by ordinance, provide for the regulation of the height of structures and natural growth for the purpose of protecting the safety of air navigation and the public investment in air navigation facilities. The ordinance may be

adopted regardless of whether the local governing body has adopted a zoning ordinance applicable to other land uses in the locality. The ordinance may be designed and adopted by the locality as an overlay zone superimposed on any preexisting base zone.

The provisions of the airport safety zoning ordinance shall be in compliance with the rules of the Virginia Aviation Board.

1989, cc. 447, 449, § 15.1-491.02; 1990, c. 384; 1997, c. 587.

### § 15.2-2295. Aircraft noise attenuation features in buildings and structures within airport noise zones.

Any locality in whose jurisdiction, or adjacent jurisdiction, is located a licensed airport or United States government or military air facility, may enforce building regulations relating to the provision or installation of acoustical treatment measures in residential buildings and structures, or portions thereof, other than farm structures, for which building permits are issued after January 1, 2003, in areas affected by above average noise levels from aircraft due to their proximity to flight operations at nearby airports. Any locality in whose jurisdiction, or adjacent jurisdiction, is located a United States Master Jet Base, a licensed airport or United States government or military air facility, may, in addition, adopt and enforce building regulations relating to the provision or installation of acoustical treatment measures applicable to buildings and structures, or portions thereof, in Assembly, Business, Educational, Institutional, and Mercantile groups, as defined in the International Building Code.

In establishing the regulations, the locality may adopt one or more noise overlay zones as an amendment to its zoning map and may establish different measures to be provided or installed within each zone, taking into account the severity of the impact of aircraft noise upon buildings and structures within each zone. Any such regulations or amendments to a zoning map shall provide a process for reasonable notice to affected property owners. Any regulations or amendments to a zoning map shall be adopted in accordance with this chapter. A statement shall be placed on all recorded surveys, subdivision plats and all final site plans approved after January 1, 2003, giving notice that a parcel of real property either partially or wholly lies within an airport noise overlay zone. No existing use of property which is affected by the adoption of such regulations or amendments to a zoning map shall be considered a nonconforming use solely because of the regulations or amendments. The provisions of this section shall not affect any local aircraft noise attenuation regulations or ordinances adopted prior to the effective date of this act, and such regulations and ordinances may be amended provided the amendments shall not alter building materials, construction methods, plan submission requirements or inspection practices specified in the Virginia Uniform Statewide Building Code.

1994, c. 745, § 15.1-491.03; 1997, c. 587; 2002, c. 180; 2005, c. 509; 2011, c. 135.

### § 15.2-2295.1. Regulation of mountain ridge construction.

A. As used in this section, unless the context requires a different meaning:

"Construction" means the building, alteration, repair, or improvement of any building or structure.

"Crest" means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

"Protected mountain ridge" means a ridge with (i) an elevation of 2,000 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.

"Ridge" means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

"Tall buildings or structures" means any building, structure or unit within a multi-unit building with a vertical height of more than 40 feet, as determined by ordinance, measured from the top of the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge to the uppermost point of the building, structure or unit. "Tall buildings or structures" does not include (i) water, radio, telecommunications or television towers or any equipment for the transmission of electricity, telephone or cable television; (ii) structures of a relatively slender nature and minor vertical projections of a parent building, including, but not limited to, chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills; or (iii) any building or structure designated as a historic landmark, building or structure by the United States or by the Board of Historic Resources.

B. Determinations by the governing body of heights and elevations under this section shall be conclusive.

C. Any locality in which a protected mountain ridge is located may, by ordinance, provide for the regulation of the height and location of tall buildings or structures on protected mountain ridges. The ordinance may be designed and adopted by the locality as an overlay zone superimposed on any preexisting base zone.

D. An ordinance adopted under this section may include criteria for the granting or denial of permits for the construction of tall buildings or structures on protected mountain ridges. Any such ordinance shall provide that permit applications shall be denied if a permit application fails to provide for (i) adequate sewerage, water, and drainage facilities, including, but not limited to, facilities for drinking water and the adequate supply of water for fire protection and (ii) compliance with the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

E. Any locality that adopts an ordinance providing for the regulation of the height and location of tall buildings or structures on protected mountain ridges shall send a copy of the ordinance to the Secretary of Natural Resources.

F. Nothing in this section shall be construed to affect or impair a governing body's authority under this chapter to define and regulate uses in any existing zoning district or to adopt overlay districts regulating uses on mountainous areas as defined by the governing body.

2000, c. 732; 2013, cc. 516, 756, 793.

**§ 15.2-2295.2. Dam break inundation zones.**

A locality may by ordinance require the modification of an application for zoning modification, a conditional use permit, or a special exception for the area of a development that is proposed within a mapped dam break inundation zone.

2008, c. 491.

**§ 15.2-2296. Conditional zoning; declaration of legislative policy and findings; purpose.**

It is the general policy of the Commonwealth in accordance with the provisions of § 15.2-2283 to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of §§ 15.2-2296 through 15.2-2300 to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The exercise of authority granted pursuant to §§ 15.2-2296 through 15.2-2302 shall not be construed to limit or restrict powers otherwise granted to any locality, nor to affect the validity of any ordinance adopted by any such locality which would be valid without regard to this section. The provisions of this section and the following six sections shall not be used for the purpose of discrimination in housing.

1978, c. 320, § 15.1-491.1; 1997, c. 587.

**§ 15.2-2297. Same; conditions as part of a rezoning or amendment to zoning map.**

A. A zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map; provided that (i) the rezoning itself must give rise for the need for the conditions; (ii) the conditions shall have a reasonable relation to the rezoning; (iii) the conditions shall not include a cash contribution to the locality; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in § 15.2-2241; (v) the conditions shall not include a requirement that the applicant create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation; (vi) the conditions shall not include payment for or construction of off-site improvements except those provided for in § 15.2-2241; (vii) no condition shall be proffered that is not related to the physical development or physical operation of the property; and (viii) all such conditions shall be in conformity with the comprehensive plan as defined in § 15.2-2223. The governing body may also accept amended proffers

once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendments to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property.

Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or

2. Accept or impose valid conditions pursuant to subdivision A 3 of § 15.2-2286 or other provision of law.

1978, c. 320, § 15.1-491.2; 1982, c. 293; 1990, c. 868; 1997, c. 587; 2001, c. 703; 2006, c. 450.

**§ 15.2-2298. Same; additional conditions as a part of rezoning or zoning map amendment in certain high-growth localities.**

A. Except for those localities to which § 15.2-2303 is applicable, this section shall apply to (i) any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. However, any such locality may by ordinance choose to utilize the conditional zoning authority granted under § 15.2-2303 rather than this section.

In any such locality, notwithstanding any contrary provisions of § 15.2-2297, a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map, provided that (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the comprehensive plan as defined in § 15.2-2223.

Reasonable conditions may include the payment of cash for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation. The

governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions; however, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

No proffer shall be accepted by a locality unless it has adopted a capital improvement program pursuant to § 15.2-2239 or local charter. In the event proffered conditions include the dedication of real property or payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to the property, shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property. Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B above, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or

2. Accept or impose valid conditions pursuant to subdivision A 3 of § 15.2-2286 or other provision of law.

1989, c. 697, § 15.1-492.2:1; 1990, c. 868; 1991, c. 233; 1997, c. 587; 2001, c. 703; 2006, cc. 450, 882; 2007, c. 324.

**§ 15.2-2299. Same; enforcement and guarantees.**

The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including (i) the ordering in writing of the remedy of any noncompliance with the conditions; (ii) the bringing of legal action to insure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and (iii) requiring a guarantee, satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

1978, c. 320, § 15.1-491.3; 1983, c. 221; 1997, c. 587.

**§ 15.2-2300. Same; records.**

The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The Index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the local governing body pursuant to § 15.2-2303.2. The zoning administrator shall update the Index annually and no later than November 30 of each year.

1978, c. 320, § 15.1-491.4; 1997, c. 587; 2004, c. 531.

**§ 15.2-2301. Same; petition for review of decision.**

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of § 15.2-2299 may petition the governing body for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the governing body on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

An aggrieved party may petition the circuit court for review of the decision of the governing body on an appeal taken pursuant to this section. The provisions of subsection F of § 15.2-2285 shall apply to such petitions to the circuit court, mutatis mutandis.

1978, c. 320, § 15.1-491.5; 1988, c. 856; 1997, c. 587; 2011, c. 457; 2012, c. 401.

**§ 15.2-2302. Same; amendments and variations of conditions.**

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection B of § 15.2-2204. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 until after a public hearing before the governing body advertised pursuant to the provisions of § 15.2-2204. However, where an amendment to such proffered conditions is requested pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

C. Once amended pursuant to this section, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

E. Notwithstanding any other provision of law, the governing body may waive the written notice requirement of subsection A in order to reduce, suspend, or eliminate outstanding cash proffer pay-

ments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

1978, c. 320, § 15.1-491.6; 1997, c. 587; 2009, c. 315; 2012, cc. 415, 465; 2013, c. 513; 2017, c. 379.

**§ 15.2-2303. Conditional zoning in certain localities.**

A. A zoning ordinance may include reasonable regulations and provisions for conditional zoning as defined in § 15.2-2201 and for the adoption, in counties, or towns therein which have planning commissions, wherein the urban county executive form of government is in effect, or in a city adjacent to or completely surrounded by such a county, or in a county contiguous to any such county, or in a city adjacent to or completely surrounded by such a contiguous county, or in any town within such contiguous county, and in the counties east of the Chesapeake Bay as a part of an amendment to the zoning map of reasonable conditions, in addition to the regulations provided for the zoning district by the ordinance, when such conditions shall have been proffered in writing, in advance of the public hearing before the governing body required by § 15.2-2285 by the owner of the property which is the subject of the proposed zoning map amendment. Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation. The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented

such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. Such notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement such proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property. Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subdivision shall acquire no rights pursuant to this section.

D. Subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

E. Nothing in this section shall be construed to affect or impair the authority of a governing body to (i) accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or (ii) accept or impose valid conditions pursuant to subdivision A 3 of § 15.2-2286, subdivision 5 of § 15.2-2242, or other provision of law.

F. In any instance in which a locality has accepted proffered conditions that include pedestrian improvements, and the Virginia Department of Transportation has reviewed and not objected to the proposed pedestrian improvements during the processing of the rezoning, the Virginia Department of Transportation shall allow the proffered improvements to be constructed, except when such improvements will violate local, state, or federal laws, regulations, or mandated engineering and safety standards.

G. In addition to the powers granted by the preceding subsections, a zoning ordinance may include reasonable regulations to implement, in whole or in part, the provisions of §§ 15.2-2296 through 15.2-2302.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2001, c. 703; 2006, c. 450; 2008, c. 733.

**§ 15.2-2303.1. Development agreements in certain counties.**

A. In order to promote the public health, safety and welfare and to encourage economic development consistent with careful planning, New Kent County may include in its zoning ordinance provisions for the governing body to enter into binding development agreements with any persons owning legal or

equitable interests in real property in the county if the property to be developed contains at least one thousand acres.

B. Any such agreements shall be for the purpose of stimulating and facilitating economic growth in the county; shall not be inconsistent with the comprehensive plan at the time of the agreement's adoption, except as may have been authorized by existing zoning ordinances; and shall not authorize any use or condition inconsistent with the zoning ordinance or other ordinances in effect at the time the agreement is made, except as may be authorized by a variance, special exception or similar authorization. The agreement shall be authorized by ordinance, shall be for a term not to exceed fifteen years, and may be renewed by mutual agreement of the parties for successive terms of not more than ten years each. It may provide, among other things, for uses; the density or intensity of uses; the maximum height, size, setback and/or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use matters. It may authorize the property owner to transfer to the county land, public improvements, money or anything of value to further the purposes of the agreement or other public purposes set forth in the county's comprehensive plan, but not as a condition to obtaining any permitted use or zoning. The development agreement shall not run with the land except to the extent provided therein, and the agreement may be amended or canceled in whole or in part by the mutual consent of the parties thereto or their successors in interest and assigns.

C. If, pursuant to the agreement, a property owner who is a party thereto and is not in breach thereof, (i) dedicates or is required to dedicate real property to the county, the Commonwealth or any other political subdivision or to the federal government or any agency thereof, (ii) makes or is required to make cash payments to the county, the Commonwealth or any other political subdivision or to the federal government or any agency thereof, or (iii) makes or is required to make public improvements for the county, the Commonwealth or any other political subdivision or for the federal government or any agency thereof, such dedication, payment or construction therefor shall vest the property owner's rights under the agreement. If a property owner's rights have vested, neither any amendment to the zoning map for the subject property nor any amendment to the text of the zoning ordinance with respect to the zoning district applicable to the property which eliminates or restricts, reduces, or modifies the use; the density or intensity of uses; the maximum height, size, setback or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use or other matters provided for in such agreement shall be effective with respect to such property during the term of the agreement unless there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare.

D. Nothing in this section shall be construed to preclude, limit or alter the vesting of rights in accordance with existing law; authorize the impairment of such rights; or invalidate any similar agreements entered into pursuant to existing law.

1997, c. 738, § 15.1-491.001; 2007, c. 813.

**§ 15.2-2303.1:1. When certain cash proffers collected or accepted.**

A. Notwithstanding the provisions of any cash proffer requested, offered, or accepted pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 for residential construction on a per-dwelling unit or per-home basis, cash payment made pursuant to such a cash proffer shall be collected or accepted by any locality only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property.

B. Notwithstanding the provisions of any proffer to the contrary, the assertion of a right to delayed payment of cash proffers pursuant to this section shall not constitute cause for any action pursuant to § 15.2-2299.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action successfully challenging an ordinance, administrative or other action as being in conflict with this section.

2010, cc. 549, 613; 2011, c. 173; 2012, cc. 508, 798; 2015, c. 346.

**§ 15.2-2303.2. Proffered cash payments and expenditures.**

A. The governing body of any locality accepting cash payments voluntarily proffered on or after July 1, 2005, pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall, within 12 years of receiving full payment of all cash proffered pursuant to an approved rezoning application, begin, or cause to begin (i) construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility relocation on the improvements for which the cash payments were proffered. A locality that does not comply with the above requirement, or does not begin alternative improvements as provided for in subsection C, shall forward the amount of the proffered cash payments to the Commonwealth Transportation Board no later than December 31 following the fiscal year in which such forfeiture occurred for direct allocation to the secondary system construction program or the urban system construction program for the locality in which the proffered cash payments were collected. The funds to which any locality may be entitled under the provisions of Title 33.2 for construction, improvement, or maintenance of primary, secondary, or urban roads shall not be diminished by reason of any funds remitted pursuant to this subsection by such locality, regardless of whether such contributions are matched by state or federal funds.

B. The governing body of any locality eligible to accept any proffered cash payments pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall, for each fiscal year beginning with the fiscal year 2007, (i) include in its capital improvement program created pursuant to § 15.2-2239, or as an appendix thereto, the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection E, and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.

C. Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by the governing body of a locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1, a locality may utilize any cash payments proffered for any road improvement or any transportation improvement that is incorporated into the capital improvements program as its matching contribution under § 33.2-357. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by the governing body of a locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1, a locality may utilize any cash payments proffered for capital improvements for alternative improvements of the same category within the locality in the vicinity of the improvements for which the cash payments were originally made. Prior to utilization of such cash payments for the alternative improvements, the governing body of the locality shall give at least 30 days' written notice of the proposed alternative improvements to the entity who paid such cash payment mailed to the last known address of such entity, or if proffer payment records no longer exist, then to the original zoning applicant, and conduct a public hearing on such proposal advertised as provided in subsection F of § 15.2-1427. The governing body of the locality prior to the use of such cash payments for alternative improvements shall, following such public hearing, find: (a) the improvements for which the cash payments were proffered cannot occur in a timely manner or the functional purpose for which the cash payment was made no longer exists; (b) the alternative improvements are within the vicinity of the proposed improvements for which the cash payments were proffered; and (c) the alternative improvements are in the public interest. Notwithstanding the provisions of the Virginia Public Procurement Act, the governing body may negotiate and award a contract without competition to an entity that is constructing road improvements pursuant to a proffered zoning condition or special exception condition in order to expand the scope of the road improvements by utilizing cash proffers of others or other available locally generated funds. The local governing body shall adopt a resolution stating the basis for awarding the construction contract to extend the scope of the road improvements. All road improvements to be included in the state primary or secondary system of highways must conform to the adopted standards of the Virginia Department of Transportation.

D. Notwithstanding any provision of this section or any other provision of law, general or special, no cash payment proffered pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall be used for any capital improvement to an existing facility, such as a renovation or technology upgrade, that does not

expand the capacity of such facility or for any operating expense of any existing facility such as ordinary maintenance or repair.

E. The governing body of any locality with a population in excess of 3,500 persons accepting a cash payment voluntarily proffered pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 shall within three months of the close of each fiscal year, beginning in fiscal year 2002 and for each fiscal year thereafter, report to the Commission on Local Government the following information for the preceding fiscal year:

1. The aggregate dollar amount of proffered cash payments collected by the locality;

2. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the locality and which pledges are not conditioned on any event other than time; and

3. The total dollar amount of proffered cash payments expended by the locality, and the aggregate dollar amount expended in each of the following categories:

| | |
|---|---|
| Schools | $_____ |
| Road and other Transportation Improvements | $_____ |
| Fire and Rescue/Public Safety | $_____ |
| Libraries | $_____ |
| Parks, Recreation, and Open Space | $_____ |
| Water and Sewer Service Extension | $_____ |
| Community Centers | $_____ |
| Stormwater Management | $_____ |
| Special Needs Housing | $_____ |
| Affordable Housing | $_____ |
| Miscellaneous | $_____ |
| Total dollar amount expended | $_____ |

F. The governing body of any locality with a population in excess of 3,500 persons eligible to accept any proffered cash payments pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 but that did not accept any proffered cash payments during the preceding fiscal year shall within three months of the close of each fiscal year, beginning in 2001 and for each fiscal year thereafter, so notify the Commission on Local Government.

G. The Commission on Local Government shall by November 30, 2001, and by November 30 of each fiscal year thereafter, prepare and make available to the public and the chairmen of the Senate Local Government Committee and the House Counties, Cities and Towns Committee an annual report containing the information made available to it pursuant to subsections E and F.

2001, c. 282; 2003, c. 522; 2005, c. 855; 2006, cc. 583, 872, 882; 2007, c. 321; 2012, c. 521; 2013, cc. 510, 541.

**§ 15.2-2303.3. Cash proffers requested or accepted by a locality.**

A. No locality may require payment of a cash proffer prior to payment of any fees for the issuance of a building permit for construction on property that is the subject of a rezoning. However, a landowner petitioning for a zoning change may voluntarily agree to an earlier payment, pursuant to §§ 15.2-2298 and 15.2-2303. If the petitioner voluntarily agrees to an earlier payment, the proffered condition may be enforced as to the petitioner and any successor in interest according to its terms as part of an approved rezoning.

B. No locality shall either request or accept a cash proffer whose amount is scheduled to increase annually, from the time of proffer until tender of payment, by a percentage greater than the annual rate of inflation, as calculated by referring to the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics or the Marshall and Swift Building Cost Index.

C. No locality shall request or accept any provision of any proffer entered pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 in which the profferor purports to waive future legal rights against the locality or its agents. Any such proffer provision contained in a proffer entered and enacted on or after January 1, 2012, shall be severable from the remainder of the proffer and shall be void ab initio. In the event that a proffer containing such a provision is entered and enacted on or after January 1, 2012, the rezoning to which the proffer containing such provision is attached shall not be nullified, rescinded, or repealed, however described or delineated, by reason of any alleged breach of such a provision by the profferor, notwithstanding any provisions of the proffer to the contrary.

2005, c. 552; 2012, c. 798.

**§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.**

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no local governing body shall (i) require any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless:

1. It addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and

2. If an offsite proffer, it addresses an impact to an offsite public facility, such that (i) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (ii) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. A locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. Notwithstanding the provisions of subsection C:

1. An applicant or owner may, at the time of filing an application pursuant to this section or during the development review process, submit any onsite or offsite proffer that the owner and applicant deem reasonable and appropriate, as conclusively evidenced by the signed proffers.

2. Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any rezoning or proffer condition amendment application.

E. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a local governing body in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285, provided that the applicant objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.

2. In any action in which a local governing body has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that was requested in writing by the local governing body in violation of this section, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a local governing body in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer or to amend the proffer to bring it into compliance with this section. If the local governing body fails or refuses to approve the rezoning or proffer condition amendment, or fails or refuses to amend the proffer to bring it into compliance with this section, within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the local governing body from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

F. The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in

which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

G. This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require communications between an applicant or owner and the locality. The applicant, owner, and locality may engage in pre-filing and post-filing discussions regarding the potential impacts of a proposed new residential development or new residential use on public facilities as defined in subsection A and on other public facilities of the locality, and potential voluntary onsite or offsite proffers, permitted under subsections C and D, that might address those impacts. Such verbal discussions shall not be used as the basis that an unreasonable proffer or proffer condition amendment was required by the locality. Furthermore, notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require presentation, analysis, or discussion of the potential impacts of new residential development or new residential use on the locality's public facilities.

2016, c. 322; 2019, cc. 129, 245.

**§ 15.2-2304. Affordable dwelling unit ordinances in certain localities.**

In furtherance of the purpose of providing affordable shelter for all residents of the Commonwealth, the governing body of any county where the urban county executive form of government or the county manager plan of government is in effect, the Counties of Albemarle and Loudoun, and the Cities of Alexandria, Charlottesville, and Fairfax may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. The program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of moderately priced housing by providing for optional increases in density in order to reduce land costs for such moderately priced housing. Any project that is subject to an affordable housing dwelling unit program adopted pursuant to this section shall not be subject to an additional requirement outside of such program to contribute to a county or city housing fund.

Any local ordinance of any other locality providing optional increases in density for provision of low and moderate income housing adopted before December 31, 1988, shall continue in full force and effect.

1989, cc. 634, 748, § 15.1-491.8; 1990, cc. 591, 834; 1991, c. 599; 1997, cc. 587, 607; 2001, cc. 18, 313; 2002, c. 151; 2004, c. 543; 2015, cc. 390, 605; 2020, c. 486.

**§ 15.2-2305. Affordable dwelling unit ordinances.**

A. In furtherance of the purpose of providing affordable shelter for all residents of the Commonwealth, the governing body of any locality, other than localities to which § 15.2-2304 applies, may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. Such program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low and moderate income citizens, determined in accordance with the locality's definition of affordable housing, by providing for increases in density to the applicant in exchange for the applicant providing such affordable housing. Any local ordinance providing optional increases in density for provision of low and moderate income housing adopted before December 31, 1988, shall continue in full force and effect. Any local ordinance may authorize the governing body to (i) establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local market conditions, (ii) establish jurisdiction-wide affordable dwelling unit qualifying income guidelines, and (iii) offer incentives other than density increases, such as reductions or waiver of permit, development, and infrastructure fees, as the governing body deems appropriate to encourage the provision of affordable housing. Counties to which § 15.2-2304 applies shall be governed by the provisions of § 15.2-2304 for purposes of the adoption of an affordable dwelling unit ordinance.

B. Any zoning ordinance establishing an affordable housing dwelling unit program may include, among other things, reasonable regulations and provisions as to any or all of the following:

1. A definition of affordable housing and affordable dwelling units.

2. For application of the requirements of an affordable housing dwelling unit program to any site, as defined by the locality, or a portion thereof at one location which is the subject of an application for rezoning or special exception or, at the discretion of the local governing body, site plan or subdivision plat which yields, as submitted by the applicant, at an equivalent density greater than one unit per acre and which is located within an approved sewer area.

3. For an increase of up to 30 percent in the developable density of each site subject to the ordinance and for a provision requiring up to 17 percent of the total units approved, including the optional density increase, to be affordable dwelling units, as defined in the ordinance. In the event a 30 percent increase is not achieved, the percentage of affordable dwelling units required shall maintain the same ratio of 30 percent to 17 percent.

4. For increases by up to 30 percent of the density or of the lower and upper end of the density range set forth in the comprehensive plan of such locality applicable to rezoning and special exception

applications that request approval of single family detached dwelling units or single family attached dwelling units, when such applications are approved after the effective date of a local affordable housing zoning ordinance amendment.

5. For a requirement that not less than 17 percent of the total number of dwelling units approved pursuant to a zoning ordinance amendment enacted pursuant to subdivision B 4 of this section shall be affordable dwelling units, as defined by the local zoning ordinance unless reduced by the 30 to 17 percent ratio pursuant to subdivision B 3 of this section.

6. For establishment of a local housing fund as part of its affordable housing dwelling unit program to assist in achieving the affordable housing goals of the locality pursuant to this section. The local housing fund may be a dedicated fund within the other funds of the locality, but any funds received pursuant to this section shall be used for achieving the affordable housing goals of the locality.

7. For reasonable regulations requiring the affordable dwelling units to be built and offered for sale or rental concurrently with the construction and certificate of occupancy of a reasonable proportion of the market rate units.

8. For standards of compliance with the provisions of an affordable housing dwelling unit program and for the authority of the local governing body or its designee to enforce compliance with such standards and impose reasonable penalties for noncompliance, provided that a local zoning ordinance provide for an appeal process for any party aggrieved by a decision of the local governing body.

C. For any building which is four stories or above and has an elevator, the applicant may request, and the locality shall consider, the unique ancillary costs associated with living in such a building in determining whether such housing will be affordable under the definition established by the locality in its ordinance adopted pursuant to this section. However, for localities under this section in Planning District Eight, nothing in this section shall apply to any elevator structure four stories or above.

D. Any ordinance adopted hereunder shall provide that the local governing body shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable housing or affordable dwelling units under such ordinance. The calculation of such period of review shall include only the time that plans are in review by the local governing body and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and regulations.

E. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § 15.2-1427, reasonable regulations and provisions as to any or all of the following:

1. For administration and regulation by a local housing authority or by the local governing body or its designee of the sale and rental of affordable units.

2. For a local housing authority or local governing body or its designee to have an exclusive right to purchase up to one-third of the for-sale affordable housing dwelling units within a development within

ninety days of a dwelling unit being completed and ready for purchase, provided that the remaining two-thirds of such units be offered for sale exclusively for a ninety-day period to persons who meet the income criteria established by the local housing authority or local governing body or the latter's designee.

3. For a local housing authority or local governing body or its designee to have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a development within a controlled period determined by the housing authority or local governing body or its designee, provided that the remaining for-rental affordable dwelling units within a development be offered to persons who meet the income criteria established by the local housing authority or local governing body or its designee.

4. For the establishment of jurisdiction-wide affordable dwelling unit sales prices by the local housing authority or local governing body or the latter's designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct the affordable dwelling unit prototype dwellings by private industry after considering written comment by the public, local housing authority or advisory body to the local governing body, and other information such as the area's current general market and economic conditions, provided that sales prices not include the cost of land, on-site sales commissions and marketing expenses, but may include, among other costs, builder-paid permanent mortgage placement costs and buy-down fees and closing costs except prepaid expenses required at settlement.

5. For the establishment of jurisdiction-wide affordable dwelling unit rental prices by a local housing authority or local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area, after considering written comment by the public, local housing authority, or advisory body to the local governing body, and other information such as the area's current general market and economic conditions.

6. For a requirement that the prices for resales and rerentals be controlled by the local housing authority or local governing body or designee for a period of not less than 15 years nor more than 50 years after the initial sale or rental transaction for each affordable dwelling unit, provided that the ordinance further provide for reasonable rules and regulations to implement a price control provision.

7. For establishment of an affordable dwelling unit advisory board which shall, among other things, advise the jurisdiction on sales and rental prices of affordable dwelling units; advise the housing authority or local governing body or its designees on requests for modifications of the requirements of an affordable dwelling unit program; adopt regulations concerning its recommendations of sales and rental prices of affordable dwelling units; and adopt procedures concerning requests for modifications of an affordable housing dwelling unit program. Members of the board, to be ten in number and to be appointed by the governing body, shall be qualified as follows: two members shall be either civil engineers or architects, each of whom shall be registered or certified with the relevant agency of the

Commonwealth, or planners, all of whom shall have extensive experience in practice in the locality; one member shall be a real estate salesperson or broker, licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; one member shall be a representative of a lending institution which finances residential development in the locality; four members shall consist of a representative from a local housing authority or local governing body or its designee, a residential builder with extensive experience in producing single-family detached and attached dwelling units, a residential builder with extensive experience in producing multiple-family dwelling units, and a representative from either the public works or planning department of the locality; one member may be a representative of a nonprofit housing organization which provides services in the locality; and one citizen of the locality. At least four members of the advisory board shall be employed in the locality.

F. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § 15.2-1427, reasonable regulations and provisions as to the following:

The sales and rental price for affordable dwelling units within a development shall be established such that the owner/applicant shall not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" for sales units means that result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee of the governing body for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by the ordinance, upon the sale of an affordable dwelling unit.

1990, c. 834, § 15.1-491.9; 1991, c. 599; 1992, c. 244; 1993, c. 437; 1994, cc. 88, 679; 1996, cc. 233, 426; 1997, cc. 587, 607; 2007, cc. 695, 713; 2008, c. 790.

**§ 15.2-2305.1. Affordable housing dwelling unit ordinances.**

A. In furtherance of the purpose of providing affordable shelter for all, the governing body of any locality, other than localities to which § 15.2-2304 applies, may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. Such program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low-and-moderate-income citizens by providing for increases in density to the applicant in exchange for the applicant voluntarily electing to provide such affordable housing. Any local ordinance providing optional increases in density for provision of low-and-moderate-income housing adopted before December 31, 1988, shall continue in full force and effect. Any local ordinance may authorize the governing body to (i) establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local market conditions, (ii) establish jurisdiction-wide affordable housing dwelling unit qualifying income guidelines, and (iii) offer incentives other than density increases, such as reductions or waivers of permit, development, and infrastructure fees, as the governing body deems appropriate to encourage the provision of affordable housing. Counties to which § 15.2-2304 applies shall be governed by the provisions of § 15.2-2304 for purposes of the adoption of an affordable housing dwelling unit ordinance.

B. Any zoning ordinance establishing an affordable housing dwelling unit program pursuant to this section may include reasonable regulations and provisions as to any or all of the following:

1. For application of the requirements of an affordable housing dwelling unit program to any site, as defined by the locality, or a portion thereof at one location that is the subject of an application for rezoning or special exception or site plan or subdivision plat which yields, as submitted by the applicant, at an equivalent density greater than one unit per acre and that is located within an approved sewer area.

2. The waiver of any fees associated with the construction, renovation, or rehabilitation of a structure, including but not limited to building permit fees, application review fees, and water and sewer connection fees.

3. For standards of compliance with the provisions of an affordable housing dwelling unit program and for the authority of the local governing body or its designee to enforce compliance with such standards and impose reasonable penalties for noncompliance, provided that a local zoning ordinance provide for an appeal process for any party aggrieved by a decision of the local governing body.

4. For establishment of a local housing fund as part of its affordable housing dwelling unit program to assist in achieving the affordable housing goals of the locality pursuant to this section. The local housing fund may be a dedicated fund within the other funds of the locality, but any funds received pursuant to this section shall be used for achieving the affordable housing goals of the locality. A locality shall not condition the submission, review, or approval of any application for a housing development upon a contribution by the applicant to the locality's housing trust fund.

5. For reasonable regulations requiring the affordable dwelling units to be built and offered for sale or rental concurrently with the construction and certificate of occupancy of a reasonable proportion of the market rate units.

6. For administration and regulation by a local housing authority or the local governing body or its designee of the sale and rental of affordable units.

7. For a local housing authority or local governing body or its designee to have an exclusive right to purchase up to one-third of the for-sale affordable housing dwelling units within a development within 90 days of a dwelling unit being completed and ready for purchase, provided that the remaining two-thirds of such units be offered for sale exclusively for a 90-day period to persons who meet the income criteria established by the local housing authority or the local governing body or its designee.

8. For a local housing authority or a local governing body or its designee to have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a development within a controlled period determined by the housing authority or the local governing body or its designee, provided that the remaining for-rental affordable dwelling units within a development be offered to persons who meet the income criteria established by the local housing authority or the local governing body or its designee.

9. For the establishment of jurisdiction-wide affordable housing dwelling unit sales prices by the local housing authority or the local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary, and reasonable costs required to construct the affordable dwelling unit prototype dwellings by private industry after considering written comment by the public, the local housing authority, or an advisory body to the local governing body, and other information such as the area's current general market and economic conditions, provided that sales prices do not include the cost of land, on-site sales commissions, and marketing expenses, but may include, among other costs, builder-paid permanent mortgage placement costs and buy-down fees and closing costs except prepaid expenses required at settlement.

10. For the establishment of jurisdiction-wide affordable dwelling unit rental prices by a local housing authority or the local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary, and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area, after considering written comment by the public, the local housing authority, or an advisory body to the local governing body, and other information such as the area's current general market and economic conditions.

11. For a requirement that the prices for the sales and rentals of affordable dwelling units subsequent to the initial sale or rental transaction be controlled by the local housing authority or the local governing body or its designee for a period of not less than 15 years nor more than 50 years after the initial sale or rental transaction for each affordable dwelling unit, provided that the ordinance further provides for reasonable rules and regulations to implement a price control provision.

C. For any building that is four stories or taller and has an elevator, the applicant may request, and the locality shall consider, the unique ancillary costs associated with living in such a building in determining whether such housing will be affordable under the definition established by the locality in its ordinance adopted pursuant to this section. However, for localities under this section in Planning District 8, nothing in this section shall apply to any elevator structure four stories or taller.

D. Any ordinance adopted hereunder shall provide that the local governing body shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable housing or affordable dwelling units under such ordinance. The calculation of such period of review shall include only the time that plans are in review by the local governing body and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and local regulations.

E. Any zoning ordinance establishing an affordable housing dwelling unit program under this section shall adopt the following regulations and provisions to establish an affordable housing density bonus and development standards relief program:

1. Adopt procedures for processing an application authorized under this subdivision, which shall include a provision for a list of all documents and information required to be submitted with an application for a housing development. Procedures authorized by this subdivision shall require the zoning

administrator or his designee to make an official determination in writing within 30 days of the application date as to each of the following, as applicable: (i) the amount of density bonus, calculated pursuant to subdivision 2, for which the applicant is eligible; (ii) if the applicant requests a parking ratio pursuant to subdivision 4, the parking ratio for which the applicant is eligible; and (iii) if the applicant requests waivers or reductions of development standards pursuant to subdivision 3, whether the applicant has provided adequate information for the locality to make a determination as to those waivers or reductions of development standards. An appeal by a party aggrieved of an official determination pursuant to this subdivision shall be made to the board of zoning appeals pursuant to § 15.2-2311.

2. The locality shall grant a density bonus, the amount of which shall be as specified in the corresponding table accompanying this subdivision, when an applicant voluntarily seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least:

a. Ten percent of the total units of a housing development deemed affordable, as defined in this section, for low-income households; or

b. Five percent of the total units of a housing development deemed affordable, as defined in this section, for very-low-income households;

For housing developments meeting the criteria of subdivision a, the density bonus shall be calculated as follows:

For housing developments meeting the criteria of subdivision b, the density bonus shall be calculated as follows:

For housing developments meeting the criteria of subdivision a or b, an applicant shall be awarded an increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the locality, or, if elected by the applicant, a lesser percentage of density increase, including but not limited to no increase in density.

3. An applicant for a density bonus pursuant to subdivision 2 a or b may request a waiver or reduction of local development standards that (i) physically preclude the construction of a project at the density permitted by this section or (ii) impact the financial feasibility of a project submitted pursuant to this section. The locality shall grant the waiver or reduction of local development standards requested by the applicant unless the locality is able to make a written determination that such waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment. The locality may also recommend to the applicant modifications of the initial request for waiver or reduction of local development standards that would satisfy the locality's concerns. Nothing in this subsection shall be interpreted to require a locality to waive or reduce development standards that would have an adverse impact on any real property that is listed in the Virginia Landmarks Register or National Register of Historic Places or would be contrary to state or federal law.

4. An applicant for a density bonus pursuant to subdivision 2 a or b may request a waiver or reduction in any local parking ratios or requirements. The locality shall grant the waiver or reduction unless the locality is able to make a written determination that such waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment of residents of the locality. The locality may also recommend to the applicant modifications of the initial request for waiver or reduction of local development standards that would satisfy the locality's concerns. This subdivision does not preclude a locality from reducing or eliminating a parking requirement for development projects of any type in any location.

F. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § 15.2-1427, reasonable regulations and provisions as to the following:

The sales and rental price for affordable dwelling units within a development shall be established such that the owner or applicant, or both, shall not suffer economic loss as a result of providing the required affordable dwelling units. For purposes of this subsection, "economic loss" for sales units means that result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee of the governing body for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by the ordinance, upon the sale of an affordable dwelling unit.

G. Any locality establishing an affordable housing dwelling unit program pursuant to this section shall not condition the submission, review, or approval of any application for a housing development on the basis of an applicant's decision to incorporate units deemed affordable for low-income or very-low-income households.

H. Notwithstanding any other provisions of this chapter, as used in this section, unless the context requires a different meaning:

"Affordable" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than 30 percent of his gross income for gross housing costs, including utilities.

"Density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the locality, or, if elected by the applicant, a lesser percentage of density increase, including but not limited to no increase in density.

"Development standard" includes any local land use, site, or construction regulation, including but not limited to height restrictions, setback requirements, side yard requirements, minimum area requirements, minimum lot size requirements, floor area ratios, or onsite open-space requirements that applies to a residential or mixed-use development pursuant to any local ordinance, policy, resolution, or regulation.

"Housing development" means a specific work or improvement within the Commonwealth, whether multifamily residential housing or single-family residential housing, undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation, or improvement of land, buildings, and improvements thereto, for residential housing, and such other non-housing facilities as may be incidental, related, or appurtenant thereto.

"Low-income household" means any individual or family whose incomes do not exceed 80 percent of the area median income for the locality in which the housing development is being proposed.

"Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the comprehensive plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

"Very-low-income household" means any individual or family whose incomes do not exceed 50 percent of the area median income for the locality in which the housing development is being proposed.

2020, cc. 143, 833.

**§ 15.2-2306. Preservation of historical sites and architectural areas.**

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished

or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than $25,000; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and twelve months when the offering price is $90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the

governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet

the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

1973, c. 270, § 15.1-503.2; 1974, c. 90; 1975, cc. 98, 574, 575, 641; 1977, c. 473; 1987, c. 563; 1988, c. 700; 1989, c. 174; 1993, c. 770; 1996, c. 424; 1997, cc. 587, 676; 2009, c. 290; 2011, c. 237; 2012, c. 790.

**§ 15.2-2306.1. Creation of working waterfront development areas.**

A. Any locality may establish by ordinance one or more working waterfront development areas for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for working waterfront development. Each locality establishing a working waterfront development area may grant such incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire locality, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. Incentives granted by a locality pursuant to subsection A may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives granted pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the working waterfront development area; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in a working waterfront development area may include (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. This section shall not authorize any local government powers that are not expressly granted herein.

F. Prior to adopting or amending any ordinance pursuant to this section, a locality shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

2017, c. 216.

**§ 15.2-2307. Vested rights not impaired; nonconforming uses.**

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land

use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use

permit therefor, or (ii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period of more than the previous 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

Code 1950, §§ 15-843, 15-848, 15-968.6; 1962, c. 407, § 15.1-492; 1966, c. 202; 1975, c. 641; 1997, c. 587; 1998, c. 801; 2002, c. 823; 2003, cc. 21, 53, 189; 2004, c. 538; 2006, c. 244; 2008, cc. 377, 411; 2009, c. 782; 2010, cc. 315, 698; 2014, c. 648; 2016, c. 584; 2017, c. 404.

**§ 15.2-2307.1. Protection of established commercial fishing operations.**

Registered commercial fishermen and seafood buyers who operate their businesses from their waterfront residences shall not be prohibited by a locality from continuing their businesses, notwithstanding the provisions of any local zoning ordinance. This section shall only apply to businesses that have been in operation by the current owner, or a family member of the current owner, for at least 20 years at the location in question. The protection granted by this section shall continue so long as the property is owned by the current owner or a family member of the owner.

2005, c. 194.

**§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.**

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, or in a town with a population of 3,500 or less, either three, five, or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission, and any member may be appointed to serve as an officer of election as defined in § 24.2-101. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or

special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

Code 1950, §§ 15-825, 15-850, 15-968.8; 1950, pp. 176, 489; 1952, c. 688; 1962, c. 407, § 15.1-494; 1975, c. 641; 1976, c. 642; 1977, c. 172; 1982, c. 3; 1989, c. 27; 1992, c. 47; 1997, cc. 570, 587; 1998, cc. 346, 520, 528; 1999, c. 838; 2002, cc. 205, 545; 2007, c. 813; 2009, c. 734; 2010, c. 705; 2015, cc. 406, 407, 597; 2019, c. 703; 2020, cc. 11, 1006.

**§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.**

A. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

B. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the

locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.

C. For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

D. This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.

2015, c. 597.

**§ 15.2-2309. Powers and duties of boards of zoning appeals.**

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to

adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map

in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c. 587; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597; 2018, c. 757.

**§ 15.2-2310. Applications for special exceptions and variances.**

Applications for special exceptions and variances may be made by any property owner, tenant, government official, department, board or bureau. Applications shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No special exceptions or variances shall be authorized except after notice and hearing as required by § 15.2-2204. The zoning administrator shall also transmit a copy of the application to the local planning commission which may send a recommendation to the board or appear as a party at the hearing. Any locality may provide by ordinance that substantially the same application will not be considered by the board within a specified period, not exceeding one year.

Code 1950, §§ 15-828 through 15-830, 15-832, 15-833, 15-850, 15-968.10; 1950, p. 176; 1962, c. 407, § 15.1-496; 1966, c. 256; 1975, cc. 521, 641; 1989, c. 407; 1997, c. 587.

**§ 15.2-2311. Appeals to board.**

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

validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

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

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

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

1975, c. 521, § 15.1-496.1; 1983, c. 12; 1993, c. 780; 1995, c. 424; 1997, c. 587; 2005, cc. 625, 677; 2008, c. 378; 2010, c. 241; 2011, c. 457; 2012, cc. 400, 550, 606; 2017, c. 665; 2019, c. 387.

**§ 15.2-2312. Procedure on appeal.**

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

1975, c. 521, § 15.1-496.2; 1983, c. 444; 1986, c. 483; 1997, c. 587.

**§ 15.2-2313. Proceedings to prevent construction of building in violation of zoning ordinance.**

Where a building permit has been issued and the construction of the building for which the permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals.

1975, c. 521, § 15.1-496.3; 1997, c. 587.

**§ 15.2-2314. Certiorari to review decision of board.**

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. Once the writ of certiorari is served, the board of zoning appeals shall have 21 days or as ordered by the court to respond. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings in the circuit court. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a

preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality or the governing body, unless it shall appear to the court that the locality or the governing body acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality or the governing body may request that the court hear the matter on the question of whether the appeal was frivolous.

Code 1950, §§ 15-834 through 15-839, 15-850, 15-958.11; 1950, p. 176; 1962, c. 407, § 15.1-497; 1975, c. 641; 1988, c. 856; 1994, c. 705; 1996, c. 450; 1997, c. 587; 2001, c. 422; 2003, c. 568; 2005, cc. 625, 677; 2006, c. 446; 2010, c. 241; 2015, c. 597; 2017, c. 661; 2020, c. 86.

**§ 15.2-2315. Conflict with statutes, local ordinances or regulations.**

Whenever the regulations made under authority of this article require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this article shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance or regulation shall govern.

Code 1950, §§ 15-842, 15-968.12; 1962, c. 407, § 15.1-498; 1997, c. 587.

### § 15.2-2316. Validation of zoning ordinances prior to 1971.

All proceedings had in the preparation, certification and adoption of zoning ordinances by every locality prior to January 1, 1971, which shall have been in substantial compliance with the provisions of this chapter are validated and confirmed, and all such zoning ordinances adopted or attempted to be adopted pursuant to the provisions of this chapter are declared to be validly adopted and enacted, notwithstanding any defects or irregularities in the adoption thereof.

Code 1950, § 15-854.2; 1962, c. 583, § 15.1-503; 1984, c. 380; 1997, c. 587.

## Article 7.1 - TRANSFER OF DEVELOPMENT RIGHTS

### § 15.2-2316.1. Definitions.

As used in this article, the term:

"Development rights" means the permitted uses and density of development that are allowed on the sending property under any zoning ordinance of a locality on a date prescribed by the ordinance. "Development rights" includes "transferable development rights."

"Receiving area" means one or more areas identified by an ordinance and designated by the comprehensive plan as an area authorized to receive development rights transferred from a sending area.

"Receiving property" means a lot or parcel within a receiving area and within which development rights are increased pursuant to a transfer of development rights affixed to the property. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property. Development rights may be transferred between receiving properties, as otherwise permitted in the ordinance.

"Sending area" means one or more areas identified by an ordinance and designated by the comprehensive plan as an area from which development rights are authorized to be severed and transferred to a receiving area.

"Sending property" means a lot or parcel within a sending area from which development rights are authorized to be severed.

"Severance of development rights" means the process by which development rights from a sending property are severed pursuant to this act.

"Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.

"Transferable development rights" means all or that portion of development rights that are transferred or are transferable.

2006, c. 573; 2007, cc. 363, 410; 2009, cc. 413, 731.

### § 15.2-2316.2. Localities may provide for transfer of development rights.

A. Pursuant to the provisions of this article, the governing body of any locality by ordinance may, in order to conserve and promote the public health, safety, and general welfare, establish procedures, methods, and standards for the transfer of development rights within its jurisdiction. Any locality adopting or amending any such transfer of development rights ordinance shall give notice and hold a public hearing in accordance with § 15.2-2204 prior to approval by the governing body.

B. In order to implement the provisions of this act, a locality shall adopt an ordinance that shall provide for:

1. The issuance and recordation of the instruments necessary to sever development rights from the sending property, to convey development rights to one or more parties, or to affix development rights to one or more receiving properties. These instruments shall be executed by the property owners of the development rights being transferred, and any lien holders of such property owners. The instruments shall identify the development rights being severed, and the sending properties or the receiving properties, as applicable;

2. Assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner;

3. The severance of transferable development rights from the sending property;

4. The purchase, sale, exchange, or other conveyance of transferable development rights, after severance, and prior to the rights being affixed to a receiving property;

5. A system for monitoring the severance, ownership, assignment, and transfer of transferable development rights;

6. A map or other description of areas designated as sending and receiving areas for the transfer of development rights between properties;

7. The identification of parcels, if any, within a receiving area that are inappropriate as receiving properties;

8. The permitted uses and the maximum increases in density in the receiving area;

9. The minimum acreage of a sending property and the minimum reduction in density of the sending property that may be conveyed in severance or transfer of development rights;

10. The development rights permitted to be attached in the receiving areas shall be equal to or greater than the development rights permitted to be severed from the sending areas;

11. An assessment of the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and its plans to provide necessary utility services within any designated receiving area; and

12. The application to be deemed approved upon the determination of compliance with the ordinance by the agent of the planning commission, or other agent designated by the locality.

C. In order to implement the provisions of this act, a locality may provide in its ordinance for:

1. The purchase of all or part of such development rights, which shall retire the development rights so purchased;

2. The severance of development rights from existing zoned or subdivided properties as otherwise provided in subsection E;

3. The owner of such development rights to make application to the locality for a real estate tax abatement for a period up to 25 years, to compensate the owner of such development rights for the fair market value of all or part of the development rights, which shall retire the number of development rights equal to the amount of the tax abatement, and such abatement is transferable with the property;

4. The owner of a property to request designation by the locality of the owner's property as a "sending property" or a "receiving property";

5. The allowance for residential density to be converted to bonus density on the receiving property by (i) an increase in the residential density on the receiving property or (ii) an increase in the square feet of commercial, industrial, or other uses on the receiving property, which upon conversion shall retire the development rights so converted;

6. The receiving areas to include such urban development areas or similarly defined areas in the locality established pursuant to § 15.2-2223.1;

7. The sending properties, subsequent to severance of development rights, to generate one or more forms of renewable energy, as defined in § 56-576, subject to the provisions of the local zoning ordinance;

8. The sending properties, subsequent to severance of development rights, to produce agricultural products or forestal products, as defined in § 15.2-4302, and to include parks, campgrounds and related camping facilities; however, for purposes of this subdivision, "campgrounds" does not include use by travel trailers, motor homes, and similar vehicular type structures;

9. The review of an application by the planning commission to determine whether the application complies with the provisions of the ordinance;

10. Such other provisions as the locality deems necessary to aid in the implementation of the provisions of this act;

11. Approval of an application upon the determination of compliance with the ordinance by the agent of the planning commission; and

12. A requirement that development comply with any locality-adopted neighborhood design standards identified in the comprehensive plan for the receiving area in which the development shall occur, provided such design standard was adopted in the comprehensive plan and applied to the receiving area prior to the transfer of the development right.

D. The locality may, by ordinance, designate receiving areas or receiving properties, add to, supplement, or amend its designations of receiving areas or receiving properties, or designate receiving

areas or receiving properties that shall receive development rights only from certain sending areas or sending properties specified by the locality, so long as the development rights permitted to be attached in the receiving areas are equal to or greater than the development rights permitted to be severed in the sending areas.

E. Any proposed severance or transfer of development rights shall only be initiated upon application by the property owners of the sending properties, development rights, or receiving properties as otherwise provided herein.

F. A locality may not require property owners to sever or transfer development rights as a condition of the development of any property.

G. The owner of a property may sever development rights from the sending property, pursuant to the provisions of this act. An application to transfer development rights to one or more receiving properties, for the purpose of affixing such rights thereto, shall only be initiated upon application by the owner of such development rights and the owners of the receiving properties.

H. Development rights severed pursuant to this article shall be interests in real property and shall be considered as such for purposes of conveyance and taxation. Once a deed for transferable development rights, created pursuant to this act, has been recorded in the land records of the office of the circuit court clerk for the locality to reflect the transferable development rights sold, conveyed, or otherwise transferred by the owner of the sending property, the development rights shall vest in the grantee and may be transferred by such grantee to a successor in interest. Nothing herein shall be construed to prevent the owner of the sending property from recording a deed covenant against the sending property severing the development rights on said property, with the owner of the sending property retaining ownership of the severed development rights. Any transfer of the development rights to a property in a receiving area shall be in accordance with the provisions of the ordinance adopted pursuant to this article.

I. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property until the transferable development right is severed from and recorded as a distinct interest in real property, or the transferable development right is used at a receiving property and becomes appurtenant thereto. Once a transferable development right is severed from the sending property, the assessment of the fee interest in the sending property shall reflect any change in the fair market value that results from the inability of the owner of the fee interest to use such property for such uses terminated by the severance of the transferable development right. Upon severance from the sending property and recordation as a distinct interest in real property, the transferable development right shall be assessed at its fair market value on a separate real estate tax bill sent to the owner of said development right as taxable real estate in accordance with Article 1 (§ 58.1-3200 et seq.) of Chapter 32 of Title 58.1. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as

the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

J. The owner of a sending property from which development rights are severed shall provide a copy of the instrument, showing the deed book and page number, or instrument or GPIN, to the real estate tax assessor for the locality.

K. Localities, from time to time as the locality designates sending and receiving areas, shall incorporate the map identified in subdivision B 6 into the comprehensive plan.

L. No amendment to the zoning map, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or downzone the uses, or the density of uses permitted in the zoning district applicable to any property to which development rights have been transferred, shall be effective with respect to such property unless there has been mistake, fraud, or a material change in circumstances substantially affecting the public health, safety, or welfare.

M. A county adopting an ordinance pursuant to this article may designate eligible receiving areas in any incorporated town within such county, if the governing body of the town has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

N. Any county and an adjacent city may enter voluntarily into an agreement to permit the county to designate eligible receiving areas in the city if the governing body of the city has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The city council shall designate areas it deems suitable as receiving areas and shall designate the maximum increases in density in each such receiving area. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

1. The terms and conditions of the density transfer agreement as provided in this subsection shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing, which shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

2. The governing bodies shall petition a circuit court having jurisdiction in one or more of the localities for an order affirming the proposed agreement. The circuit court shall be limited in its decision to either affirming or denying the agreement and shall have no authority, without the express approval of each local governing body, to amend or change the terms or conditions of the agreement, but shall have the authority to validate the agreement and give it full force and effect. The circuit court shall affirm the agreement unless the court finds either that the agreement is contrary to the best interests of the Commonwealth or that it is not in the best interests of each of the parties thereto.

3. The agreement shall not become binding on the localities until affirmed by the court under this subsection. Once approved by the circuit court, the agreement shall also bind future local governing bodies of the localities.

2006, c. 573; 2007, cc. 363, 410; 2009, cc. 413, 731; 2010, c. 239; 2012, c. 512; 2014, c. 527; 2019, c. 701.

## Article 7.2 - ZONING FOR WIRELESS COMMUNICATIONS INFRASTRUCTURE

### § 15.2-2316.3. Definitions.

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

"Administrative review-eligible project" means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

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

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

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

"Department" means the Department of Transportation.

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

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

"New structure" means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

"Project" means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

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

"Standard process project" means any project other than an administrative review-eligible project.

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

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

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers,

antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

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

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

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

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

2017, c. 835; 2018, cc. 835, 844.

**§ 15.2-2316.4. Zoning; small cell facilities.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2017, c. 835.

**§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.**

A. A locality shall not require that a special exception, special use permit, or variance be obtained for the installation or construction of an administrative review-eligible project but may require administrative review for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a project.

B. A locality may charge a reasonable fee for each application submitted under subsection A or for any zoning approval required for a standard process project. The fee shall not include direct payment or reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge market-based or value-based fees for the processing of an application. If the application is for:

1. An administrative review-eligible project, the fee shall not exceed $500; and

2. A standard process project, the fee shall not exceed the actual direct costs to process the application, including permits and inspection.

C. The processing of any application submitted under subsection A or for any zoning approval required for a standard process project shall be subject to the following:

1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the locality fails to provide such notice within such 10-day period, the application shall be deemed complete.

2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:

a. For a new structure within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval; or

b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be extended by mutual agreement between the applicant and the locality.

D. A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified in subdivision C 2 or any agreed extension thereof pursuant to subdivision C 3.

E. If a locality disapproves an application submitted under subsection A or for any zoning approval required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and

2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.

2018, cc. 835, 844.

**§ 15.2-2316.4:2. Application reviews.**

A. In its receiving, consideration, and processing of a complete application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project, a locality shall not:

1. Disapprove an application on the basis of:

a. The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;

b. The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or

c. The wireless facility technology selected by the applicant for use at the project;

2. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that a locality may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;

3. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. A locality may adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;

4. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the locality imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;

5. Discriminate or create a preference on the basis of the ownership, including ownership by the locality, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;

6. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;

7. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by a locality, in whole or in part, or by any entity in which a locality has a competitive, economic, financial, governance, or other interest;

8. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project;

9. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;

10. Limit the duration of the approval of an application, except a locality may require that construction of the approved project shall commence within two years of final approval and be diligently pursued to completion; or

11. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.

B. Nothing in this article shall prohibit a locality from disapproving an application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project:

1. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds 50 feet above ground level, provided that the locality follows a local ordinance or regulation that does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; or

2. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan, if:

a. The undergrounding requirement or comprehensive plan objective existed at least three months prior to the submission of the application;

b. The locality allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;

c. The locality allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and

d. The disapproval of the application does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.

The locality may also disapprove an application if the applicant has not given written notice to adjacent landowners at least 15 days before it applies to locate a new structure in the area.

C. Nothing in this article shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.

D. Nothing in this article shall prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

2018, cc. 835, 844; 2020, c. 344.

### § 15.2-2316.4:3. Additional provisions.

A. A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. However, a locality may require a permit to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.

B. Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

2018, cc. 835, 844.

### § 15.2-2316.5. Moratorium prohibited.

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

2017, c. 835.

## Article 7.3 - Siting of Solar Energy Facilities

### § 15.2-2316.6. Siting of solar facilities in economically disadvantaged localities.

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

"Host locality" means any locality within the jurisdictional boundaries of which construction of a commercial solar facility is proposed.

"Opportunity zone" means a census tract in an area of the host locality meeting the eligibility requirements for designation as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Solar facility" means a commercial solar photovoltaic (electric energy) generation or storage facility, or any portion thereof. "Solar facility" does not include any project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended, or (ii) five megawatts or less.

B. This article applies only to a solar facility located in an opportunity zone.

2020, c. 802.

**§ 15.2-2316.7. Negotiations; siting agreement.**

A. Any applicant for a solar facility shall give to the host locality written notice of the applicant's intent to locate a solar facility in an opportunity zone in such locality and request a meeting. Such applicant shall meet, discuss, and negotiate a siting agreement with such locality.

B. The siting agreement may include terms and conditions, including (i) mitigation of any impacts of such solar facility; (ii) financial compensation to the host locality to address capital needs set out in the (a) capital improvement plan adopted by the host locality, (b) current fiscal budget of the host locality, or (c) fiscal fund balance policy adopted by the host locality; or (iii) assistance by the applicant in the deployment of broadband, as defined in § 56-585.1:9, in such locality.

2020, c. 802.

**§ 15.2-2316.8. Powers of host localities.**

A. The governing body of a host locality shall have the power to:

1. Hire and pay consultants and other experts on behalf of the host locality in matters pertaining to the siting of a solar facility;

2. Meet, discuss, and negotiate a siting agreement with an applicant; and

3. Enter into a siting agreement with an applicant that is binding upon the governing body of the host locality and enforceable against it and future governing bodies of the host locality in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties' option.

B. If the parties to the siting agreement agree upon the terms and conditions of a siting agreement, the host locality shall schedule a public hearing, pursuant to subdivision A of § 15.2-2204, for the purpose of consideration of such siting agreement. If a majority of a quorum of the members of the governing body present at such public hearing approve of such siting agreement, the siting agreement shall be executed by the signatures of (i) the chief executive officer of the host locality and (ii) the applicant or

the applicant's authorized agent. The siting agreement shall continue in effect until it is amended, revoked, or suspended.

2020, c. 802.

### § 15.2-2316.9. Effect of executed siting agreement; land use approval.

A. Nothing in this article shall be construed to exempt an applicant from any other applicable requirements to obtain approvals and permits under federal, state, or local ordinances and regulations. An applicant may file for appropriate land use approvals for the solar facility under the regulations and ordinances of the host locality at or after the time the applicant submits its notice of intent to site a solar facility as set forth in subdivision A of § 15.2-2316.7.

B. Nothing in this article shall affect the authority of the host locality to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.

C. Approval of a siting agreement by the local governing body in accordance with subdivision B of § 15.2-2316.8 shall deem the solar facility to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.

D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use approvals for a solar facility, but shall not be the sole reason for a denial of such land use approvals.

2020, c. 802.

## Article 8 - ROAD IMPACT FEES

### § 15.2-2317. Applicability of article.

This article shall apply to any locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 and that (i) has a population of at least 20,000 and has a population growth rate of at least 5% or (ii) has population growth of 15% or more. For the purposes of this section, population growth shall be the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census.

1989, c. 485, § 15.1-498.1; 1997, c. 587; 2000, c. 495; 2006, c. 832; 2007, c. 896.

### § 15.2-2318. Definitions.

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

"Cost" includes, in addition to all labor, materials, machinery and equipment for construction, (i) acquisition of land, rights-of-way, property rights, easements and interests, including the costs of moving or relocating utilities, (ii) demolition or removal of any structure on land so acquired, including acquisition of land to which such structure may be moved, (iii) survey, engineering, and architectural expenses, (iv) legal, administrative, and other related expenses, and (v) interest charges and other financing

costs if impact fees are used for the payment of principal and interest on bonds, notes or other obligations issued by the locality to finance the road improvement.

"Impact fee" means a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of reasonable road improvements benefiting the new development. Impact fees may not be assessed and imposed for road repair, operation and maintenance, nor to meet demand which existed prior to the new development.

"Impact fee service area" means an area designated within the comprehensive plan of a locality having clearly defined boundaries and clearly related traffic needs and within which development is to be subject to the assessment of impact fees.

"Road improvement" includes construction of new roads or improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality with road maintenance responsibilities, to meet increased demand attributable to new development. Road improvements do not include on-site construction of roads which a developer may be required to provide pursuant to §§ 15.2-2241 through 15.2-2245.

1989, c. 485, § 15.1-498.2; 1992, c. 465; 1997, c. 587; 2007, c. 896.

**§ 15.2-2319. Authority to assess and impose impact fees.**

Any applicable locality may, by ordinance pursuant to the procedures and requirements of this article, assess and impose impact fees on new development to pay all or a part of the cost of reasonable road improvements that benefit the new development.

Prior to the adoption of the ordinance, a locality shall establish an impact fee advisory committee. The committee shall be composed of not less than five nor more than ten members appointed by the governing body of the locality and at least forty percent of the membership shall be representatives from the development, building or real estate industries. The planning commission or other existing committee that meets the membership requirements may serve as the impact fee advisory committee. The committee shall serve in an advisory capacity to assist and advise the governing body of the locality with regard to the ordinance. No action of the committee shall be considered a necessary prerequisite for any action taken by the locality in regard to the adoption of an ordinance.

1989, c. 485, § 15.1-498.2; 1992, c. 465; 1997, c. 587; 2007, c. 896.

**§ 15.2-2320. Impact fee service areas to be established.**

The locality shall delineate one or more impact fee service areas within its comprehensive plan. Impact fees collected from new development within an impact fee service area shall be expended for road improvements benefiting that impact fee service area. An impact fee service area may encompass more than one road improvement project. A locality may exclude urban development areas designated pursuant to § 15.2-2223.1 from impact fee service areas.

1989, c. 485, § 15.1-498.3; 1992, c. 465; 1997, c. 587; 2007, c. 896.

## § 15.2-2321. Adoption of road improvements program.

Prior to adopting a system of impact fees, the locality shall conduct an assessment of road improvement needs benefiting an impact fee service area and shall adopt a road improvements plan for the area showing the new roads proposed to be constructed and the existing roads to be improved or expanded and the schedule for undertaking such construction, improvement or expansion. The road improvements plan shall be adopted as an amendment to the required comprehensive plan and shall be incorporated into the capital improvements program or, in the case of the counties where applicable, the six-year plan for secondary highway construction pursuant to § 33.2-331.

The locality shall adopt the road improvements plan after holding a duly advertised public hearing. The public hearing notice shall identify the impact fee service area or areas to be designated, and shall include a summary of the needs assessment and the assumptions upon which the assessment is based, the proposed amount of the impact fee, and information as to how a copy of the complete study may be examined. A copy of the complete study shall be available for public inspection and copying at reasonable times prior to the public hearing.

The locality at a minimum shall include the following items in assessing road improvement needs and preparing a road improvements plan:

1. An analysis of the existing capacity, current usage and existing commitments to future usage of existing roads, as indicated by (i) current and projected service levels, (ii) current valid building permits outstanding, and (iii) approved and pending site plans and subdivision plats. If the current usage and commitments exceed the existing capacity of the roads, the locality also shall determine the costs of improving the roads to meet the demand. The analysis shall include any off-site road improvements or cash payments for road improvements accepted by the locality and shall include a plan to fund the current usages and commitments that exceed the existing capacity of the roads.

2. The projected need for and costs of construction of new roads or improvement or expansion of existing roads attributable in whole or in part to projected new development. Road improvement needs shall be projected for the impact fee service area when fully developed in accord with the comprehensive plan and, if full development is projected to occur more than 20 years in the future, at the end of a 20-year period. The assumptions with regard to land uses, densities, intensities, and population upon which road improvement projections are based shall be presented.

3. The total number of new service units projected for the impact fee service area when fully developed and, if full development is projected to occur more than 20 years in the future, at the end of a 20-year period. A "service unit" is a standardized measure of traffic use or generation. The locality shall develop a table or method for attributing service units to various types of development and land use, including but not limited to residential, commercial and industrial uses. The table shall be based upon the ITE manual (published by the Institute of Transportation Engineers) or locally conducted trip generation studies, and consistent with the traffic analysis standards adopted pursuant to § 15.2-2222.1.

1989, c. 485, § 15.1-498.4; 1992, c. 465; 1997, c. 587; 2007, c. 896.

### § 15.2-2322. Adoption of impact fee and schedule.

After adoption of a road improvement program, the locality may adopt an ordinance establishing a system of impact fees to fund or recapture all or any part of the cost of providing reasonable road improvements benefiting new development. The ordinance shall set forth the schedule of impact fees.

1989, c. 485, § 15.1-498.5; 1997, c. 587; 2007, c. 896.

### § 15.2-2323. When impact fees assessed and imposed.

The amount of impact fees to be imposed on a specific development or subdivision shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that the fee is to be collected at the time of the issuance of a building permit. The ordinance shall provide that fees (i) may be paid in lump sum or (ii) be paid on installment at a reasonable rate of interest for a fixed number of years. The locality by ordinance may provide for negotiated agreements with the owner of the property as to the time and method of paying the impact fees.

The maximum impact fee to be imposed shall be determined (i) by dividing projected road improvement costs in the impact fee service area when fully developed by the number of projected service units when fully developed, or (ii) for a reasonable period of time, but not less than ten years, by dividing the projected costs necessitated by development in the next ten years by the service units projected to be created in the next ten years.

The ordinance shall provide for appeals from administrative determinations, regarding the impact fees to be imposed, to the governing body or such other body as designated in the ordinance. The ordinance may provide for the resolution of disputes over an impact fee by arbitration or otherwise.

1989, c. 485, § 15.1-498.6; 1992, c. 465; 1997, c. 587; 2007, c. 896.

### § 15.2-2324. Credits against impact fee.

The value of any dedication, contribution or construction from the developer for off-site road or other transportation improvements benefiting the impact fee service area shall be treated as a credit against the impact fees imposed on the developer's project. The locality shall treat as a credit any off-site transportation dedication, contribution, or construction, whether it is a condition of a rezoning or otherwise committed to the locality. The locality may by ordinance provide for credits for approved on-site transportation improvements in excess of those required by the development.

The locality also shall calculate and credit against impact fees the extent to which (i) other developments have already contributed to the cost of existing roads which will benefit the development, (ii) new development will contribute to the cost of existing roads, and (iii) new development will contribute to the cost of road improvements in the future other than through impact fees, including any special taxing districts, special assessments, or community development authorities.

1989, c. 485, § 15.1-498.7; 1992, c. 465; 1997, c. 587; 2007, c. 896.

### § 15.2-2325. Updating plan and amending impact fee.

The locality shall update the needs assessment and the assumptions and projections at least once every two years. The road improvement plan shall be updated at least every two years to reflect current assumptions and projections. The impact fee schedule may be amended to reflect any substantial changes in such assumptions and projections. Any impact fees not yet paid shall be assessed at the updated rate.

1989, c. 485, § 15.1-498.8; 1997, c. 587; 2007, c. 896.

### § 15.2-2326. Use of proceeds.

A separate road improvement account shall be established for the impact fee service area and all funds collected through impact fees shall be deposited in the interest-bearing account. Interest earned on deposits shall become funds of the account. The expenditure of funds from the account shall be only for road improvements benefiting the impact fee service area as set out in the road improvement plan for the impact fee service area.

1989, c. 485, § 15.1-498.9; 1992, c. 465; 1997, c. 587; 2007, c. 896.

### § 15.2-2327. Refund of impact fees.

The locality shall refund any impact fee or portion thereof for which construction of a project is not completed within a reasonable period of time, not to exceed fifteen years. In the event that impact fees are not committed to road improvements benefiting the impact fee service area within seven years from the date of collection, the locality may commit any such impact fees to the secondary or urban system construction program of that locality for road improvements that benefit the impact fee service area.

Upon completion of a project, the locality shall recalculate the impact fee based on the actual cost of the improvement. It shall refund the difference if the impact fee paid exceeds actual cost by more than fifteen percent. Refunds shall be made to the record owner of the property at the time the refund is made.

1989, c. 485, § 15.1-498.10; 1992, c. 465; 1997, c. 587; 2007, c. 896.

## Article 9 - IMPACT FEES

### § 15.2-2328. Applicability of article.

The provisions of this article shall apply in their entirety to any locality that has established an urban transportation service district in accordance with § 15.2-2403.1. However, the authority granted by this article may be exercised only in areas outside of urban transportation service districts and on parcels that are currently zoned agricultural and are being subdivided for by-right residential development. The authority granted by this article shall expire on December 31, 2008, for any locality that has not established an urban transportation service district and adopted an impact fee ordinance pursuant to this article by such date.

2007, c. 896.

### § 15.2-2329. Imposition of impact fees.

A. Any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development.

B. Impact fees imposed and collected pursuant to this section shall only be used for public facilities that are impacted by residential development.

C. A locality imposing impact fees as provided in this section shall allow credit against the impact fees for cash proffers collected for the purpose of defraying the capital costs of public facilities related to the residential development. A locality imposing impact fees as provided in this section shall also include within its comprehensive plan a methodology for calculating credit for the value of proffered land donations to accommodate public facilities, and for the construction cost of any public facilities or public improvements the construction of which is required by proffer.

D. A locality imposing impact fees under this section may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.

E. For the purposes of this section, "public facilities" shall be deemed to include: (i) roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways; (ii) stormwater collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements; (iii) parks, open space, and recreation areas and related facilities; (iv) public safety facilities, including police, fire, emergency medical, and rescue facilities; (v) primary and secondary schools and related facilities; and (vi) libraries and related facilities; however, the definition "public facilities" for counties within the Richmond MSA shall be deemed to include: roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways.

2007, c. 896.

## Chapter 24 - SERVICE DISTRICTS; TAXES AND ASSESSMENTS FOR LOCAL IMPROVEMENTS

## Article 1 - SERVICE DISTRICTS

### § 15.2-2400. Creation of service districts.

Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create service districts within the locality or localities in accordance with the provisions of this article. Service districts may be created to provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.

Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in

a newspaper of general circulation within the locality, and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper.

Code 1950, § 15-8.2; 1962, c. 581, § 15.1-18.2; 1981, c. 631, § 15.1-18.3; 1982, c. 96; 1984, c. 385; 1985, c. 150; 1987, cc. 61, 80, 82; 1988, c. 402; 1989, c. 3; 1990, cc. 44, 515; 1991, cc. 12, 29; 1992, cc. 232, 655; 1993, c. 744; 1994, c. 166; 1996, cc. 99, 430, 844; 1997, c. 587; 2000, cc. 853, 925.

**§ 15.2-2401. Creation of service districts by court order in consolidated cities.**

In any city which results from the consolidation of two or more localities, service districts may, in addition to the method prescribed in § 15.2-2400, be created by order of the circuit court for the city upon the petition of fifty voters of the proposed district, which order shall prescribe the metes and bounds of the district.

Upon the filing of a petition the court shall fix a date for a hearing on the question of the proposed service district, which hearing shall embrace a consideration of whether the property embraced within the proposed district will be benefited by the establishment thereof. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the city, and the hearing shall not be held sooner than ten days after the last publication. Any person interested may answer the petition and make defense thereto. If upon such hearing the court is of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment thereof, then such property shall not be embraced therein.

Upon the petition of the city council and of not less than 50 voters of the territory proposed to be added, or if such territory contains less than 100 voters, of fifty percent of the voters of such territory, after notice and hearing as provided above, any service district may be extended and enlarged by order of the circuit court for the city which order shall prescribe the metes and bounds of the territory so added.

Code 1950, § 15-8.2; 1962, c. 581, § 15.1-18.2; 1985, c. 150; 1988, c. 402; 1990, c. 515; 1991, cc. 12, 29; 1992, cc. 232, 655; 1993, c. 744; 1994, c. 166; 1996, c. 430; 1997, c. 587.

**§ 15.2-2402. Description of proposed service district.**

Any ordinance or petition to create a service district shall:

1. Set forth the name and describe the boundaries of the proposed district and specify any areas within the district that are to be excluded;

2. Describe the purposes of the district and the facilities and services proposed within the district;

3. Describe a proposed plan for providing such facilities and services within the district; and

4. Describe the benefits which can be expected from the provision of such facilities and services within the district.

Code 1950, § 15-8.2; 1962, c. 581, § 15.1-18.2; 1985, c. 150; 1988, c. 402; 1990, c. 515; 1991, cc. 12, 29; 1992, cc. 232, 655; 1993, c. 744; 1994, c. 166; 1996, c. 430; 1997, c. 587; 2000, cc. 853, 925.

**§ 15.2-2402.1. Change to service district boundaries.**

Any locality, by majority vote of the governing body, may amend the boundaries of an established service district that lies wholly within that locality's boundaries. If more than one locality is involved in an established service district and those localities desire to amend that service district, a majority vote of the governing body of each locality affected by the amendment is required. Any locality or localities seeking to amend such service district boundaries shall follow the notice and public hearing requirements set out in § 15.2-2400.

2013, cc. 172, 524.

**§ 15.2-2403. Powers of service districts.**

After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, including but not limited to general government facilities; water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging of creeks and rivers to maintain existing uses; control of infestations of insects that may carry a disease that is dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.2-700 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served, construction, maintenance, and general upkeep of streets and roads; construction, maintenance, and general upkeep of streets and roads through creation of urban transportation service districts pursuant to § 15.2-2403.1; and other services, events, or activities that will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service district. Such services, events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual, business or other private entity. Any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department.

2. Notwithstanding the provisions of § 33.2-326, to provide, in addition to services authorized by subdivision 1, transportation and transportation services within a service district, regardless of whether the facilities subject to the services are or will be operated or maintained by the Virginia Department of Transportation, including, but not limited to: public transportation systems serving the district; transportation management services; road construction, including any new roads or improvements to existing roads; rehabilitation and replacement of existing transportation facilities or systems; and sound walls or sound barriers. However, any transportation service, system, facility, roadway, or roadway

appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department. The proceeds from any annual tax or portion thereof collected for road construction pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is necessary to finance such construction; however, the governing body or bodies shall make available an annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set aside to finance such road construction.

3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title, interest or easements therefor in and to real estate in such district and maintain and operate the same as may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and 2.

4. To contract with any person, municipality or state agency to provide the governmental services authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities and equipment as may be necessary and desirable in connection therewith.

5. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court within 10 days from action by the governing body.

6. To levy and collect an annual tax upon any property in such service district subject to local taxation to pay, either in whole or in part, the expenses and charges for providing the governmental services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such facilities and equipment as may be necessary and desirable in connection therewith; however, such annual tax shall not be levied for or used to pay for schools, police, or general government services not authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the same to be expended in the district in which raised. Such tax may be levied on taxable real estate zoned for residential, commercial, industrial or other uses, or any combination of such use classification, within the geographic boundaries of the service district; however, such tax shall only be levied upon the specific classification of real estate that the local governing body deems the provided governmental services to benefit. In addition to the tax on property authorized herein, in the City of Virginia Beach, the city council shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and travel campgrounds, within such service district at a rate or percentage not higher than five percent which is in addition to any other transient room rental tax imposed by the city. The proceeds from such additional transient room rental tax shall be deposited in a special fund to be used only for the purpose of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of property within the service district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent. In addition to the taxes and assessments described herein, a locality creating a service district may contribute from its general

fund any amount of funds it deems appropriate to pay for the governmental services authorized by subdivisions 1, 2, and 11 of this section.

7. To accept the allocation, contribution or funds of, or to reimburse from, any available source, including, but not limited to, any person, authority, transportation district, locality, or state or federal agency for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or maintenance of any facilities and services in the district.

8. To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment may be necessary or desirable to provide the governmental services authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such facilities and equipment as may be necessary or desirable in connection therewith.

9. To create and terminate a development board or other body to which shall be granted and assigned such powers and responsibilities with respect to a special service district as are delegated to it by ordinance adopted by the governing body of such locality or localities. Any such board or alternative body created shall be responsible for control and management of funds appropriated for its use by the governing body or bodies, and such funds may be used to employ or contract with, on such terms and conditions as the board or other body shall determine, persons, municipal or other governmental entities or such other entities as the development board or alternative body deems necessary to accomplish the purposes for which the development board or alternative body has been created. If the district was created by court order, the ordinance creating the development board or alternative body may provide that the members appointed to the board or alternative body shall consist of a majority of the landowners who petitioned for the creation of the district, or their designees or nominees.

10. To negotiate and contract with any person or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the district.

11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.). Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of condemnation to acquire any interest in land for the purposes of this subdivision.

12. To contract with any state agency or state or local authority for services within the power of the agency or authority related to the financing, construction, or operation of the facilities and services to be provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its general tax revenues, or to pledge its full faith and credit.

13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and removal of skunks and the conditions that harbor them.

14. In Accomack County, to construct, maintain, and operate in the Wallops Research Park, consistent with all applicable federal, state, and local laws and regulations, such infrastructure, services, or amenities as may be necessary or desirable to provide access for aerospace-related economic development to the NASA/Wallops Flight Facility runway and related facilities, and to create and terminate a Wallops Research Park Partnership body, which shall consist of one representative of the NASA/Wallops Research Flight Facility, one representative of the U.S. Navy Surface Combat Systems Center, one representative of the Marine Science Consortium, one representative of the Accomack County government, the Chancellor of the Virginia Community College System, and one representative of the Virginia Economic Development Partnership. The Partnership body shall have all of the powers enumerated in § 15.2-2403. Federal appointees to the Partnership body shall maintain their absolute duties of loyalty to the U.S. government.

15. To contract with a nongovernmental broadband service provider who will construct, maintain, and own communications facilities and equipment required to facilitate delivery of last-mile broadband services to unserved areas of the service district, provided that the locality documents that less than 10 percent of residential and commercial units within the project area are capable of receiving broadband service at the time the construction project is approved by the locality.

As used in this subdivision:

"Area unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guidelines modify such percentage from time to time.

"Broadband" means Internet access at speeds greater than 10 Mbps download speed and one Mbps upload speed, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guidelines modify such speeds from time to time.

Code 1950, § 15-8.2; 1962, c. 581, § 15.1-18.2; 1981, c. 631, § 15.1-18.3; 1982, c. 96; 1984, c. 385; 1985, c. 150; 1987, cc. 61, 80, 82; 1988, c. 402; 1989, c. 3; 1990, cc. 44, 515; 1991, cc. 12, 29; 1992, cc. 232, 655; 1993, c. 744; 1994, c. 166; 1996, cc. 99, 430, 844; 1997, c. 587; 1999, c. 295; 2000, cc. 743, 853, 925; 2002, cc. 198, 202, 230, 356; 2003, c. 493; 2004, c. 810; 2006, cc. 10, 394; 2007, cc. 210, 229, 813, 835, 896; 2009, cc. 302, 408; 2010, c. 212; 2018, c. 643; 2019, c. 828.

**§ 15.2-2403.1. Creation of urban transportation service districts.**

A. The boundaries of any urban transportation service district created pursuant to this article shall be agreed upon by both the local governing body of an urban county and by the Commonwealth Transportation Board. The overall density of an urban transportation service district shall be one residential unit per gross acre or greater. In the event of a disagreement between the Board and the governing

body of an urban county in regard to the boundaries of an urban transportation service district, the parties may request that the Commission on Local Government serve as a mediator. For purposes of this section, an "urban county" means any county with a population of greater than 90,000, according to the United States Census of 2000, that did not maintain its roads as of January 1, 2007.

B. Any urban county that has established an urban transportation service district in accordance with this section shall maintain the roads within such district. Any such county shall receive an amount equal to the per lane mile maintenance payments made to cities and certain towns pursuant to § 33.2-319 for the area within the district for purposes of road maintenance.

2007, c. 896.

**§ 15.2-2403.2. Virginia Wallops Research Park Leadership Council established.**

A. The Virginia Wallops Research Park Leadership Council (the Council) is established as a cooperative management and oversight body to superintend the development and operation of the Wallops Research Park, a service district created pursuant to § 15.2-2400, consisting uniquely and exclusively of adjacent lands being a portion of NASA/Wallops Flight Facility, the Marine Science Consortium, and lands of Accomack County, a political subdivision of the Commonwealth. The purpose of the Council shall be to advise the Governor, state economic development officials, state workforce development officials, and the Wallops Research Park landowners on appropriate development and operations strategies for the Park with emphasis on policy recommendations that will enhance the Park's global competitive advantage in both research and technology-based commercial endeavors.

B. Persons appointed to the Council shall be selected for their knowledge of, background in, or experience with basic and applied research, emerging technologies, workforce development needs of industries, commercialization of the results and outputs of research activities, and the development and financing of technology intensive enterprises.

C. The Council shall consist of six members, all of whom shall serve as ex officio members with voting privileges: the Director of the NASA/Wallops Flight Facility or his designee, who shall retain his absolute duty of loyalty to the federal government; the Director of the U.S. Navy Surface Combat Systems Center or his designee, who shall retain his absolute duty of loyalty to the federal government; the Director of the Marine Science Consortium or his designee, who shall retain his absolute duty of loyalty to the Consortium; the Accomack County Administrator or his designee, who shall retain his absolute duty of loyalty to Accomack County; the Chancellor of the Virginia Community College System or his designee; and the Virginia Secretary of Commerce and Trade, or his designee. All members shall be appointed to serve terms coincident with their terms of office.

D. The Council shall designate one member as its chair, and is authorized to adopt bylaws.

E. A majority of the members of the Council shall constitute a quorum. Council meetings shall be as specified in its bylaws or upon the call of the chair.

F. Members of the Council shall receive no compensation, but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties.

G. The Council shall:

1. Undertake studies, gather and analyze information, and make recommendations in order to accomplish its purposes as set forth in subsection A;

2. Apply for, accept, and expend gifts, grants, or donations from public, quasi-public or private sources, and state funds that may be appropriated by the federal government, the General Assembly, or any state government to carry out its purpose;

3. Report annually its findings and recommendations regarding the development and operation of the Wallops Research Park. The Council may make interim reports as it deems advisable; and

4. Assist the Virginia Community College System and Eastern Shore Community College, the lead education and training entities for the Park, in developing the necessary infrastructure to meet the workforce and education needs of the Park to include the development of an Education and Training Center.

H. Funding necessary to support the Council's work, including but not limited to the reimbursement pursuant to subsection F, shall be provided by Accomack County from the rent revenues generated by the Wallops Research Park.

I. Accomack County shall provide staff support to the Council. All agencies of the Commonwealth shall assist the Council upon request.

2009, cc. 302, 408.

**. (For contingent expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Stormwater service districts; allocation of revenues.**
Any town located within a stormwater service district created pursuant to this chapter shall be entitled to any revenues collected within the town pursuant to subdivision 6 of § 15.2-2403, subject to the limitations set forth therein, so long as the town maintains its own MS4 permit issued pursuant to § 62.1-44.15:26 or maintains its own stormwater service district.

2012, c. 814; 2013, cc. 756, 793.

**. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Stormwater service districts; allocation of revenues.**
Any town located within a stormwater service district created pursuant to this chapter shall be entitled to any revenues collected within the town pursuant to subdivision 6 of § 15.2-2403, subject to the limitations set forth therein, so long as the town maintains its own municipal separate storm sewer system (MS4) permit issued by the State Water Control Board or maintains its own stormwater service district.

2012, c. 814; 2013, cc. 756, 793; 2016, cc. 68, 758.

**§ 15.2-2403.4. Community improvement districts.**

A. Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create community improvement districts within the locality or localities by the method prescribed in § 15.2-2400. Any ordinance to create such a district shall include the words "Community Improvement District" in the name of the district. After adoption of an ordinance or ordinances creating a community improvement district, the governing body or bodies shall have all powers with respect to the community improvement district that they possess with respect to service districts.

B. To the extent the governing body of a locality contracts for the provision to a community improvement district of any of the governmental services authorized by subdivisions 1 and 2 of § 15.2-2403, such governing body shall contract with a nonprofit corporation, a majority of whose board members own property in the community improvement district, to provide such service.

2014, c. 736.

## Article 2 - TAXES OR ASSESSMENTS FOR LOCAL IMPROVEMENTS

### § 15.2-2404. Authority to impose taxes or assessments for local improvements; purposes.

A. A locality may impose taxes or assessments upon the owners of abutting property for constructing, improving, replacing or enlarging the sidewalks upon existing streets, for improving and paving existing alleys, and for the construction or the use of sanitary or storm water management facilities, retaining walls, curbs and gutters. Such taxes or assessments may include the legal, financial or other directly attributable costs incurred by the locality in creating a district, if a district is created, and financing the payment of the improvements. The taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners. No tax or assessment for retaining walls shall be imposed upon any property owner who does not agree to such tax or assessment.

B. In addition to the foregoing, a locality may impose taxes or assessments upon the owners of abutting property for the construction, replacement or enlargement of waterlines; for the installation of street lights; for the construction or installation of canopies or other weather protective devices; for the installation of lighting in connection with the foregoing; and for permanent amenities, including, but not limited to, benches or waste receptacles. With regard to installation of street lights, a locality may provide by ordinance that upon a petition of at least 60 percent of the property owners within a subdivision, or such higher percent as provided in the ordinance, the locality may impose taxes or assessments upon all owners within the subdivision who benefit from such improvements. The taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such property owners.

C. In the Cities of Chesapeake, Hampton, Hopewell, Newport News, Norfolk, Richmond, and Virginia Beach, the governing body may impose taxes or assessments upon the abutting property owners for the initial improving and paving of an existing street provided not less than 50 percent of such abutting property owners who own not less than 50 percent of the property abutting such street request the improvement or paving. The taxes or assessments permitted by this paragraph shall not be in excess

of the peculiar benefits resulting from the improvements to such abutting property owners and in no event shall such amount exceed the sum of $10 per front foot of property abutting such street or the sum of $1,000 for any one subdivided lot or parcel abutting such street, whichever is the lesser.

D. The governing bodies of the Cities of Buena Vista, Hampton, and Waynesboro and the County of Augusta may, by duly adopted ordinance, impose taxes or assessments upon abutting property owners subjected to frequent flooding for special benefits conferred upon that property by the installation or construction of flood control barriers, equipment or other improvements for the prevention of flooding in such area and shall provide for the payment of all or any part of the above projects out of the proceeds of such taxes or assessments, provided that such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners.

E. In the Cities of Hampton, Poquoson and Williamsburg, the governing body may impose taxes or assessments upon the owners of abutting property for the underground relocation of distribution lines for electricity, telephone, cable television and similar utilities. Notwithstanding the provisions of § 15.2-2405, such underground relocation of distribution lines may only be ordered by the governing body and the cost thereof apportioned in pursuance of an agreement between the governing body and the abutting landowners. Notice shall be given to the abutting landowners, notifying them when and where they may appear before the governing body, or some committee thereof, or the administrative board or other similar board of the locality to whom the matter may be referred, to be heard in favor of or against such improvements.

F. The governing body of any locality may request an electric utility that proposes to construct an overhead electric transmission line of 150 kilovolts or more, any portion of which would be located in such locality, to enter into an agreement with the locality that provides (i) the locality will impose a tax or assessment on electric utility customers in a special rate district in an amount sufficient to cover the utility's additional costs of constructing that portion of the proposed line to be located in such locality, or any smaller portion thereof as the utility and the locality may agree, as an underground rather than an overhead line; (ii) the tax or assessment will be shown as a separate item on such customers' electric bills and will be collected by the utility on behalf of the locality; (iii) the utility will construct, operate, and maintain the agreed portion of the line underground; (iv) the locality will pay to the utility its full additional costs of constructing that portion of the line underground rather than overhead; and (v) such other terms and conditions as the parties may agree. This provision shall not apply, however, to lines in operation as of March 1, 2005.

If the locality and the utility enter into such an agreement, the locality shall by ordinance (a) set the boundaries of the special rate district within a reasonable distance of the route of that portion of the line to be placed underground pursuant to the agreement, and (b) fix the amount of such tax or assessment, which shall be based on the assessed value of real property within such district. Thereafter, owners of real property comprising not less than 60 percent of the assessed value of real property within such district may petition the locality to impose such tax or assessment. If such petition is filed, the locality shall submit the agreement to the State Corporation Commission on or before the date by which

respondents must prefile testimony and exhibits in any application for approval of the line before the State Corporation Commission, which, after notice and opportunity for hearing, shall approve the agreement if it finds it to be in the public interest. If there exists a practicably feasible overhead alternative for construction of the electric transmission line, the State Corporation Commission shall not approve the agreement unless the governing body of every locality in which the underground segment of the line would be located requests the electric utility to construct the line underground in accordance with this subdivision. If the agreement is approved by the State Corporation Commission, the locality shall impose such tax or assessment on electric utility customers within the district, and the locality and the utility shall carry out the agreement according to its terms and conditions.

G. In the County of Loudoun, the governing body may impose taxes or assessments upon the abutting property owners of Crooked Bridge Lane, located in the Blue Ridge District, for the improvement of the bridge located on Crooked Bridge Lane, including construction, repair and maintenance, provided not less than 50 percent of such abutting property owners who own not less than 50 percent of the property abutting such street request the improvement. The taxes or assessments permitted by this paragraph shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners.

Code 1950, § 15-669; 1962, c. 623, § 15.1-239; 1966, c. 127; 1971, Ex. Sess., c. 126; 1972, cc. 704, 767; 1976, cc. 512, 617; 1977, c. 225; 1981, c. 581; 1985, c. 59; 1989, cc. 24, 564; 1991, c. 422; 1997, c. 587; 1998, cc. 324, 864; 1999, c. 386; 2005, c. 854; 2007, cc. 260, 813; 2008, c. 355; 2008, Sp. Sess. II, c. 8; 2009, c. 335; 2010, c. 392; 2012, cc. 186, 404.

**§ 15.2-2405. How imposed.**

Such improvements may be ordered by the governing body and the cost thereof apportioned in pursuance of an agreement between the governing body and the abutting landowners, and, in the absence of such an agreement, the cost of improvements which is to be defrayed in whole or in part by such local tax or assessment, may in cities and towns be ordered on a petition from not less than three-fourths of the landowners to be affected thereby, or in counties on a petition from not less than sixty percent of the landowners to be affected thereby or by a two-thirds vote of all the members elected to the governing body. Notice shall be given to the abutting landowners, notifying them when and where they may appear before the governing body, or some committee thereof, or the administrative board or other similar board of the locality to whom the matter may be referred, to be heard in favor of or against such improvements.

Code 1950, § 15-670; 1962, c. 623, § 15.1-240; 1997, c. 587.

**§ 15.2-2406. How cost assessed or apportioned.**

The cost of such improvement, when the same shall have been ascertained, shall be assessed or apportioned by the governing body, or by some committee thereof, or by any officer or board authorized by the governing body to make such assessment or apportionment, between the locality and the abutting property owners when less than the whole is assessed, provided that in cities and towns, except when it is otherwise agreed, that portion assessed against the abutting property owner or

owners shall not exceed one-half of the total cost; but in cities and towns having a population not exceeding 12,000, the amount assessed shall not exceed three-fourths of the total cost of such improvement, and in the City of Chesapeake and the City of Virginia Beach, the amount assessed shall not exceed the total cost. Notwithstanding any other provision of this article, any portion of the cost of such improvements not funded by such special assessment may be paid from federal or state funds received by the locality for such purpose.

Code 1950, § 15-671; 1956, c. 27; 1962, c. 623, § 15.1-241; 1972, c. 767; 1974, c. 623; 1978, c. 594; 1997, c. 587; 2005, c. 515; 2007, c. 813.

**§ 15.2-2407. Assessments to be reported to collector of taxes; postponement of payment by certain property owners.**

The amount assessed against each landowner, or for which he is liable by agreement, shall be reported as soon as practicable to the collector of taxes, who shall enter the same as provided for other taxes.

The governing body may provide for the postponement of the payment of such assessment by certain elderly or permanently and totally disabled property owners meeting certain conditions until the sale of the property or the death of the last eligible owner. Eligibility for postponement shall be subject to the conditions set forth in § 58.1-3211 as in effect on December 31, 2010, for such elderly or permanently and totally disabled persons. The governing body may provide for the postponement of the payment of such assessment until the property owner actually connects to the public utility system. However, if the property is conveyed between the time the assessment is made and the time the property owner actually connects to the public utility system, then the entire amount due under the assessment becomes due and payable on the day of the conveyance. In any event, the entire amount of assessment due shall be paid no later than ten years from the creation of the district.

The collector of taxes shall enter those assessments postponed by the governing body in accordance with the conditions prescribed as provided for other taxes, but the eligible property owner shall have the option of payment or postponement.

Code 1950, § 15-672; 1962, c. 623, § 15.1-242; 1973, c. 211; 1978, c. 711; 1980, c. 726; 1996, c. 222; 1997, c. 587; 2011, cc. 438, 496.

**§ 15.2-2408. Notice to landowner of amount of assessment.**

When the assessment or apportionment is not fixed by agreement, notice thereof, and of the amount so assessed or apportioned, shall be given to each of the abutting owners who shall be cited to appear before governing body, committee, officer or board having charge of the matter, not less than ten days thereafter, at the time and place designated, to show cause, if he can, against such assessment or apportionment.

Code 1950, § 15-673; 1962, c. 623, § 15.1-243; 1997, c. 587.

**§ 15.2-2409. How notice given; objections.**

The notice may be given by personal service on all persons entitled to such notice, except (i) notice to an infant, a mentally incapacitated person or other person under a disability may be served on his guardian, conservator or committee; (ii) notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having charge of the property or on the tenant of the property; or (iii) in any case when the owner is a nonresident or when the owner's residence is not known, such notice may be given by publication in a newspaper having general circulation in the locality once a week for four successive weeks. In lieu of such personal service on the parties or their agents and of such publication, the notice to all parties may be given by publishing the same in a newspaper having general circulation in the locality, once a week for two successive weeks; the second publication shall be made at least seven days before the parties are cited to appear. Any landowner wishing to make objections to an assessment or apportionment may appear in person or by counsel and state such objections.

Code 1950, § 15-674; 1962, c. 623, § 15.1-244; 1984, c. 331; 1997, cc. 587, 801.

**§ 15.2-2410. Appeal to court; duty of clerk of governing body, etc.**

If a property owner's objections are overruled, he shall, within thirty days thereafter, but not afterwards, have an appeal as of right to the circuit court for the locality. When an appeal is taken, the clerk of the governing body, committee or board, or the officer having charge of the matter, shall immediately deliver to the clerk of such court the original notice relating to the assessment, with the judgment of the governing body, committee, officer or board endorsed thereon, and the clerk of the court shall docket the same.

Code 1950, § 15-675; 1962, c. 623, § 15.1-245; 1997, c. 587.

**§ 15.2-2411. How such appeal tried; lien of judgment; when to take effect; how enforced.**

Such appeal shall be tried by the court in a summary way, without pleadings in writing and without a jury, after ten days' notice to the adverse party, and the hearing shall be de novo. The amount finally assessed against or apportioned to each landowner, or fixed by agreement with him, as hereinbefore provided, shall be a lien enforceable in equity on his abutting land, from the time when the work of improvement has been completed, subject to his right of appeal and objections as aforesaid. Such lien shall be enforceable against any person deemed to have had notice of the proposed assessment under § 15.2-2412, but if no abstract of the resolution or ordinance authorizing the improvement is docketed as provided in § 15.2-2412, such lien shall be void as to all purchasers for valuable consideration without notice and lien creditors until and except from the time it is duly admitted to record in the county or city wherein the land is situated.

Code 1950, § 15-676; 1952, c. 332; 1962, c. 623, § 15.1-246; 1964, c. 521; 1978, c. 15; 1989, c. 171; 1997, c. 587.

**§ 15.2-2412. Docketing of abstracts of resolutions or ordinances.**

When any improvement is authorized for which assessments may be made against the abutting landowners, the governing body may, before the amount to be finally assessed against or apportioned

to each landowner or fixed by agreement is determined, cause to be recorded in the deed book of the circuit court clerk's office for such locality, an abstract of the resolution or ordinance authorizing such improvement showing the ownership and location of the property to be affected by the proposed improvement and the estimated amount that will be assessed against or apportioned to each landowner or fixed by agreement with him and the same shall be indexed in the name of the owner of the property. Such assessment shall be a lien solely on the abutting land as provided in § 15.2-2411.

After the completion of the improvement, the estimated amount shall be amended to show the amount finally assessed against or apportioned to each landowner or fixed by agreement with him, which final amount shall in no event exceed the estimated amount for the improvements as initially authorized. The amount finally assessed against or apportioned to each landowner may be greater than the initially assessed amount when the increased amount is for additional work being performed when the work was requested by the landowner and the additional work and its estimated amount is written into a separate agreement between the locality and the affected landowner. From the time of the docketing of such abstract, any purchaser of, or creditor acquiring a lien on, any of the property described therein shall be deemed to have had notice of the proposed assessment.

Code 1950, § 15-677; 1962, c. 623, § 15.1-247; 1964, c. 521; 1985, c. 169; 1996, c. 222; 1997, c. 587.

**§ 15.2-2413. Installment payment of assessments.**

The locality making assessments under the provisions of this article may provide that the persons against whom the assessments have been made may pay such assessments in equal installments over a period not exceeding 20 years, together with interest on the unpaid balances at an annual interest rate not to exceed the rate of the index of average yield on United States Treasury securities adjusted to a constant maturity of one year as made available by the Federal Reserve Bank at the time the assessment ordinance was adopted. Such installments shall become due at the same time that real estate taxes become due and payable in the locality in which the assessment was made, and the amount of each installment, including principal and interest, shall be shown on a bill mailed, not later than 14 days prior to the installment due date, to each such person by the treasurer.

In cities, the council, in its discretion, may cause the payment of the amount assessed or apportioned against each landowner, or fixed by agreement with him, for improving sidewalks upon streets or for improving and paving alleys to be made in such manner divided into such installments as shall be determined by the council, bearing interest at such rate as shall be fixed by the council.

If an assessment is made under the provisions of this article for the installation of street lights, the locality making the assessment may provide by ordinance that the actual costs of installing, maintaining and operating such street lights be charged to and collected from each landowner as a separate component of the locality's billing system for any public utility.

1964, c. 304, § 15.1-249.1; 1978, c. 15; 1983, c. 179; 1987, c. 201; 1989, c. 171; 1997, cc. 587, 601; 1999, c. 386; 2003, c. 198.

## Chapter 24.1 - URBAN PUBLIC-PRIVATE PARTNERSHIP REDEVELOPMENT FUND

### § 15.2-2414. Definitions.

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

"Board" means the Board of Housing and Community Development.

"Department" means the Department of Housing and Community Development.

"Fund" means the Urban Public-Private Partnership Redevelopment Fund created by this chapter.

"Local government" or "locality" means any county, city or town in the Commonwealth.

2000, c. 757.

### § 15.2-2415. Creation and management of the Urban Public-Private Partnership Redevelopment Fund.

There is hereby established in the state treasury a permanent and perpetual fund to be known as the Urban Public-Private Partnership Redevelopment Fund. The Fund shall consist of sums appropriated to the Fund by the General Assembly; sums which may be allocated to the Commonwealth for this purpose by the United States government; all interest earned on moneys in the Fund; and any other sums designated for deposit to the Fund from any source, public or private. The Fund is created to address the serious problem of a lack of developable land in urban areas of the Commonwealth and the high cost of redeveloping such land. The Fund shall make grants or loans to local governments for assembling, planning, clearing, and remediating sites for the purpose of promoting such sites to private developers for redevelopment.

The Fund shall be administered and managed by the Department as prescribed in this chapter. The Department may disburse from the Fund reasonable costs and expenses incurred in administration and management of the Fund.

2000, c. 757.

### § 15.2-2416. Audit.

The Auditor of Public Accounts or his legally authorized representatives shall audit the accounts of the Fund as determined necessary by the Auditor of Public Accounts in accordance with generally accepted auditing standards, and the cost of such audit services shall be borne by the Fund.

2000, c. 757; 2018, cc. 57, 307.

### § 15.2-2417. Grants and loans.

Except as otherwise provided in this chapter, money in the Fund shall be used to make grants or loans to local governments to finance the assembling, planning, clearing, and remediation of sites for the purpose of promoting such sites to private developers for redevelopment.

No grant shall exceed $500,000. Each grant shall be conditioned upon a 100 percent match of funds by the local government. The Board shall develop guidelines for the administration of the grant program established by this chapter.

The Board shall determine the terms and conditions of any loan from the Fund; however, it is the intent of this chapter that the Board make long-term no-interest loans to localities to encourage utilization of any available funds. All loans from the Fund shall be evidenced by appropriate notes of the loan recipient payable to the Fund. The Director of the Department is authorized to require in connection with any loan from the Fund any documents, instruments, certificates, legal opinions or other information he deems necessary or convenient.

2000, c. 757.

### § 15.2-2418. Reports.

On or before September 30 of each year, each local government recipient shall report to the Department on the status of all sites being prepared for redevelopment with the grant or loan.

2000, c. 757; 2004, c. 577.

## Chapter 24.2 - Virginia Broadband Infrastructure Loan Fund

### § 15.2-2419. Definitions.

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

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Fund" means the Virginia Broadband Infrastructure Loan Fund.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution or laws of the Commonwealth.

"Project" means any undertaking by a local government to build or facilitate the building of broadband infrastructure, including wireless broadband infrastructure which will provide broadband services only to areas within the Commonwealth which are currently unserved by broadband services.

2009, c. 131.

### § 15.2-2420. Creation and management of Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Broadband Infrastructure Loan Fund, consisting of such sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund

from any source public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter. The Authority shall establish guidelines regarding the distribution of loans or grants from the Fund, prioritization of such loans and grants, and shall establish interest rates and repayment terms of such loans as provided in this chapter. The Authority may disperse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund.

2009, c. 131.

**§ 15.2-2421. Deposit of money; expenditures; investments.**

All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits. Money in the Fund shall not be comingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth.

2009, c. 131.

**§ 15.2-2422. Annual audit.**

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor.

2009, c. 131.

**§ 15.2-2423. Collection of money due Fund.**

The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan to a local government, including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

2009, c. 131.

**§ 15.2-2424. Loans to local governments.**

Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments to finance or refinance the cost of any project. No loan from the Fund shall exceed

the total cost of the project to be financed or the outstanding principal amount of indebtedness to be refinanced plus reasonable financing expenses.

The Authority shall determine the terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem necessary or convenient. In addition to any other terms or conditions which the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future increases in rents, rates, fees, or charges;

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority; and

5. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or to take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit, and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government subject to the guidelines adopted by the Board.

2009, c. 131.

**§ 15.2-2425. Prioritization of loans.**

In approving loans, the Authority shall give preference to loans for projects that will (i) utilize private industry in the operation and maintenance of such projects where a material savings in cost can be shown over public operation and maintenance, (ii) serve two or more local governments to encourage regional cooperation, or (iii) provide broadband services in areas with a demonstrated need that, in the opinion of the Secretary of Administration and the Secretary of Commerce and Trade, are currently unserved by broadband providers.

2009, c. 131; 2020, c. 738.

**§ 15.2-2426. Pledge of loans to secure bonds of Authority.**

The Authority is empowered at any time and from time to time to transfer from the Fund to banks or trust companies designated by the Authority any or all assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds (as defined in § 62.1-199) of the Authority. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth above and any payments of principal, interest, or earnings received thereon shall remain

part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth above that are no longer required to be held in trust pursuant to the terms of the pledge.

2009, c. 131.

### § 15.2-2427. Sale of loans.

The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

2009, c. 131.

### § 15.2-2428. Powers of the Authority.

The Authority is authorized to do any act necessary or convenient to the exercise of the powers granted in this chapter or reasonably implied thereby.

2009, c. 131.

### § 15.2-2429. Liberal construction of chapter.

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter shall be controlling.

2009, c. 131.

## Chapter 24.3 - VIRGINIA INFRASTRUCTURE PROJECT LOAN FUND

### § 15.2-2430. Definitions.

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

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Fund" means the Virginia Infrastructure Project Loan Fund.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution or laws of the Commonwealth.

"Project" means any undertaking by a local government to build or facilitate the building of a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

2010, c. 724.

**§ 15.2-2431. Creation and management of Fund.**

There shall be set apart a permanent and perpetual fund, to be known as the Virginia Infrastructure Project Loan Fund, consisting of such sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter. The Authority shall establish guidelines regarding the distribution of loans from the Fund and prioritization of such loans, and shall establish interest rates and repayment terms of such loans as provided in this chapter. The Authority may disperse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund.

2010, c. 724.

**§ 15.2-2432. Deposit of money; expenditures; investments.**

All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits. Money in the Fund shall not be commingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth.

2010, c. 724.

**§ 15.2-2433. Annual audit.**

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor.

2010, c. 724.

**§ 15.2-2434. Collection of money due Fund.**

The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan to a local government, including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

2010, c. 724.

**§ 15.2-2435. Loans to local governments.**

A. Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments to finance or refinance the cost of any project. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of indebtedness to be refinanced plus reasonable financing expenses.

B. The Authority shall determine the terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem necessary or convenient. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future increases in rents, rates, fees, or charges;

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority; and

5. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title, and interest therein, to the Fund, or to take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit, and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

C. All local governments borrowing money from the Fund are authorized to perform any acts, take any actions, adopt any proceedings, and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

D. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government subject to the guidelines adopted by the Board of Directors of the Authority.

2010, c. 724.

**§ 15.2-2436. Prioritization of loans.**

In approving loans, the Authority shall give preference to loans for projects that will (i) utilize private industry in the operation and maintenance of such projects where a material savings in cost can be

shown over public operation and maintenance or (ii) serve two or more local governments to encourage regional cooperation.

2010, c. 724.

### § 15.2-2437. Pledge of loans to secure bonds of Authority.

The Authority is empowered at any time and from time to time to transfer from the Fund to banks or trust companies designated by the Authority any or all assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199 of the Authority. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth in this section and any payments of principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth above that are no longer required to be held in trust pursuant to the terms of the pledge.

2010, c. 724.

### § 15.2-2438. Sale of loans.

The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

2010, c. 724.

### § 15.2-2439. Powers of the Authority.

The Authority is authorized to do any act necessary or convenient to the exercise of the powers granted in this chapter or reasonably implied thereby.

2010, c. 724.

### § 15.2-2440. Liberal construction of chapter.

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter shall be controlling.

2010, c. 724.

## Chapter 25 - BUDGETS, AUDITS AND REPORTS

### § 15.2-2500. Uniform fiscal year for all localities and school divisions.

Notwithstanding any contrary provision of a local charter, the fiscal year of every locality and school division shall begin on the first day of July and end on the thirtieth day of June.

1979, c. 318, § 15.1-159.8; 1997, c. 587.

### § 15.2-2501. Establishment of funds for accounting and budgeting; separate depository and investment accounts not required.

Every locality and school division shall establish such funds as may be required by law and as may otherwise be deemed necessary to provide appropriate accounting and budgetary control over the activities and affairs of the locality or school division. This section shall not be construed to require separate depository or investment accounts for the assets of each fund.

1997, c. 587.

### § 15.2-2502. Notification by state officials and agencies.

Notwithstanding any contrary provision of general law, the Compensation Board and Department of Taxation shall, no later than the fifteenth day following final adjournment of each regular session of the General Assembly, inform all localities and school divisions of the estimated amounts of all state moneys they will receive during the upcoming fiscal year and any other information that may be required for such localities and school divisions to be able to compute amounts of moneys they may collect.

1989, c. 242, § 15.1-159.9; 1997, c. 587.

### § 15.2-2503. Time for preparation and approval of budget; contents.

All officers and heads of departments, offices, divisions, boards, commissions, and agencies of every locality shall, on or before the first day of April of each year, prepare and submit to the governing body an estimate of the amount of money needed during the ensuing fiscal year for his department, office, division, board, commission or agency. If such person does not submit an estimate in accordance with this section, the clerk of the governing body or other designated person or persons shall prepare and submit an estimate for that department, office, division, board, commission or agency.

The governing body shall prepare and approve a budget for informative and fiscal planning purposes only, containing a complete itemized and classified plan of all contemplated expenditures and all estimated revenues and borrowings for the locality for the ensuing fiscal year. The itemized contemplated expenditures shall include any discretionary funds to be designated by individual members of the governing body and the specific uses and funding allocation planned for those funds by the individual member; however, notwithstanding any provision of law to the contrary, general or special, an amendment to a locality's budget that changes the uses or allocation or both of such discretionary funds may be adopted by the governing body of the locality. The governing body shall approve the budget and fix a tax rate for the budget year no later than the date on which the fiscal year begins. The

governing body shall annually publish the approved budget on the locality's website, if any, or shall otherwise make the approved budget available in hard copy as needed to citizens for inspection.

Code 1950, § 15-575; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-160; 1976, c. 762; 1978, c. 551; 1997, c. 587; 2008, c. 353; 2013, c. 747.

**§ 15.2-2504. What budget to show.**

Opposite each item of the contemplated expenditures the budget shall show in separate parallel columns the aggregate amount appropriated during the preceding fiscal year, the amount expended during that year, the aggregate amount appropriated and expected to be appropriated during the current fiscal year, and the increases or decreases in the contemplated expenditures for the ensuing year as compared with the aggregate amount appropriated or expected to be appropriated for the current year. This budget shall be accompanied by:

1. A statement of the contemplated revenue and disbursements, liabilities, reserves and surplus or deficit of the locality as of the date of the preparation of the budget; and

2. An itemized and complete financial balance sheet for the locality at the close of the last preceding fiscal year.

Code 1950, § 15-576; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-161; 1997, c. 587.

**§ 15.2-2505. Budget may include reserve for contingencies and capital improvements.**

Any locality may include in its budget a reasonable reserve for contingencies and capital improvements.

1980, c. 258, § 15.1-161.1; 1997, c. 587.

**§ 15.2-2506. Publication and notice; public hearing; adjournment; moneys not to be paid out until appropriated.**

A brief synopsis of the budget which, except in the case of the school division budget, shall be for informative and fiscal planning purposes only, shall be published once in a newspaper having general circulation in the locality affected, and notice given of one or more public hearings, at least seven days prior to the date set for hearing, at which any citizen of the locality shall have the right to attend and state his views thereon. Any locality not having a newspaper of general circulation may in lieu of the foregoing notice provide for notice by written or printed handbills, posted at such places as it may direct. The hearing shall be held at least seven days prior to the approval of the budget as prescribed in § 15.2-2503. With respect to the school division budget, which shall include the estimated required local match, such hearing shall be held at least seven days prior to the approval of that budget as prescribed in § 22.1-93. With respect to the budget of a constitutional officer, if the proposed budget reduces funding of such officer at a rate greater than the average rate of reduced funding for other agencies appropriated through such locality's general fund, exclusive of the school division, the locality shall give written notice to such constitutional officer at least 14 days prior to adoption of the budget. If a constitutional officer determines that the proposed budget cuts would impair the performance of his statutory duties, such constitutional officer shall make a written objection to the local

governing body within seven days after receipt of the written notice and shall deliver a copy of such objection to the Compensation Board. The local governing body shall consider the written objection of such constitutional officer. The governing body may adjourn such hearing from time to time. The fact of such notice and hearing shall be entered of record in the minute book.

In no event, including school division budgets, shall such preparation, publication and approval be deemed to be an appropriation. No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly or monthly appropriation for such contemplated expenditure by the governing body, except funds appropriated in a county having adopted the county executive form of government, outstanding grants may be carried over for one year without being reappropriated.

Code 1950, § 15-577; 1956, Ex. Sess., c. 67; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-162; 1976, c. 762; 1978, cc. 126, 551; 1984, c. 485; 1997, c. 587; 2009, c. 280; 2014, cc. 360, 589.

**§ 15.2-2507. Amendment of budget.**

A. Any locality may amend its budget to adjust the aggregate amount to be appropriated during the current fiscal year as shown in the currently adopted budget as prescribed by § 15.2-2504. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by publishing a notice of a meeting and a public hearing once in a newspaper having general circulation in that locality at least seven days prior to the meeting date. The notice shall state the governing body's intent to amend the budget and include a brief synopsis of the proposed budget amendment. Any local governing body may adopt such amendment at the advertised meeting, after first providing a public hearing during such meeting on the proposed budget amendments.

B. Pursuant to the requirements of §§ 15.2-1609.1, 15.2-1609.7, 15.2-1636.8, and 15.2-1636.13 through 15.2-1636.17 every county and city shall appropriate as part of its annual budget or in amendments thereto amounts for salaries, expenses and other allowances for its constitutional officers that are not less than those established for such offices in the locality by the Compensation Board pursuant to applicable law or, in the event of an appeal pursuant to § 15.2-1636.9, by the circuit court in accordance with the provisions of that section.

1983, c. 319, § 15.1-162.1; 1984, c. 523; 1997, cc. 587, 602; 2007, c. 297.

**§ 15.2-2508. Governing bodies may require information of departments, etc.**

A. Local governing bodies may require the heads or other responsible representatives of all departments, offices, divisions, boards, commissions and agencies of their localities to furnish such information as may be deemed advisable.

B. A constitutional officer, as defined in § 15.2-2511, for any such locality, to the extent information is required, shall be subject to the provisions of this section.

Code 1950, § 15-578; 1962, c. 623, § 15.1-163; 1993, c. 681; 1997, c. 587.

**§ 15.2-2509. Auditor to devise system of bookkeeping and accounting.**

The Auditor of Public Accounts shall devise a system of bookkeeping and accounting for use by local governments and others pursuant to § 30-137.

Code 1950, § 15-579; 1959, Ex. Sess., c. 69; 1962, c. 623, § 15.1-164; 1968, c. 602; 1997, c. 587.

**§ 15.2-2510. Comparative report of local government revenues and expenditures.**

A. The treasurer or other chief financial officer of each locality shall file annually on or before December 15 with the Auditor of Public Accounts a detailed statement prepared according to the Auditor's specifications showing the amount of revenues, expenditures and fund balances of the locality for the preceding fiscal year, accompanied by the locality's audited financial report. The submittal to the Auditor of Public Accounts shall include a notarized statement from the chief elected official and the chief administrative officer of the locality that the locality's audited financial report has been presented to the local governing body.

B. If such annual statement is not filed with the Auditor of Public Accounts, he may perform such work as is necessary to comply with the provisions of this section or hire certified public accountants to do such work. In either event the expenses of such work shall be charged to and paid by the locality failing to supply the required information.

C. The Auditor of Public Accounts shall prepare and publish annually by February 15 a statement showing in detail the total and per capita revenues and expenditures of all localities for the preceding fiscal year. The statement shall contain such analytical tables, explanations and comparisons as may lead to a clear understanding of such information and make the information readily accessible to the readers.

The Auditor of Public Accounts shall mail or deliver by February 16 of each year a copy of the statement to the members of the General Assembly, to the members and clerks of the local governing bodies, and until the supply is exhausted to every citizen who may request a copy.

The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population.

Code 1950, § 15-581; 1962, c. 623, § 15.1-166; 1978, c. 725; 1981, c. 139; 1997, c. 587; 2017, c. 484; 2020, c. 17.

**§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages; civil penalty.**

A. Localities shall have all their accounts and records, including all accounts and records of their constitutional officers, audited annually as of June 30 by an independent certified public accountant in accordance with the specifications furnished by the Auditor of Public Accounts. The certified public accountant shall present a detailed written report to the local governing body at a public session by the following December 31. Every locality shall contract for the performance of the annual audit not later than April 1 of each fiscal year, and such contract shall incorporate the provisions of this section relating to audit specifications and report date. The report shall be (i) submitted to the Auditor of Public Accounts, (ii) preserved by the clerk of the local governing body, and (iii) open to public inspection at

all times by any qualified voter. If the audit is not completed as required by this section, the locality shall promptly post a statement on its website, if such website exists, declaring that the required audit is pending, the reasons for the delay, and the estimated date of completion. Such statement shall also be posted and made available to the public at the next scheduled meeting of the local governing body and also be sent to the Auditor of Public Accounts. The statement shall continue to be posted and updated until the audit is complete. If a locality fails to post such notice or make such notice available to the public, any aggrieved person may proceed to enforce such action by filing a petition for mandamus to the general district court, supported by an affidavit showing good cause. The court, if it finds that a violation has occurred, may issue a writ of mandamus and impose a civil penalty of not less than $500 nor more than $2,000 against the locality, which amount shall be paid into the Literary Fund.

The accounts and records of any county or city officer listed in Article VII, Section 4 of the Constitution of Virginia, hereinafter referred to as "constitutional officers," shall be subject to the provisions of this section.

When the annual audit conducted pursuant to this subsection includes the clerk of the circuit court, the audit shall satisfy the requirement of an audit pursuant to § 30-134.

In the event that a locality fails to obtain the annual audit prescribed by this subsection, the Auditor of Public Accounts may undertake the audit or may employ the services of certified public accountants and charge the full cost of such services to the locality. However, no part of the cost and expense of such audit shall be paid by any locality whose governing body has its accounts audited for the fiscal years in question as prescribed above and furnishes the Auditor of Public Accounts with a copy of such audit.

B. Except where otherwise authorized by statute, the Auditor of Public Accounts shall audit the accounts of local governments and constitutional officers only when (i) special circumstances require an audit or (ii) there is suspected fraud or inappropriate handling of funds that may affect the financial interests of the Commonwealth. However, the Auditor of Public Accounts shall also audit the accounts of a local government at any other time upon a majority vote of the local governing body, with all expenses of the audit to be borne by the requesting locality. In all instances, such audits shall be carried out with the approval of the Joint Legislative Audit and Review Commission.

Any shortage existing in the accounts of the locality or constitutional officer, as ascertained by the audit, shall be made public within 30 days after the shortage is discovered, and a brief statement thereof shall be sent by the Auditor of Public Accounts to the members and clerk of the local governing body and to the circuit court for the locality and shall be filed in the clerk's office of such court.

C. The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population. However, any town with a population of less than 3,500 that voluntarily has an audit prepared shall also submit the results of such audit to the Auditor of Public Accounts.

D. Notwithstanding the provisions of this section, any town not required to submit an audit pursuant to subsection C that voluntarily contracts for or performs an audit shall submit the results of such audit to the Auditor of Public Accounts upon completion of the audit.

Code 1950, § 15-583; 1958, c. 615; 1962, c. 623, § 15.1-167; 1978, c. 725; 1981, c. 139; 1985, c. 315; 1993, c. 681; 1997, c. 587; 2013, cc. 239, 392; 2019, cc. 322, 361; 2020, c. 699.

**§ 15.2-2511.1. Return of local surplus funds.**

Any locality may by ordinance develop a method for returning surplus real property tax revenues to taxpayers who are assessed real property taxes in any fiscal year in which the locality reports a surplus. The locality may reduce a taxpayer's refund by the amount of any taxes, penalties and interest that are due from such taxpayer, or any past-due taxes, penalties and interest that have been assessed within the appropriate period of limitations.

2001, c. 246; 2005, c. 835.

**§ 15.2-2511.2. Duties of local government auditors.**

A. As used in this section:

"Abuse" means the excessive or improper use of something, or the employment of something in a manner contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources owned or operated by the locality; or extravagant or excessive use so as to abuse one's position or authority.

"Fraud" means the intentional deception perpetrated by an individual or individuals, or an organization or organizations, either internal or external to local government, that could result in a tangible or intangible benefit to themselves, others, or the locality or could cause detriment to others or the locality. Fraud includes a false representation of a matter of fact, whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed, which deceives and is intended to deceive.

"Waste" means the intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources owned or operated by the locality to the detriment or potential detriment of the locality. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

B. Any fraud, waste, and abuse auditor appointed by the local governing body of any county, city, or town having a population of at least 10,000, or any town constituting a separate school division regardless of its population, who by charter, ordinance, or statute has responsibility for conducting an investigation of any officer, department or program of such body, shall be responsible for administering a telephone hotline, and a website, if cost-effective, through which employees and residents of the locality may report anonymously any incidence of fraud, waste, or abuse committed by any such officer, or within any such department or program, of that body. Such auditor may inform employees of the locality of the hotline and website, if any, and the conditions of anonymity, through the conspicuous posting of announcements in the locality's personnel newsletters, articles in local newspapers issued daily

or regularly at average intervals, hotline posters on local employee bulletin boards, periodic messages on local employee payroll check stubs, or other reasonable efforts.

Such auditor shall determine the authenticity of every allegation received on the hotline or website and ensure that investigation and resolution activities are undertaken in response to any such authentic allegation in the most cost-effective and confidential manner available; provided, however, that the officer shall assign responsibility for investigation and resolution to other investigative and law-enforcement personnel where such responsibility is prescribed by general law and where appropriate to avoid duplicating or replacing existing investigation and resolution functions.

2006, c. 597.

### § 15.2-2512. Audit of accounts of certain county officers, boards and commissions.

Whenever, upon a petition filed in the circuit court for any county by at least fifty residents of the county, it is believed by the judge of the court that the public interests will be promoted by an audit or examination of the whole or any part of the financial transactions of any county officer, board or commission of the county, the judge may appoint one or more certified public accountants to make and report to the court the result of such audit or examination. The court shall fix the compensation to be paid by the board of supervisors to the accountants.

Code 1950, § 15-264; 1962, c. 623, § 15.1-557; 1997, c. 587.

### § 15.2-2513. Special budget provisions.

Every locality having special budget provisions in general or special law may choose, by resolution, to comply with the budget provisions of this chapter rather than those special budget provisions.

Code 1950, §§ 15-584, 15-585; 1959, Ex. Sess., c. 69; 1962, c. 623, §§ 15.1-168, 15.1-169; 1997, c. 587.

## Chapter 26 - PUBLIC FINANCE ACT

## Article 1 - GENERAL PROVISIONS

### § 15.2-2600. Short title.

This chapter shall be known and may be cited as the "Public Finance Act of 1991."

Code 1950, § 15-666.13; 1958, c. 640; 1962, c. 623, § 15.1-170; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.1; 1997, c. 587.

### § 15.2-2601. Chapter not to affect general, special and local acts and charters under which bonds are issued or validated.

Unless expressly stated to the contrary nothing in this chapter repeals, amends, impairs or in any way affects (i) any act under the provisions of which bonds have heretofore been issued and are outstanding as of June 30, 1991, (ii) any act, general or special, validating bonds or any proceedings in connection with the issuance of bonds, or (iii) any special rights, privileges, restrictions or limitations now contained in any locality's charter. Nothing in this chapter repeals, amends, impairs or in any way

affects any of the provisions of any charter or special or local act authorizing or regulating the issuance of bonds by a locality. The provisions of this chapter are in addition to the powers conferred by any charter or special or local act, and a locality may issue bonds, at the election of its governing body, under either (i) the provisions of this chapter without regard to the requirements, restrictions or other provisions contained in any charter or local or special act applicable to the locality or (ii) the provisions of such charter or local or special act; however, after July 1, 1992, notwithstanding the foregoing, any referendum requirement for the issuance of bonds or debt limit contained in any charter or local or special act shall control over the provisions of this chapter.

Code 1950, § 15-666.14; 1958, c. 640; 1962, c. 623, § 15.1-171; 1991, c. 668, § 15.1-227.2; 1997, c. 587.

### § 15.2-2602. Definitions.

As used in this chapter, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" mean any obligations of a locality for the payment of money.

"Cost" as applied to any project or to extensions or additions to any project, includes the purchase price of any project acquired by the locality or the cost of acquiring all of the capital stock of the corporation owning the project and the amount to be paid to discharge any obligations in order to vest title to the project or any part of it in the locality, the cost of improvements, property or equipment, the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all land, property, rights, easements and franchises acquired, financing charges, interest before and during construction and for up to one year after completion of construction, start-up costs and operating capital, the cost of plans and specifications, surveys and estimates of cost and of revenues, the cost of engineering, legal and other professional services, expenses incident to determining the feasibility or practicability of the project, payments by a locality of its share of the cost of any multi-jurisdictional project, administrative expense, any amounts to be deposited to reserve or replacement funds, and other expenses as may be necessary or incident to the financing of the project. Any obligation or expense incurred by the locality in connection with any of the foregoing items of cost may be regarded as a part of the cost and reimbursed to the locality out of the proceeds of bonds issued to finance the project.

"General obligation bonds" mean the bonds of a locality for the payment of which the locality is required to levy ad valorem taxes, including any obligations which may be additionally secured by a pledge of revenues, special assessments or funds derived from any other source.

"Governing body" means the board of supervisors, council, or other local legislative body, board, commission or authority having charge of the finances of any locality, and when the separate concurrence or approval of two or more sets of authorities is required by law for the making of appropriations, to the extent so required "governing body" includes both or all of them.

"Project" means any public improvement, property or undertaking for which the locality is authorized by law to appropriate money, except for current expenses, and specific undertakings from which the locality may derive revenues (sometimes called "revenue-producing undertakings") including, without limitation, water, sewer, sewage disposal, and garbage and refuse collection and disposal systems and facilities as defined in § 15.2-5101, recycling facilities, facilities for the production of energy from waste, gasworks, electric light and other lighting systems, airports, off-street parking facilities, and facilities for public transit or transportation systems.

"Revenue bonds" mean bonds of a locality for which only the specified revenues of the locality are pledged and to which no ad valorem or other taxes of the locality are pledged, including, without limitation bonds of a locality for which only the revenues of a revenue producing undertaking or undertakings, or such revenues together with a mortgage or deed of trust lien on the undertaking or undertakings, are pledged to their payment.

Code 1950, § 15-666.15; 1958, c. 640; 1962, c. 623, § 15.1-172; 1970, c. 268; 1973, c. 513; 1991, c. 668, § 15.1-227.3; 1997, c. 587.

### § 15.2-2603. Disposition of unclaimed funds due on matured bonds or coupons.

Any locality having bonds outstanding on which principal, premium or interest has matured for a period of more than five years may pay any money being held to pay the matured principal, premium or interest into the general fund of the locality. The locality shall maintain a record of the bonds for which the funds were held. Thereafter the owners of the matured bonds may look only to the locality for payment.

Code 1950, § 15-666.17; 1958, c. 640; 1962, c. 623, § 15.1-174; 1991, c. 668, § 15.1-227.6; 1997, c. 587.

## Article 2 - PROVISIONS APPLICABLE TO ALL BONDS

### § 15.2-2604. Powers generally.

Subject to the provisions of Articles 3 (§ 15.2-2632 et seq.) and 4 (§ 15.2-2638 et seq.) of this chapter, any locality may:

1. Acquire, construct, reconstruct, improve, extend, enlarge, equip, maintain, repair and operate any project which is located within or outside the locality;

2. Contract debts for any project, borrow money for any project, and issue its bonds to pay all or any part of the cost of acquiring, constructing, reconstructing, improving, extending, enlarging and equipping any project;

3. Refund any bonds previously issued by the locality or for which the locality is responsible or may assume responsibility for payment;

4. Provide for the rights of the owners of bonds issued by the locality;

5. Secure bonds issued by the locality as permitted by law;

6. Issue bonds to create any self-insurance reserve fund;

7. Issue bonds to pay all or any part of the cost of satisfying a final judgment imposed against the locality (including its local school board) by a court of competent jurisdiction;

8. Acquire in the name of the locality, by purchase, gift or the exercise of the power of eminent domain, land and rights and interests in land, including land under water and riparian rights, and acquire personal property as the governing body of the locality may deem necessary in connection with any project;

9. Enter on any land, water or premises located within or outside the locality for the purpose of making surveys, borings, soundings or examinations in connection with any project; any such entry shall not be deemed a trespass or an entry under any eminent domain proceedings, but the locality shall make reimbursement for any actual damages resulting from the entry;

10. Receive and accept from any federal or state agency grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied for the purposes for which the aid or contributions may be made; and comply with any conditions not inconsistent with the Constitution of Virginia or provision of law imposed by any federal or state agency as a prerequisite to obtaining any grant, including, but not limited to, the execution of any required contracts or arrangements;

11. Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary;

12. Acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

13. Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

14. Do all things necessary or convenient to carry out the powers expressly given in this chapter and to carry out any project;

15. Assess, levy and collect unlimited ad valorem taxes on all property subject to taxation to pay the principal of and premium, if any, and interest on any bonds issued under the provisions of this chapter, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds; and

16. Fix and collect rates, rents, fees and other charges for the services and facilities furnished by, or for the use of, or in connection with any revenue-producing undertaking or undertakings, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds.

Code 1950, § 15-666.18; 1958, c. 640; 1962, c. 623, § 15.1-175; 1986, cc. 379, 468; 1991, c. 668, § 15.1-227.7; 1994, cc. 432, 714; 1997, c. 587.

### § 15.2-2605. Collection of rents and charges; liens on real estate; discharge and enforcement of liens.

The rates, rents, fees or charges when made for the use of any revenue-producing undertaking may be collected by distress, levy, garnishment, attachment or as otherwise provided by law. Any unpaid rate, rent, fee or charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to taxes, on the real property on or for which the use of any such undertaking was made and for which the rate, rent, fee or charge was imposed. However, the lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien, until amount of the rate, rent, fee or charge is entered in the judgment records kept in the clerk's office where deeds are recorded with respect to the real estate against which the lien is asserted. It shall be the duty of the clerk in such office to keep, preserve and hold available for public inspection the judgment records and to cause entries to be made and indexed in them from time to time upon certification by the locality.

The lien on any real estate may be discharged by the payment to the locality of the total amount of the lien, plus interest at the judgment rate of interest provided for in § 6.2-302 from the date the rate, rent, fee or charge was due and payable to the date of payment. It shall be the duty of the locality to deliver a certificate of payment to the person paying the lien. Upon presentation of the certificate, the clerk having the record of the lien shall mark the lien satisfied.

Jurisdiction to enforce any lien shall be in equity, and the court may order any real estate subject to the lien, or any part of it, sold and the proceeds applied to the payment of the lien and the interest which may accrue to the date of payment.

Nothing contained in this section shall be construed to prejudice the right of the locality to recover the amount of any lien, or of the rate, rent, fee or charge, and the interest which may accrue, by action at law or otherwise.

Code 1950, § 15-666.18; 1958, c. 640; 1962, c. 623, § 15.1-175; 1986, cc. 379, 468; 1991, c. 668, § 15.1-227.7; 1994, cc. 432, 714; 1997, c. 587.

### § 15.2-2606. Public hearing before issuance of bonds.

A. Notwithstanding any contrary provision of law, general or special, but subject to subsection B of this section, before the final authorization of the issuance of any bonds by a locality, the governing body of the locality shall hold a public hearing on the proposed bond issue. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality. The notice shall (i) state the estimated maximum amount of the bonds proposed to be issued, (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used, and (iii) specify the time and place of the hearing at which persons may appear and present their views. The hearing shall not be held less than six nor more than 21 days after the date the second notice appears in the newspaper.

B. No notice or public hearing shall be required for (i) bonds which have been approved by a majority of the voters of the issuing locality voting on the issuance of such bonds or (ii) obligations issued pursuant to § 15.2-2629, 15.2-2630 or 15.2-2643.

1987, c. 402, § 15.1-171.1; 1990, c. 175; 1991, c. 668, § 15.1-227.8; 1994, c. 714; 1997, c. 587; 2011, c. 590.

**§ 15.2-2607. Provisions which may be embodied in bond ordinances or resolution; adoption; filing copy with court.**

The governing body of any locality, subject to the approval of a majority of the qualified voters of the locality voting on the issuance of such bonds if required by the Constitution of Virginia or by this chapter, is authorized to provide by ordinance or resolution for the issuance, at one time or from time to time, of bonds of the locality for the purposes set forth in and subject to the provisions of this chapter.

Any such ordinance or resolution may contain provisions which shall be a part of the contract with the owners of the bonds as to:

1. The payment of the principal of and premium, if any, and the interest on bonds from (i) ad valorem taxes to be levied without limitation as to rate or amount on all property subject to taxation or (ii) county food and beverage taxes levied pursuant to Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1 and the pledging of the full faith and credit of the locality to secure the payment of bonds;

2. The pledge of specified revenues of the locality, other than taxes, ad valorem or otherwise, including, without limitation, the pledge of the revenues of any revenue-producing undertaking or undertakings, to the payment of the principal of and premium, if any, and interest on bonds;

3. The granting of a mortgage or deed of trust lien on any specific revenue-producing undertaking or undertakings to secure the payment of the principal of and premium, if any, and interest on bonds issued to finance in whole or in part the costs of the undertaking or undertakings, but only if the full faith and credit of the locality is not pledged to the payment of the bonds;

4. The securing of the payment of the principal of and premium, if any, and interest on bonds by an ordinance resolution, trust agreement, indenture or other instrument, which may (i) appoint any trust company or bank having the powers of a trust company within or outside the Commonwealth as corporate trustee, (ii) set forth the rights and remedies of the bondholders and of the trustee, (iii) restrict the individual right of action by bondholders, and (iv) contain any other provisions as the governing body of the locality deems reasonable and proper for the security of the bondholders;

5. The payment of the principal of and premium, if any, and the interest on bonds from any one or more of the sources of funds provided for in this section or any combination of them and the pledging of any one or more of the sources of funds or any combination of them to secure the payment of the principal of and premium, if any and interest on bonds;

6. The rates, rents, fees, charges, taxes and other revenues or receipts of any revenue-producing undertaking or undertakings and the amounts to be raised in each year by them, and the use and disposition of such rates, rents, fees, charges, taxes and other revenues and receipts of any undertaking or undertakings;

7. The setting aside of reserves or sinking funds and the regulation and disposition of them;

8. Limitations on the right of the locality to restrict and regulate the use of any project;

9. Limitations on the purpose to which the proceeds of sale of any bonds may be applied;

10. Limitations on issuance of additional revenue bonds;

11. The procedure, if any, by which the terms of any contract with bondholders may be amended or discharged, the amount of bonds the owners of which shall consent to the amendment or abrogation, and the manner in which the consent must be given;

12. Conferring upon the bondholders or the trustee under any ordinance, resolution, trust agreement, indenture or other instrument remedies for enforcing the rights of the bondholders and requiring the governing body to carry out any agreement with the bondholders;

13. Any other matter required by any state or federal agency as a condition precedent to the obtaining of a direct grant or grants of money for or in aid of any project or to defray or partially to defray the cost of the labor and materials employed upon any project, or to obtain a loan or loans of money for or in aid of any project from any state or federal agency; and

14. Any provisions necessary to qualify the interest on the bonds for exclusion from gross income for federal income tax purposes and to maintain that exclusion.

Any ordinance or resolution authorizing the issuance of bonds may be finally adopted at the meeting at which it is introduced, which may be a regular or special meeting, by a majority of the members of the governing body. A certified copy of each such ordinance or resolution shall be filed in the circuit court having jurisdiction over the locality. When any town is situated partly in two or more counties, the certified copy of the ordinance or resolution may be presented to the circuit court for any of the counties. Except as expressly required by this article, the ordinance or resolution need not be published, posted or advertised.

Code 1950, § 15-666.40; 1958, c. 640; 1962, c. 623, § 15.1-199; 1973, c. 513; 1991, c. 668, § 15.1-227.9; 1994, c. 714; 1997, c. 587; 2018, c. 730.

**§ 15.2-2608. Bonds for revenue-producing undertakings.**

The governing body of any locality may, in accordance with the provisions of Article VII, Section 10 of the Constitution of Virginia, issue bonds for any revenue-producing undertaking.

Code 1950, § 15-666.21; 1958, c. 640; 1962, c. 623, § 15.1-178; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.10; 1997, c. 587.

**§ 15.2-2609. Covenants relating to issuance of revenue bonds.**

The governing body of any locality proposing to issue bonds for any revenue-producing undertaking may covenant in the ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds that the rates, rents, fees or other charges for the services and facilities furnished by, for the use of, or in connection with the undertaking shall be fixed and maintained at the level that will produce sufficient revenue to pay the cost of operation and administration, the cost of insurance against loss by injury to persons or property, and the principal of and premium, if any, and interest on the bonds when due and payable, and to provide reserves for such purposes. The ordinance, resolution, trust agreement, indenture or other instrument, in order to assure the faithful observance of such covenant, may provide for the creation of a commission, or the appointment of a receiver, vested with such powers as to the management of the undertaking, or the fixing of rates, rents, fees or other charges, or both, as the governing body may deem proper.

Code 1950, § 15-666.27; 1958, c. 640; 1962, c. 623, § 15.1-184; 1991, c. 668, § 15.1-227.11; 1997, c. 587.

**§ 15.2-2610. Request for referendum filed with court; order for election; notice.**

If voter approval of any bond issue by a locality is required by the Constitution of Virginia or this chapter or any charter provision, a copy of the resolution or ordinance adopted by the governing body of the locality, certified by the clerk of the governing body, requesting that a referendum on the question of the issuance of the bonds be held, shall be filed with the circuit court for the locality or in the case of a town the circuit court for the county in which the town is located. The circuit court shall order a special election, in accordance with § 24.2-681 et seq., requiring the election officers of the locality on the day fixed in the order to open the polls and take the sense of the voters of the locality on the question of contracting the debt and issuing bonds for the purpose or purposes set forth in the resolution or ordinance. When any town is situated partly in two or more counties, the certified copy of the resolution or ordinance may be presented to the circuit court for any of the counties and the court shall order an election to be held in the town in accordance with the provisions of §§ 24.2-601 and 24.2-681 et seq. Notice of the election in the form prescribed by the court shall be published at least once but not less than ten days before the election in a newspaper published or having general circulation in the locality.

Where voter approval is required by the Constitution of Virginia, this chapter or any charter provision, a locality may, at its option, provide in the ordinance or resolution that any two or more purposes and amounts of the bonds proposed to be issued for such purposes be combined into a single question for the election and referred to as "capital improvement bonds" in an aggregate principal amount equal to the sum of the amounts for the purposes so combined.

Code 1950, §§ 15-666.25, 15-666.30; 1958, c. 640; 1962, c. 623, §§ 15.1-182, 15.1-187; 1968, c. 579; 1971, Ex. Sess., c. 224; 1975, c. 517; 1982, c. 181; 1991, c. 668, § 15.1-227.12; 1997, c. 587.

**§ 15.2-2611. Holding of election; order authorizing bonds; authority of governing body.**

The regular election officers of the locality at the time designated in the order authorizing the vote shall open the polls at the various voting places in the locality and conduct the election in the manner

provided by law for other elections. At the election, each voter may cast his or her vote for or against the bond issue. The votes shall be counted, the returns made and canvassed and the results certified as provided in § 24.2-681 et seq. If it appears from the returns that a majority of the voters of the locality voting on the question at the election are against the proposed bond issue, an order shall be entered by the court to such effect. If a majority of the voters of the locality voting on the question approve the bond issue, the court shall enter an order to such effect, a copy of which shall be promptly certified by the clerk of the court to the governing body of the locality. The locality may then proceed to prepare, issue and sell its bonds up to the amount so authorized and in doing so shall have all of the powers granted to the locality by this chapter with respect to incurring debt and issuing bonds. Bonds authorized by a referendum may not be issued by a locality more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body of the locality, be extended to up to ten years after the date of the referendum by order of the circuit court for the locality, or in the case of a town the circuit court for the county in which the town is located, entered before the expiration of the eight-year period. The court shall grant such extension unless the court is shown by clear and convincing evidence that the extension is not in the best interests of the locality.

Code 1950, § 15-666.31; 1958, c. 640; 1962, c. 623, § 15.1-188; 1982, c. 181; 1991, c. 668, § 15.1-227.13; 1997, c. 587.

**§ 15.2-2612. Dating; rate of interest; maturity; denomination; place of payment.**

The bonds of a locality may be dated, may mature at such time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase, at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the governing body or in such manner as the governing body may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the governing body or in such manner as the governing body may provide, including the determination by reference to indices or formulas or by agents designated by the governing body under guidelines established by it. The governing body may fix the denomination or denominations of the bonds and the place or places of payment.

Code 1950, § 15-666.41; 1958, c. 640; 1962, cc. 496, 623, § 15.1-200; 1984, c. 451; 1991, c. 668, § 15.1-227.14; 1997, c. 587.

**§ 15.2-2613. Form and manner of execution; signature of person ceasing to be officer.**

The governing body shall determine the form and the manner of execution of bonds. Any bonds issued under the provisions of this chapter, and any bonds previously or hereafter authorized to be issued by any locality under the provisions of any general or special law, if so authorized by the governing body of the locality, may bear or be executed with the facsimile signature of any official authorized to sign or execute them. If any law provides for the sealing of bonds with the official or corporate seal of the locality or of its governing body, a facsimile of the seal may be imprinted on the bonds, if so authorized by the governing body of the locality, and it will not be necessary in such case to impress the seal physically on the bonds.

In case any officer whose signature or a facsimile of whose signature appears on any bonds ceases to be such officer before the delivery of the bonds, the signature or facsimile will nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. Any bond may bear the facsimile signature of, or may be signed by, the person who at the actual time of the execution of the bond is the proper officer to sign the bond although at the date of the bond the person may not have been such officer.

When all signatures on bonds are facsimiles, the bonds must be authenticated by an agent appointed by the governing body of the locality issuing the bonds or in such manner as the governing body may provide.

Code 1950, § 15-666.42; 1958, c. 640; 1962, c. 623, § 15.1-201; 1983, c. 607; 1991, c. 668, § 15.1-227.15; 1997, c. 587.

**§ 15.2-2614. Bearer, registered or book entry form.**

The bonds may be issued in bearer, registered or book entry form, or any combination of such forms, as the governing body may determine.

Code 1950, § 15-666.43; 1958, c. 640; 1962, c. 623, § 15.1-202; 1991, c. 668, § 15.1-227.16; 1997, c. 587.

**§ 15.2-2615. Bonds deemed negotiable instruments.**

Notwithstanding any of the foregoing provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

Code 1950, § 15-666.44; 1958, c. 640; 1962, c. 623, § 15.1-203; 1991, c. 668, § 15.1-227.17; 1997, c. 587.

**§ 15.2-2616. Interim receipts or temporary bonds exchangeable for definitive bonds.**

Before the preparation of definitive bonds, the governing body of a locality may, subject to the same provisions of this chapter as are applicable to the issuance of definitive bonds, issue interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

Code 1950, § 15-666.45; 1958, c. 640; 1962, c. 623, § 15.1-204; 1991, c. 668, § 15.1-227.18; 1997, c. 587.

**§ 15.2-2617. Sale of bonds.**

Any locality may sell any bonds authorized under the provisions of this chapter in such manner, either at public or private sale, and for such price as the governing body of the locality may determine.

Code 1950, § 15-666.46; 1958, c. 640; 1962, c. 623, § 15.1-205; 1991, c. 668, § 15.1-227.19; 1997, c. 587.

**§ 15.2-2618. Disposition of proceeds; separate fund.**

Unless otherwise specifically provided by the governing body of a locality or in the ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, all proceeds received from the sale of the bonds of any locality issued under the provisions of this chapter shall be paid to, or at the direction of, the treasurer or chief financial officer of the locality who shall promptly deposit the funds in a bank or other depository to the credit of the locality as prescribed by general law or the provisions of the charter applicable to the locality. The treasurer or chief financial officer shall account for the money through a fund, separate from all other funds, in the system of accounting of the locality.

Code 1950, § 15-666.47; 1958, c. 640; 1962, c. 623, § 15.1-206; 1991, c. 668, § 15.1-227.20; 1997, c. 587.

**§ 15.2-2619. Investment of proceeds pending application to authorized purpose.**

Pending the application of the proceeds of any bonds authorized under the provisions of this chapter to the purpose or purposes for which the bonds have been authorized, all or any part of the proceeds may be invested, in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2. Any security purchased as an investment of the proceeds of bonds shall be deemed at all times to be a part of the proceeds, and the interest accruing on the investment and any profit realized from it shall be credited to the proceeds; provided, however, if authorized by resolution of the governing body, the locality may apply the interest accruing on the investment and any profit realized from it to pay costs as defined by this chapter.

Code 1950, § 15-666.48; 1958, c. 640; 1960, c. 92; 1962, c. 623, § 15.1-207; 1988, c. 834; 1991, c. 668, § 15.1-227.21; 1997, c. 587.

**§ 15.2-2620. Bonds made legal investments.**

Bonds issued under this chapter are made securities in which public officers and bodies of the Commonwealth, counties, cities and towns and municipal subdivisions of the Commonwealth, insurance companies and associations, savings banks, savings institutions, savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

Code 1950, § 15-666.49; 1958, c. 640; 1962, c. 623, § 15.1-208; 1991, c. 668, § 15.1-227.22; 1997, c. 587.

**§ 15.2-2621. Bonds mutilated, lost or destroyed.**

If any bond is mutilated, destroyed or lost, the governing body of the locality obligated to pay the bond may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for and upon the cancellation of the mutilated bond, or in lieu of and in substitution for the bond destroyed or lost, upon the owner paying the reasonable expense and charges in connection therewith. In the case of a bond destroyed or lost, its owner may be required to file with the person having custody of the funds from which the bond is to be paid evidence satisfactory to that person that the

bond was destroyed or lost, and evidence of the ownership of the bond and may be required to furnish indemnity satisfactory to that person.

Code 1950, § 15-666.50; 1958, c. 640; 1962, c. 623, § 15.1-209; 1986, c. 468; 1991, c. 668, § 15.1-227.23; 1997, c. 587.

### § 15.2-2622. Destruction of bonds and coupons after payment in full.

A. Whenever the fiscal agent for any locality pays in full any bonds representing an obligation of the locality, the fiscal agent may, by agreement with the locality, destroy the bond and certify the facts of the payment and destruction to the treasurer or director of finance, as the case may be, of the locality.

B. The certification required by this section shall set forth the issue, series, number and maturity date of each bond, together with any additional facts as are necessary to specifically identify each bond paid and destroyed. However, the treasurer or director of finance may waive the requirement that the number of each interest coupon be supplied.

C. Every certification shall be in such form as is prescribed by the Auditor of Public Accounts and shall be acknowledged in the manner prescribed by law for the acknowledgment of deeds.

D. Whenever any certification, appearing on its face to have been executed and acknowledged as prescribed by this section, has been delivered to the treasurer or director of finance of any locality by the fiscal agent, the treasurer or director of finance shall, in the absence of actual knowledge of any misrepresentation or irregularity as to the certification, be relieved of all further liability for all the bonds represented in the certificate to have been paid and destroyed. For accounting purposes, every such certification which appears on its face to have complied with the requirements of this section shall constitute sufficient evidence of the facts set forth in it.

Code 1950, § 15-666.27:1; 1962, c. 310, § 15.1-184.1; 1966, c. 574; 1983, c. 30; 1991, c. 668, § 15.1-227.24; 1997, c. 587.

### § 15.2-2623. Defeasance of indebtedness; rights of owners.

The governing body of any locality is authorized to provide by resolution or ordinance for the defeasance of any bonds of the locality now or hereafter outstanding, to the extent that the defeasance of such bonds is not otherwise provided for in the resolution, ordinance, indenture or other document governing the issuance of such bonds. Bonds to be defeased pursuant to this section shall be deemed defeased and no longer outstanding when there has been established with a bank or trust company designated by the locality an escrow or sinking fund consisting of cash and noncallable obligations of, or unconditionally guaranteed by, the United States of America or noncallable obligations of, or unconditionally guaranteed by, the Commonwealth in an amount which together with interest to be earned on such obligations will be sufficient to pay all bonds to be defeased either at maturity or upon redemption; however, if such bonds are to be defeased either at maturity or upon redemption, notice of the redemption of such bonds shall have been duly given or irrevocable instructions to redeem such bonds shall have been given by the locality.

Any escrow fund established pursuant to this section shall be irrevocably pledged to the payment of the bonds to be defeased and shall be used solely to pay such bonds at maturity or upon earlier redemption. It is the intent that any escrow fund established pursuant to this section shall constitute a special fund for the payment of the defeased bonds and that the defeased bonds shall not be included for the purpose of determining any limitation upon the amount of indebtedness of the locality which is imposed by law.

The owners of any outstanding bonds to be defeased shall be divested of all rights and security relating to the bonds, except the right to payment due to principal, premium, if any, and interest, which shall be paid solely from the escrow fund.

1994, c. 714, § 15.1-227.24:1; 1997, c. 587.

**§ 15.2-2624. Tax to pay principal and interest.**

Notwithstanding any other provision of law or any charter provision, the governing body is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the locality are assessed, levied and collected, a tax upon all taxable property within the locality, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on any general obligation bonds of the locality issued under the provisions of this chapter to the extent other funds of the locality are not lawfully available and appropriated for such purpose.

1991, c. 668, § 15.1-227.25; 1997, c. 587.

**§ 15.2-2625. Deposit of funds; security; investment of funds.**

Unless otherwise provided in the ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, all money collected and required to be set aside for the payment of bonds issued under the provisions of this chapter, whether from the proceeds of taxes levied for such purpose or from revenues or special assessments pledged for such purpose, shall be deposited in escrow with some solvent bank or trust company in the Commonwealth which is acceptable to the governing body and shall be secured pursuant to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2. In lieu of retaining the money on deposit, all or part of the money may be invested in securities that are legal investments under the laws of the Commonwealth, which mature, or which are subject to redemption by the owner at the option of the owner, not later than the date upon which the money shall be required to make the payments for which it has been designated.

Code 1950, § 15-666.52; 1958, c. 640; 1960, c. 92; 1962, c. 623, § 15.1-211; 1978, c. 389; 1988, c. 834; 1991, c. 668, § 15.1-227.26; 1997, c. 587.

**§ 15.2-2626. Contracts concerning interest rates, currency, cash flow or other basis.**

A. Any locality may enter into any contract which the governing body of the locality determines to be necessary or appropriate to place the obligation or investment of the locality, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the locality, which contract may include without limitation, contracts commonly known

as interest rate swap agreements, and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the locality in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the governing body of the locality, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

B. Any money set aside and pledged to secure payments of bonds or any of the contracts entered into pursuant to this section, may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section.

1991, c. 668, § 15.1-227.27; 1997, c. 587.

**§ 15.2-2627. Time for contesting validity of proposed bond issue; when bonds presumed valid.**
For a period of thirty days after the date of the filing with the circuit court having jurisdiction over the locality of a certified copy of the initial ordinance or resolution of the governing body of the locality authorizing the issuance of bonds, any person in interest has the right to contest the validity of the bonds, the taxes to be levied for the payment of the bonds, the rates, rents, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, any revenue-producing undertaking, the pledge of the revenues of any revenue-producing undertaking, any provisions which may be recited in any ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not begun within the thirty-day period, the authority to issue the bonds, the validity of the taxes or the pledge of revenues necessary to pay the bonds, the validity of any other provision contained in the ordinance, resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and an election held or ordinance or resolution adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the locality in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the locality, any taxpayer of the locality, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

Code 1950, § 15-666.53; 1958, c. 640; 1962, c. 623, § 15.1-212; 1991, c. 668, § 15.1-227.28; 1997, c. 587.

**§ 15.2-2628. Notes in anticipation of bond issue.**

In anticipation of the issuance of bonds under the provisions of this chapter and of the receipt of the proceeds from the sale of bonds, any locality may borrow money and issue its notes for any purpose for which bonds of the locality have been authorized in a principal amount not to exceed the principal amount of the authorized bonds. The notes shall mature and be paid within five years of the date of their original issuance. Any notes may be extended or refinanced from time to time, provided that no extension or refinancing matures later than five years from the date of the original issuance of the notes.

The locality may, in its discretion, retire any notes by means of current revenues, special assessments, or other funds, in lieu of retiring them by the issuance of bonds, provided that the maximum amount of bonds that has been authorized must be reduced by the amount of the notes retired in such manner.

Code 1950, § 15-666.64; 1958, c. 640; 1962, cc. 220, 623, § 15.1-223; 1966, c. 161; 1970, c. 144; 1991, c. 668, § 15.1-227.29; 1997, c. 587.

**§ 15.2-2629. Loans to meet appropriations for current year.**

Any locality may borrow money and issue its notes in anticipation of the collection of the taxes and revenues of the locality for the current year, but the principal amount of the notes may not exceed the anticipated revenues for such year. Such notes shall mature and be paid within one year from the date they are issued. No extension of such notes shall be valid and no additional notes shall be issued under this section until all notes issued during preceding years have been paid.

1991, c. 668, § 15.1-227.30; 1997, c. 587.

**§ 15.2-2630. Loans in anticipation of federal and state funds.**

Any locality may borrow money and issue its notes in advance of grants and reimbursements due the locality from the federal or state government for the purpose of meeting appropriations made for the then fiscal year. "Grants" means grants which the locality has been formally advised in writing it will receive and "reimbursements" means money which either the federal or state government is obligated to pay the locality on account of expenditures made in anticipation of receiving the payment from the federal or state government. The locality may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the notes are issued. The notes shall be repaid by the earlier of thirty days after the grant or reimbursement is received or one year from the date of their issuance.

1991, c. 668, § 15.1-227.31; 1997, c. 587.

**§ 15.2-2631. Terms of temporary loans.**

The temporary loans authorized by §§ 15.2-2628, 15.2-2629, and 15.2-2630, shall be evidenced by bonds or notes issued under and governed by the provisions of this chapter insofar as they are applicable. The bonds or notes may be extended or refinanced from time to time, but shall mature within the time limits prescribed by §§ 15.2-2628, 15.2-2629, and 15.2-2630.

1991, c. 668, § 15.1-227.32; 1997, c. 587.

## Article 3 - BONDS ISSUED BY MUNICIPALITIES

### § 15.2-2632. Certain debts that may be contracted by city on transition from town.

Any city may, within one year from the date of its transition from a town to a city pursuant to the provisions of Chapter 38 (§ 15.2-3800 et seq.) of this title, contract debts, borrow money, and authorize the issuance of its bonds in the principal amount of its proportionate share of all state, county, and district levies on property within the territory occupied by the city actually collected by the county treasurer pursuant to § 15.2-3828 in the year in which the transition takes place, and which does or would constitute credit against the amount of the assumption of county indebtedness by the city pursuant to § 15.2-3829.

Code 1950, § 15-666.18:1; 1962, c. 558, § 15.1-175.1; 1991, c. 668, § 15.1-227.33; 1997, c. 587.

### § 15.2-2633. Borrowing by certain cities to pay expenses.

Notwithstanding any provision of law to the contrary, any city may contract debts by borrowing money and authorizing the issuance of its bonds maturing more than one year after their date to pay the expenses associated with it becoming a city, including without limitation, payments to any county for educational services pending the establishment of its school system, provided:

1. The debts shall not be created after five years from the date it became a city, and

2. The debts shall not at any time during the five-year period exceed one percent of the assessed valuation of the real estate in the city subject to taxation, as shown by the last preceding assessment for taxes.

1978, c. 524, § 15.1-175.2; 1991, c. 668, § 15.1-227.34; 1997, c. 587.

### § 15.2-2634. Limitation on amount of outstanding bonds.

Subject to §§ 15.2-2601 and 15.2-2635, no municipality may issue any bonds or other interest-bearing indebtedness which, including existing indebtedness, at any time exceeds ten percent of the assessed valuation of the real estate in the municipality subject to taxation, as shown by the last preceding assessment for taxes.

Code 1950, § 15-666.19; 1958, c. 640; 1962, c. 623, § 15.1-176; 1971, Ex. Sess., c. 224; 1985, c. 56; 1991, c. 668, § 15.1-227.35; 1997, c. 587.

### § 15.2-2635. What indebtedness not included in determining limitation.

In determining the limitation contained in § 15.2-2634, there shall not be included the classes of indebtedness described in clauses (1) through (4) of Article VII, Section 10 (a) of the Constitution of Virginia.

1991, c. 668, § 15.1-227.36; 1997, c. 587.

### § 15.2-2636. Ordinance or resolution to provide for issue of bonds.

Except as otherwise provided in this section, whenever any municipality proposes to borrow money and issue its bonds under the provisions of Article VII, Section 10(a), of the Constitution of Virginia

and this chapter, the governing body shall adopt an ordinance or resolution, stating the maximum principal amount of the bonds to be issued and in brief and general terms the purpose or purposes for which the proceeds of the bonds are to be used. Subject to § 15.2-2601, if the proposed bond issue is pursuant to the provisions of Article VII, Section 10(a) of the Constitution of Virginia (other than subsection (2) thereof), the governing body may authorize and issue bonds in accordance with the applicable provisions of this chapter, without submission of the question of the issuance of the bonds to the voters for approval. If the bonds are being issued under the provisions of Article VII, Section 10(a)(2) of the Constitution of Virginia, and are not to be included within the otherwise authorized indebtedness of the municipality, the bonds shall be authorized by an ordinance which shall state that fact, as well as the specific undertaking for which the money is proposed to be borrowed and the bonds are to be issued, and request that a referendum on the issuance of the bonds be held in accordance with §§ 15.2-2610 and 15.2-2611. Any ordinance or resolution authorizing the issuance of bonds by a municipality must be passed by the recorded affirmative vote of a majority of all the members elected to its governing body. If the ordinance or resolution is vetoed by the mayor, where the power of veto exists, it may be adopted notwithstanding the veto in the manner prescribed by Article VII, Section 7 of the Constitution of Virginia.

Code 1950, § 15-666.22; 1958, c. 640; 1962, c. 623, § 15.1-179; 1971, Ex. Sess., c. 224; 1973, c. 144; 1991, c. 668, § 15.1-227.37; 1997, c. 587.

**§ 15.2-2637. Danville to incur indebtedness only in accordance with charter.**

In the City of Danville no money shall be borrowed, no bonds issued and no indebtedness incurred under this chapter except in accordance with the terms of its charter.

Code 1950, § 15-666.24; 1958, c. 640; 1962, c. 623, § 15.1-181; 1970, c. 209; 1991, c. 668, § 15.1-227.38; 1997, c. 587.

## Article 4 - BOND ISSUES BY COUNTIES

**§ 15.2-2638. Powers of counties generally; approval of voters required.**

A. Except as provided in subsection B of this section, no county has the power to contract any debt or to issue its bonds unless a majority of the voters of the county voting on the question at an election held in accordance with §§ 15.2-2610 and 15.2-2611 approve contracting the debt, borrowing the money and issuing the bonds.

B. Voter approval is not required for a county (i) to contract debt or to issue bonds described in Article VII, Section 10(a)(1) and (3) of the Constitution of Virginia, (ii) to issue refunding bonds, or (iii) to issue bonds, with the consent of the school board and the governing body of the county, for capital projects for school purposes which are sold to the Literary Fund, the Virginia Retirement System, or other state agency prescribed by law.

Code 1950, § 15-666.28; 1958, c. 640; 1962, c. 623, § 15.1-185; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.39; 1997, c. 587.

**§ 15.2-2639. County may elect to be treated as city for issuing bonds.**

Any county may, upon approval by the affirmative vote of the voters of the county voting in an election on the question, elect to be treated as a city for the purpose of incurring debt and issuing bonds under this chapter. If a county so elects, it will thereafter be subject to all of the benefits and limitations of Article VII, Section 10 (a) of the Constitution of Virginia and all provisions of this chapter relating to bonded indebtedness applicable to municipalities, but in determining the debt limitation for such county under § 15.2-2634 there shall be included, unless otherwise excluded under Article VII, Section 10 (a) of the Constitution of Virginia, indebtedness of any town or district in that county empowered to levy taxes on real estate.

1971, Ex. Sess., c. 224, § 15.1-185.1; 1991, c. 668, § 15.1-227.40; 1997, c. 587.

**§ 15.2-2640. Resolution for bond issue; contents; request for bonds for school purposes.**
Whenever the governing body of any county determines that it is advisable to contract a debt and issue general obligation bonds of the county, it shall adopt an ordinance or resolution setting forth in brief and general terms the purpose or purposes for which the bonds are to be issued and the maximum amount of the bonds to be issued.

Where voter approval is required or permitted by the Constitution of Virginia or this chapter, the ordinance or resolution shall request the circuit court to order an election to be held pursuant to §§ 15.2-2610 and 15.2-2611 on the question of contracting the debt and issuing the proposed bonds.

Before the adoption of an ordinance or resolution by the governing body of any county requesting the ordering of an election on the question of contracting a debt and issuing bonds for school purposes, or, if no referendum is required, adopting an ordinance or resolution authorizing the issuance of bonds for school purposes, the school board of the county must first request, by resolution, the governing body of the county to take such action.

If voter approval is not required by the Constitution of Virginia or the provisions of this chapter, the governing body of the county has all the powers granted by this chapter to the governing bodies of municipalities with respect to incurring debt and issuing bonds.

Code 1950, § 15-666.29; 1958, c. 640; 1960, c. 563; 1962, c. 623, § 15.1-186; 1971, Ex. Sess., c. 224; 1980, c. 559; 1989, c. 177; 1991, c. 668, § 15.1-227.41; 1997, c. 587.

**§ 15.2-2641. Subsequent resolutions.**
If the question of contracting a debt, borrowing money and issuing bonds for the purpose or purposes set forth in the ordinance or resolution is approved at the election called and held for such purpose, the governing body of the county, subsequent to the recording of the results of the election, may, by ordinance or resolution, at one time or from time to time, authorize the issuance of bonds. A copy of each ordinance or resolution authorizing the issuance of bonds, certified by the clerk of the governing body of the county, shall be filed with the clerk of the circuit court for the county.

Code 1950, § 15-666.32; 1958, c. 640; 1962, c. 623, § 15.1-189; 1980, c. 559; 1991, c. 668, § 15.1-227.42; 1997, c. 587.

**§ 15.2-2642. School district bonds.**

The governing body of any county, acting for and on behalf of any school district in the county, or acting for and on behalf of two or more school districts jointly, may provide for the issuance of general obligation bonds of the school district or districts for school purposes. Where voter approval is required by the Constitution of Virginia or the provisions of this chapter, the bonds shall not be issued unless a majority of the voters of the district voting in the election held pursuant to §§ 15.2-2610 and 15.2-2611 on the question in the district, or in each of the districts separately, approve the contracting of the debt and the issuing of the bonds. The bonds of two or more school districts shall be issued as joint obligations of such school districts. Any school district, or any school districts jointly, shall constitute a locality. For the purpose of this section, each magisterial district in each county shall constitute a school district, but any such school district shall not include a town constituting a separate school district. In any county where an incorporated town constitutes both a school district and an entire magisterial district, the remaining magisterial districts shall, upon the adoption of resolutions by the governing body and the school board, constitute a single school district which may thereafter issue general obligation bonds for school purposes after approval by a majority of all the voters of the district voting in an election on the question. The issuance of the bonds shall be governed by the provisions of this chapter.

Code 1950, § 15-666.32:1; 1958, c. 640; 1962, cc. 76, 623, § 15.1-190; 1964, c. 133; 1968, c. 611; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.43; 1997, c. 587.

## Article 5 - REFUNDING BONDS

### § 15.2-2643. Authority for issuance; resolutions or ordinances.

The governing body of any locality is authorized to provide by resolution or ordinance for the issuance of bonds of the locality for the purpose of refunding any or all bonds of the locality now or hereafter outstanding, other than obligations issued in anticipation of the collection of the revenue of the locality for the then current year, and for the purpose of paying the cost of issuing the refunding bonds, whether the locality created the indebtedness or assumed or became liable for it and whether or not the indebtedness to be refunded has matured or is then subject to redemption.

This article shall without reference to any other sections of the Code or acts of the General Assembly be full authority for the issuance, sale, or exchange of bonds authorized under it, and no order, resolution or proceeding in respect of the issuance of the bonds shall be necessary except as required by this article. No approval of the authorization, sale, or exchange of bonds under this article shall be required by any official, court, board, or body and no publication of any notice, order, resolution, or proceeding relating to the issuance of refunding bonds shall be necessary, except as expressly required in this article. The authorization and issuance of refunding bonds shall not be subject to referendum.

Code 1950, § 15-666.33; 1958, c. 640; 1962, c. 623, § 15.1-192; 1977, c. 442; 1991, c. 668, § 15.1-227.44; 1997, c. 587.

### § 15.2-2644. Issuance or exchange for indebtedness to be retired; sale and disposition of proceeds; rights of owners.

Any refunding bonds may be issued or exchanged for the indebtedness to be retired by them, including indebtedness not matured, redeemable or surrendered for retirement. Unless so exchanged, any locality may sell refunding bonds authorized under the provisions of this article in such manner, either at public or private sale, and for such price as the governing body of the locality may determine. The proceeds of any refunding bonds may be applied to (i) the payment of matured or redeemable indebtedness, including any redemption premium, (ii) the payment of unmatured indebtedness the evidences of which are on deposit with a bank or trust company designated by the locality for surrender to the locality upon receipt of payment in an amount not exceeding the amount of the indebtedness, or (iii) the establishment of an escrow or sinking fund consisting of cash and noncallable obligations of, or unconditionally guaranteed by, the United States of America or noncallable obligations of, or unconditionally guaranteed by, the Commonwealth in an amount which together with interest to be earned on such obligations shall be sufficient to pay all indebtedness to be refunded either at maturity or upon redemption as provided for upon the creation of the escrow or sinking fund. Any escrow or sinking fund established, in whole or in part, from the proceeds of the sale of refunding bonds shall be irrevocably pledged to the payment of the indebtedness to be refunded and shall be used solely to pay the indebtedness at maturity or upon redemption or for the purchase of not less than all of the indebtedness to be refunded. It is the intent that any escrow or sinking fund established pursuant to this section shall constitute a special fund for the payment of the refunded indebtedness and that the refunded indebtedness shall not be included for the purpose of determining any limitation upon the amount of indebtedness of the locality which is imposed by law.

The owners of any outstanding indebtedness to be refunded shall be divested of all rights and security relating to the indebtedness, except the right to payment when due of principal, premium, if any, and interest, which shall be paid solely from the escrow or sinking fund; provided that, in the case of debt issued before March 27, 1977, the governing body of the locality may provide that if the escrow or sinking fund is in any respect insufficient to make payment of principal, premium, if any, and interest, the original rights and security relating to the indebtedness shall be restored to the extent necessary to provide full payment.

Code 1950, § 15-666.34; 1958, c. 640; 1962, c. 623, § 15.1-193; 1977, c. 442; 1985, c. 196; 1991, c. 668, § 15.1-227.45; 1994, c. 714; 1997, c. 587.

### § 15.2-2645. Amount of bonds.

No refunding bonds shall be issued in a principal amount exceeding that necessary to amortize the principal of and premium, if any, and interest on the bonds to be refunded and pay all expenses reasonably incurred in the issuance of the refunding bonds less the amount then in any sinking, escrow and other funds which are available for the payment of the principal, premium, if any, or interest on the bonds to be refunded.

Code 1950, § 15-666.35; 1958, c. 640; 1962, c. 623, § 15.1-194; 1977, c. 442; 1991, c. 668, § 15.1-227.47; 1997, c. 587.

### § 15.2-2646. Participation in funds donated by the Commonwealth.

The issuance of refunding bonds for the retirement of bonds which are now or may hereafter be entitled to participate in funds donated by the Commonwealth, or funds receivable from any source other than local taxes levied for such purposes, shall not be construed to deprive the bonds of the right to continue to participate in the distribution of those funds, and the refunding bonds after their issuance shall enjoy all rights as would have been enjoyed by the bonds refunded.

Code 1950, § 15-666.36; 1958, c. 640; 1962, c. 623, § 15.1-195; 1991, c. 668, § 15.1-227.48; 1997, c. 587.

### § 15.2-2647. Expenses of authorization and issuance; agent to assist in refunding transaction.

The governing body may authorize the payment by any locality of all expenses reasonably incurred by it in connection with the authorization and issuance of refunding bonds. The governing body may appoint or retain an agent for the purpose of assisting it in the refunding transaction and in obtaining the surrender of its outstanding bonds and may pay a fee to the agent as it may consider proper.

Code 1950, § 15-666.37; 1958, c. 640; 1962, c. 623, § 15.1-196; 1991, c. 668, § 15.1-227.49; 1997, c. 587.

### § 15.2-2648. Purchase in open market.

Provision may be made in the proceedings authorizing refunding bonds for the purchase of the refunded bonds in the open market or pursuant to tenders made from time to time when there is available in the escrow or sinking fund for the payment of the refunded bonds a surplus in an amount or amounts to be fixed in such proceedings.

Code 1950, § 15-666.38; 1958, c. 640; 1962, c. 623, § 15.1-197; 1991, c. 668, § 15.1-227.50; 1997, c. 587.

### § 15.2-2649. District refunding bonds.

The governing body of any county, acting for and in behalf of any road district, magisterial district, sanitary district, or school district in the county, may provide for the issuance of refunding bonds of the district for the purpose of refunding any bonds of the district. The issuance of the refunding bonds shall be governed by the provisions of this chapter insofar as they may be applicable.

Code 1950, § 15-666.39; 1958, c. 640; 1962, c. 623, § 15.1-198; 1991, c. 668, § 15.1-227.51; 1997, c. 587.

## Article 6 - JUDICIAL DETERMINATION OF VALIDITY OF BONDS

### § 15.2-2650. Article controlling as to proceedings involving validity.

The provisions of this article apply to all suits, actions and proceedings of whatever nature involving the validity of bonds of any locality or other political subdivision, agency or instrumentality of the Commonwealth or of any locality, whether the bonds are to be issued following an election on the question of their issuance or without necessity of an election. These provisions supersede all other acts and statutes on the subject and are controlling in all cases, notwithstanding the provisions of any other law or charter to the contrary.

Code 1950, § 15-666.54; 1958, c. 640; 1962, c. 623, § 15.1-213; 1991, c. 668, § 15.1-227.52; 1997, c. 587; 2003, c. 570.

**§ 15.2-2651. Proceeding by political subdivision to establish validity; procedure; parties defendant.**
The governing body of any locality or other political subdivision, agency or instrumentality of the Commonwealth or of any locality proposing to issue bonds may bring at any time a proceeding in any court of the county or city having general jurisdiction and in which the issuer is located to establish the validity of the bonds, the legality of all proceedings taken in connection with the authorization or issuance of the bonds, the validity of the tax or other means provided for the payment of the bonds, and the validity of all pledges of revenues and of all covenants and provisions which constitute a part of the contract between the issuer and the owners of the bonds. The proceeding shall be brought by filing a motion for judgment describing the bonds and the proceedings taken in connection with their issuance and alleging that the bonds when issued shall be valid and legal obligations of the issuer. In the motion for judgment the taxpayers, property owners and citizens of the jurisdiction where the issuer is located, including nonresidents owning property in or subject to taxation by it, and all other persons interested in or affected in any way by the issuance of the bonds shall be made parties defendant.

Code 1950, § 15-666.55; 1958, c. 640; 1962, c. 623, § 15.1-214; 1991, c. 668, § 15.1-227.53; 1997, c. 587; 2003, c. 570.

**§ 15.2-2652. Service by publication of motion for judgment; parties defendant.**
Upon the filing of the motion for judgment the court shall fix the time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper.

By the publication of the motion for judgment or summary and the order, all taxpayers, property owners and citizens of the jurisdiction where the issuer is located, including nonresidents owning property in or subject to taxation by it, and all other persons having or claiming any right, title or interest in any property or funds affected in any way by the issuance of the bonds, or having or claiming to have any right or interest in the subject matter of the motion for judgment, shall be considered parties defendant in the proceedings, and the court shall have jurisdiction of them the same as if each of them were named individually as a defendant in the motion for judgment and personally served with process.

Code 1950, § 15-666.56; 1958, c. 640; 1962, c. 623, § 15.1-215; 1991, c. 668, § 15.1-227.54; 1997, c. 587.

**§ 15.2-2653. Contesting issuance of bonds; notice and hearing; service on member of governing body, etc.**

Any person, corporation, or association desiring to contest the issuance of any bonds pursuant to the provisions of this chapter, or any other law, general or special, shall proceed by filing a motion for judgment within thirty days after the filing of the resolution or ordinance authorizing the issuance of the bonds with the circuit court having jurisdiction over the issuer, or in contesting the validity of a petition for or the results of a referendum, within thirty days after the date that the result of the election for the issuance of the bonds is certified, in the court having jurisdiction as provided in § 15.2-2651. For bonds which are not authorized pursuant to a referendum, or for which the authorizing resolution or ordinance is not required to be filed with the circuit court, the contestant shall proceed by filing a motion for judgment within thirty days after the adoption of the authorizing resolution or ordinance. Upon the filing of a motion for judgment, the court shall fix a time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper. In addition to such publication, the plaintiff shall secure personal service on at least one member of the governing body of the issuer.

Code 1950, § 15-666.57; 1958, c. 640; 1962, c. 623, § 15.1-216; 1979, c. 184; 1991, c. 668, § 15.1-227.55; 1994, c. 714; 1997, c. 587.

**§ 15.2-2654. Reply by party defendant; intervention by interested parties; determination of questions; orders; precedence over other business.**

Any party defendant may reply to the motion for judgment within ten days after its second publication as required by §§ 15.2-2652 and 15.2-2653 but not thereafter. Any property owner, taxpayer, citizen or other person in interest may become a party to the proceedings by pleading to the motion for judgment on or before the time set for hearing as provided by § 15.2-2652 or § 15.2-2653, or such earlier time as may be specified in the order of the court, or thereafter by intervention upon leave of the court. At the time and place designated in the order for the hearing as provided for in § 15.2-2652 or § 15.2-2653, the judge shall proceed to hear and determine all questions of law and fact in the proceeding and may make such orders as to the proceeding and such adjournments as will enable the judge properly to try and determine the proceeding and to render a final decree with the least possible delay. The proceeding shall take precedence over all other business of the court.

Code 1950, § 15-666.58; 1958, c. 640; 1962, c. 623, § 15.1-217; 1991, c. 668, § 15.1-227.56; 1997, c. 587.

**§ 15.2-2655. Consolidation of actions or proceedings.**

Upon motion of the plaintiff or the issuer, the court in which the first proceeding to invalidate or sustain the bonds was instituted may enjoin the commencement by any person, corporation, or association of any other action or proceeding involving the validity of the bonds or any matter recited in the motion for judgment. The court may order a joint hearing before it of all issues then pending in any actions or

proceedings in any court in the Commonwealth, may order all such actions or proceedings consolidated with the validation proceeding pending before it, and may make such orders as may be necessary or proper to effect consolidation and as may tend to avoid unnecessary costs or delays. Such orders shall not be appealable.

Code 1950, § 15-666.59; 1958, c. 640; 1962, c. 623, § 15.1-218; 1991, c. 668, § 15.1-227.57; 1997, c. 587.

**§ 15.2-2656. Appeals.**

An appeal from the final judgment of the circuit court in a bond validation proceeding may be taken to the Supreme Court of Virginia. No appeal shall be allowed unless a notice of appeal is filed in the circuit court within 15 days after the date on which the final judgment of the court is entered and unless the appealing party's petition for appeal is filed with the Supreme Court of Virginia within 30 days after the date on which the final judgment of the court is entered. When a notice of appeal is timely and properly filed with the clerk of the circuit court, the clerk shall certify and transmit the record to the Clerk of the Supreme Court of Virginia within 30 days after the date on which the final judgment of the circuit court is entered. Failure of the clerk to comply with this requirement shall not affect the jurisdiction of the Supreme Court of Virginia to consider the appeal. If the Supreme Court of Virginia grants the petition for appeal, it shall be placed on the privileged docket.

Code 1950, § 15-666.60; 1958, c. 640; 1962, c. 623, § 15.1-219; 1991, c. 668, § 15.1-227.58; 1997, c. 587; 2003, c. 679.

**§ 15.2-2657. Decree validating bonds binding and conclusive.**

In the event the decree of the court validates the bonds and no appeal is taken within the time prescribed in § 15.2-2656, or if an appeal is taken and the decree of the court is affirmed, the decree shall be forever binding and conclusive as to the validity of the bonds, the validity of the tax or other means provided for the payment of the bonds, and the validity of all pledges of revenues and of all covenants and provisions contained in any ordinance, resolution, trust agreement, indenture, or other instrument authorizing or providing for the issuance of the bonds, the legality of proceedings taken in connection with the issuance of the bonds, and all matters adjudicated and all objections presented or which might have been presented in the proceeding, and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or which might have been called in question in such proceedings.

Code 1950, § 15-666.61; 1958, c. 640; 1962, c. 623, § 15.1-220; 1991, c. 668, § 15.1-227.59; 1997, c. 587.

**§ 15.2-2658. Bonds invalidated only for substantial defects, etc.; matters of form disregarded.**

No court in which a proceeding to invalidate or sustain bonds is brought shall invalidate the bonds unless it finds substantial defects, material errors, and omissions in the bond issue. Matters of form shall be disregarded.

Code 1950, § 15-666.62; 1958, c. 640; 1962, c. 623, § 15.1-221; 1991, c. 668, § 15.1-227.60; 1997, c. 587.

## Article 7 - MISCELLANEOUS

### § 15.2-2659. Investigation by Governor of alleged defaults; withholding state funds from defaulting locality; payment of funds withheld; receipts, reports, etc.; magisterial and school district defaults included.

Whenever it appears to the Governor from an affidavit filed with him by or on behalf of the owner or owners of any general obligation bonds of any locality, or by any paying agent for the bonds that the locality has defaulted in the payment of the principal of or premium, if any, or interest on any of its outstanding general obligation bonds, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit.

If it is established to the satisfaction of the Governor that the locality is in default in the payment of its bonds or the interest on them, the Governor shall immediately make an order directing the Comptroller to withhold all further payment to the locality of all funds, or of any part of them, appropriated and payable by the Commonwealth to the locality for any and all purposes, until the default is cured. The Governor shall, while the default continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to the owners of the bonds in default, or the paying agent for the bonds, so as to cure, or cure insofar as possible, the default as to the bonds or interest on them.

The Governor shall, as soon as practicable, give notice of the default and of the availability of funds with the paying agent or with the Comptroller by publication one time in a daily newspaper of general circulation in the City of Richmond and in the case of registered bonds, by mail, to the registered owners of the bonds. The cost of the publication and mailing shall be a further charge against the funds in the hands of the Comptroller payable to the locality. Any payment so made by the Comptroller to the owners of the bonds in default, or to the paying agent for the bonds, shall be credited as if made directly by the locality and shall be charged by the Comptroller against the first appropriations otherwise payable to the locality as if paid to the locality. The owners of the bonds in default, or the paying agent for the bonds, at the time of payment or at the time of each payment shall receipt for the payment and deliver to the Comptroller all bonds and interest coupons or assignments, in a form satisfactory to the Comptroller, of the right to receive the principal or interest satisfied by the payment. The Comptroller shall report each payment made to the governing body of the defaulting locality and deliver or send by registered mail to the governing body all bonds, interest coupons, and assignments received by the Comptroller under the provisions of this section.

If there is no paying agent for the bonds, the Comptroller shall hold for the benefit of the owners of the bonds in default who do not present their bonds, coupons or assignments for payment their pro rata share of the amounts so withheld and shall pay their share of such amounts when the bonds, coupons or assignments are presented.

For the purpose of this section, bonds of any magisterial district or school district of any county shall be treated as bonds of the county in which the magisterial district or school district is located.

Nothing in this section shall be construed to create any obligation on the part of the Comptroller or the Commonwealth to make any payment on behalf of the defaulting locality other than from funds appropriated and payable to the defaulting locality.

Code 1950, § 15-666.66; 1958, c. 640; 1962, c. 623, § 15.1-225; 1964, c. 46; 1971, Ex. Sess., c. 224; 1988, c. 210; 1991, c. 668, § 15.1-227.61; 1997, c. 587.

**§ 15.2-2660. Bonds not affected by project undertaken.**

The authorization and issuance of the bonds under this chapter shall not be dependent on or affected in any way by proceedings taken, contracts made, or acts performed or done in connection with, or in furtherance of, the project undertaken by the locality authorizing and issuing the bonds.

Code 1950, § 15-666.67; 1958, c. 640; 1962, c. 623, § 15.1-226; 1991, c. 668, § 15.1-227.62; 1997, c. 587.

**§ 15.2-2661. Provisions of chapter controlling; powers conferred are additional.**

Insofar as the provisions of this chapter are inconsistent with the provisions of any law, the provisions of this chapter shall be controlling. The powers conferred by this chapter are in addition to the powers conferred by any other law. Bonds may be issued under this chapter for any permitted purpose notwithstanding that any other law may provide for the issuance of bonds for like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds may be issued under this chapter notwithstanding any debt or other limitation prescribed by any other law. The mode and method of procedure for the issuance of bonds under this chapter need not conform to the provisions of any other law.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing except those proceedings, conditions or things which are specifically required by this chapter.

Notwithstanding anything in this section to the contrary, any referendum requirement for the issuance of bonds or debt limitation contained in any charter or local or special act shall control over the provisions of this chapter after July 1, 1992.

Code 1950, § 15-666.68; 1958, c. 640; 1962, c. 623, § 15.1-227; 1991, c. 668, § 15.1-227.63; 1997, c. 587.

**§ 15.2-2662. Validation of bonds.**

All proceedings taken before July 1, 1991, for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any locality are validated, ratified, approved and confirmed, and any bonds so issued are valid, legal, binding and enforceable obligations of the locality.

All proceedings taken before July 1, 1992, for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any locality are validated, ratified, approved and confirmed, and any bonds so issued, are valid, legal, binding and enforceable obligations of the locality.

1991, c. 668, § 15.1-227.64; 1994, c. 714; 1997, c. 587.

### § 15.2-2663. Transition.

If any proceedings with respect to the authorization, issuance, sale, execution or delivery of bonds have been commenced before July 1, 1991, the bonds may, at the election of the governing body of the locality issuing the bonds, be issued under the provisions of this chapter or under the provisions of law in effect immediately before July 1, 1991.

1991, c. 668, § 15.1-227.65; 1997, c. 587.

## Chapter 27 - LOCAL GOVERNMENT GROUP SELF-INSURANCE POOLS

### § 15.2-2700. Declaration of policy, findings and purpose.

The General Assembly hereby finds and determines that insurance protection is essential to the proper functioning of political subdivisions; that the resources of political subdivisions are burdened by the high cost of and frequent inability to secure such protection through standard carriers; that proper risk management requires the spreading of risk so as to minimize fluctuation in insurance needs; and that, therefore, all contributions of financial and administrative resources made by a political subdivision pursuant to an intergovernmental contract as authorized by this chapter are made for a public and governmental purpose, and that such contributions benefit each contributing political subdivision.

1986, cc. 520, 556, § 15.1-503.4:1; 1997, c. 587.

### § 15.2-2701. Definition.

For the purposes of this chapter, "political subdivision" means any county, city, or town, school board, Transportation District Commission, or any other local governmental authority or local agency or public service corporation owned, operated or controlled by a locality or local government authority, with power to enter into contractual undertakings.

1986, cc. 520, 556, § 15.1-503.4:2; 1997, c. 587.

### § 15.2-2702. Commonwealth and agencies thereof authorized to exercise powers under this chapter.

The Commonwealth, or any agency of the Commonwealth, is authorized to exercise any of the powers granted to political subdivisions by this chapter, and when so doing shall be subject to the provisions of this chapter; provided, no agency of the Commonwealth may without the prior written consent of the Governor join in any self-insurance pool provided for in this chapter where, pursuant to the provisions of Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, the Division of Risk Management has established an insurance plan providing the type of insurance coverage that would be provided to such state agency under the provisions of this chapter. However, nothing contained in this chapter

shall affect any insurance plan now or hereafter adopted pursuant to the provisions of Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2.

1987, c. 651, § 15.1-503.4:2.1; 1997, c. 587; 2000, cc. 618, 632.

**§ 15.2-2703. Group self-insurance pools authorized.**

A. Any political subdivision of this Commonwealth may, by contract with one or more political subdivisions of this Commonwealth or of another state, form a group self-insurance pool to provide for joint or cooperative action relative to their financial and administrative resources for the purpose of providing to the participating political subdivisions risk management services as well as insurance coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any or all of the following:

1. Casualty insurance, including workers' compensation under Title 65.2, employers' liability, general, professional and public officials liability coverage;

2. Property insurance, including marine insurance and inland marine and transportation insurance coverage;

3. Group life, accident and health coverages including hospital, medical, surgical and dental benefits to the employees of member political subdivisions and their dependents;

4. Automobile insurance, including motor vehicle liability insurance coverage and collision and security for motor vehicles owned or operated, as required by Title 46.2, and protection against other liability and loss associated with the ownership and use of motor vehicles;

5. Surety and fidelity insurance coverage; and

6. Umbrella and excess insurance coverages.

B. A group self-insurance pool may obtain excess insurance or reinsurance of risks, and may cede and sell the risks for coverages set forth in this section.

C. Member political subdivisions that join together for the purpose of pooling their workers' compensation liabilities pursuant to Title 65.2 shall execute a written agreement, which has been approved by the State Corporation Commission under which each member agrees to be jointly and severally liable for the other members that are also party to such agreement. In addition to the rights the pool may have under such agreements, in the event of failure of the pool to enforce such rights after reasonable notice to the pool, the State Corporation Commission shall have the right independently to enforce on behalf of the pool the joint and several liability of its members under this title and the liability of members for any unpaid contributions and assessments. The State Corporation Commission shall be entitled to recover its expenses and attorneys' fees. However, no such agreement to be jointly and severally liable, nor membership in a group self-insurance pool as defined in this section, shall relieve an employer of the liabilities imposed under Title 65.2 with respect to its employees. Members of a group self-insurance pool created pursuant to this title and licensed by the State Corporation Commission shall not be jointly and severally liable for unpaid contributions or

assessments for any line of business other than workers' compensation offered by the group self-insurance pool.

D. Subject to the approval of the State Corporation Commission and with such conditions as such Commission may require, a group self-insurance association formed pursuant to § 65.2-802, consisting solely of political subdivisions, may merge with a group self-insurance pool if the group self-insurance pool assumes in full all obligations of such group self-insurance association originally licensed pursuant to § 65.2-802.

1986, cc. 520, 556, § 15.1-503.4:3; 1997, c. 587; 2009, cc. 285, 336.

**§ 15.2-2704. Powers of group self-insurance pool; self-insurer for motor vehicle security; surety.**
A group self-insurance pool, for the purposes of carrying on the business of the group self-insurance pool whether or not a body corporate, shall have the power to sue and be sued, to make contracts, to hold and dispose of real and personal property, and to borrow money, contract debts, and pledge assets in the name of the group self-insurance pool. The assets of any group self-insurance pool established pursuant to this chapter shall be invested in those securities and investments permitted by regulation adopted by the State Corporation Commission for group self-insurance pools.

A group self-insurance pool shall be deemed a self-insurer for motor vehicle security under § 46.2-368. Members of the pool participating in the motor vehicle self-insurance provided by the pool shall be deemed to meet the requirements of security as required and an application for a certificate of self-insurance under § 46.2-368 shall not be required. Additionally, a group self-insurance pool shall not be subject to the provisions of § 38.2-2206 relating to uninsured motorist coverage unless it elects by resolution of its governing authority to provide such coverage to its pool members.

The provisions of any statute or charter requiring a public official to post bond or obtain a surety bond, the premium on which may lawfully be paid by a public agency of the Commonwealth, may be satisfied with surety or fidelity insurance coverage furnished by a group self-insurance pool organized under this chapter, including any deductible amount or other portion self-insured by the public agency itself.

The power to enter into intergovernmental contracts under § 15.2-2703 specifically includes the power to establish the pool as a separate legal or administrative entity for purposes of effectuating group self-insurance pool agreements.

1986, cc. 520, 556, § 15.1-503.4:4; 1997, c. 587; 2003, c. 566.

**§ 15.2-2705. Required provisions in contract; election of governing authority; financial plan; management plan.**
Any intergovernmental contract entered into pursuant to this chapter for the purpose of establishing a group self-insurance pool shall provide:

1. For election by pool members of a governing authority for the pool, which may be a board of directors, a majority of whom shall be elected or appointed officials of pool members.

2. A financial plan setting forth in general terms:

a. The insurance coverages to be offered by the group self-insurance pool, applicable deductible levels, and the maximum level of claims which the pool will self-insure;

b. The amount of cash reserves to be set aside for the payment of claims;

c. The amount of insurance to be purchased by the pool to provide coverage over and above the claims which are not to be satisfied directly from the pool's resources; and

d. The amount, if any, of aggregate excess insurance coverage to be purchased and maintained in the event that the group self-insurance pool's resources are exhausted in a given fiscal period.

3. A plan of management which provides for all of the following:

a. The means of establishing the governing authority of the pool;

b. The responsibility of the governing authority for fixing contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administration of the pool in the event of termination or insolvency;

c. The basis upon which new members may be admitted to, and existing members may leave, the pool;

d. The identification of funds and reserves by exposure areas; and

e. Such other provisions as are necessary or desirable for the operation of the pool.

1986, cc. 520, 556, § 15.1-503.4:5; 1997, c. 587.

**§ 15.2-2706. State Corporation Commission approval required.**

The formation and operation of a group self-insurance pool under this section shall be subject to approval by the State Corporation Commission which may, after notice and hearing, establish reasonable requirements and regulations for the approval and monitoring of such pools, including prior approval of pool administrators and provisions for periodic examinations of financial condition.

The Commission may disapprove an application for the formation of a group self-insurance pool, and may suspend or withdraw such approval whenever it finds that such applicant or pool:

1. Has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the Commission or its representative;

2. Has refused, or its officers or agents have refused, to furnish satisfactory evidence of its financial and business standing or solvency;

3. Is insolvent, or is in such condition that its further transaction of business in the Commonwealth is hazardous to its members and creditors in the Commonwealth, and to the public;

4. Has refused or neglected to pay a valid final judgment against it within sixty days after its rendition;

5. Has violated any law of the Commonwealth or has violated or exceeded the powers granted by its members;

6. Has failed to pay any fees, taxes or charges imposed in the Commonwealth within sixty days after they are due and payable, or within sixty days after final disposition or any legal contest with respect to liability therefor; or

7. Has been found insolvent by a court of any other state, or by the Insurance Commissioner or other proper officer or agency of any other state, and has been prohibited from doing business in such state.

1986, cc. 520, 556, § 15.1-503.4:6; 1997, c. 587.

**§ 15.2-2707. Filing of annual financial statements, deficit correction financial plan with State Corporation Commission required.**

Each group self-insurance pool created in the Commonwealth shall file with the State Corporation Commission and with the members of the pool audited financial statements certified by an independent certified public accountant within 120 days after the end of the pool's fiscal year. If a group self-insurance pool fails to file the audited financial statements as required, the Commission may perform the audit and the group self-insurance pool shall reimburse the Commission for the cost of the audit.

The Commission shall prescribe a uniform reporting format for the preparation of pool-audited financial statements and shall also devise a uniform accounting system to be used by group self-insurance pools. The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements may be reviewed by the Commission.

If a group self-insurance pool is in a deficit condition, the group self-insurance pool shall promptly file with the Commission a financial plan to correct the deficit condition. If the plan is found to be unacceptable by the Commission and written notice thereof is given to the governing authority of the pool, delinquency proceedings may be commenced and conducted by the Commission in accordance with the provisions of Chapter 15 (§ 38.2-1500 et seq.) of Title 38.2.

1986, cc. 520, 556, § 15.1-503.4:7; 1997, c. 587.

**§ 15.2-2708. Exemptions from disclosure.**

Information regarding that portion of the funds or liability reserve of a pool established for purposes of satisfying a specific pending and unresolved claim or cause of action shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

In a claim or action against any group self-insurance pool, a person shall not be entitled to discover that portion of the funds or liability reserve established for purposes of satisfying a claim or cause of action, except that the reserve is discoverable in any supplemental or ancillary proceeding to enforce a judgment.

1986, cc. 520, 556, § 15.1-503.4:8; 1997, c. 587.

**§ 15.2-2709. Group self-insurance pool not an insurer.**

Any group self-insurance pool organized pursuant to this chapter is not an insurance company or insurer under the laws of the Commonwealth. The development, administration, and provision of group self-insurance programs and coverages authorized by this chapter by the governing authority created to administer the pool does not constitute doing an insurance business.

However, a group self-insurance pool shall be subject to the provisions of Chapters 5, Unfair Trade Practices and 6, Insurance Information and Privacy Protection Act of Title 38.2.

1986, cc. 520, 556, § 15.1-503.4:9; 1997, c. 587.

## Chapter 28 - VIRGINIA INDOOR CLEAN AIR ACT

### §§ 15.2-2800 through 15.2-2810. Repealed.

Repealed by Acts 2009, cc. 153 and 154, cl. 2, effective December 1, 2009.

## Chapter 28.1 - PILOT PROGRAMS FOR THE DELIVERY OF HUMAN SERVICES

### § 15.2-2811. "Human services" defined.

For the purposes of this chapter, "human services" shall mean any service provided by the Commonwealth or a county or city, or jointly by the two, to an individual or family for his or their physical, mental or economic well-being.

1974, c. 395, § 63.1-291; 2002, c. 747.

### § 15.2-2812. Governor may authorize certain counties or cities to develop and implement pilot programs.

The Governor is hereby empowered to authorize certain counties or cities in this Commonwealth, not to exceed five, to develop and implement a pilot program for the delivery of human services and the administration of such a delivery system to provide for the most efficient and economical manner of delivering human services to the individual or family and to eliminate the difficulty of an individual or family with multiple needs obtaining the available and necessary human services.

1974, c. 395, § 63.1-292; 2002, c. 747.

### § 15.2-2813. Power to change existing regulations and request changes in federal regulations.

1. The Governor and the several boards and commissions empowered to adopt regulations are hereby further empowered to change, alter or revise the regulations of any state agency in order to assure the proper functioning of the pilot program.

2. The Governor may also, on behalf of a state agency or locality, make requests to any agency or instrumentality of the federal government for exceptions to or variances from regulations governing the administration of the use of funds for human services programs.

1974, c. 395, § 63.1-293; 2002, c. 747.

### § 15.2-2814. Governor to adopt regulations.

The Governor shall adopt regulations concerning programs, budget and administration to be used as guidelines for counties and cities desiring to establish a pilot program in human services delivery. These regulations should provide for evaluating the effectiveness of such a pilot program.

1974, c. 395, § 63.1-294; 2002, c. 747.

### § 15.2-2815. No program established unless requested by local governing body.

No pilot program shall be established unless such program has been requested by a resolution of the governing body of the county or city wherein the program will be located.

1974, c. 395, § 63.1-296; 2002, c. 747.

### § 15.2-2816. Cooperation of state agencies.

All state agencies shall cooperate with the Governor and the local governing body of the county or city wherein the pilot program is located in carrying out the purposes of this chapter. The Governor may consult from time to time with the directors and commissioners of state agencies involved and with the appropriate boards and commissions.

1974, c. 395, § 63.1-297; 2002, c. 747.

### § 15.2-2817. Cost of administering programs.

The cost of administering such pilot projects shall be determined by the appropriate state agencies and the counties and cities wherein a pilot program is located and shall have the approval of the Governor.

1974, c. 395, § 63.1-298; 2002, c. 747.

## Chapter 28.2 - VIRGINIA INDOOR CLEAN AIR ACT

## Article 1 - GENERAL PROVISIONS

### § 15.2-2820. Definitions.

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

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member

sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

"Restaurant" means any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

2009, cc. 153, 154.

**§ 15.2-2821. Applicability.**

Nothing in this chapter shall be construed to:

1. Permit smoking where it is otherwise prohibited or restricted by other applicable provisions of law; or

2. Regulate smoking in retail tobacco stores, tobacco warehouses, or tobacco manufacturing facilities.

2009, cc. 153, 154.

**§ 15.2-2822. Authority of law-enforcement officials.**

Any law-enforcement officer may issue a summons regarding a violation of this chapter.

2009, cc. 153, 154.

**§ 15.2-2823. Smoking in public buildings or facilities; exception.**

A. The Commonwealth or any agency thereof and every locality shall provide reasonable no-smoking areas, considering the nature of the use and the size of the building, in any building owned or leased by the Commonwealth or any agency thereof or a locality.

B. The provisions of this chapter shall not apply to office, work, or other areas of the Department of Corrections that are not entered by the general public in the normal course of business or use of the premises.

2009, cc. 153, 154.

## Article 2 - Statewide Regulation of Smoking

**§ 15.2-2824. (Effective until July 1, 2021) Prohibitions on smoking generally; penalty for violation.**

A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 63.2-1701 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154.

**§ 15.2-2824. (Effective July 1, 2021) Prohibitions on smoking generally; penalty for violation.**

A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 22.1-289.011 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154; 2020, cc. 860, 861.

**§ 15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for violation.**

A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be permitted in:

1. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include the preparation or storage of food for catering services, pushcart operations, hotdog stands, and other mobile points of service;

2. Any outdoor area of a restaurant, with or without roof covering, at such times when such outdoor area is not enclosed in whole or in part by any screened walls, roll-up doors, windows or other seasonal or temporary enclosures;

3. Any restaurants located on the premises of any manufacturer of tobacco products;

4. Any portion of a restaurant that is used exclusively for private functions, provided such functions are limited to those portions of the restaurant that meet the requirements of subdivision 5;

5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may be permitted is (i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited. For the purposes of the preceding sentence, nothing shall be construed to require the creation of an additional public entrance in cases where the only public entrance to a restaurant in existence as of December 1, 2009, is through an outdoor area described in subdivision 2;

6. Any private club; and

7. Any portion of a facility licensed to conduct casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 designated pursuant to the provisions of and that meets the requirements of § 15.2-2827. Any restaurant within a facility licensed to conduct casino gaming shall comply with the provisions of this section.

B. For the purposes of this section:

"Proprietor" means the owner, lessee or other person who ultimately controls the activities within the restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Structurally separated" means a stud wall covered with drywall or other building material or other like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-impervious building material.

C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to work in any area of the restaurant where smoking may be permitted without the consent of such individual. Nothing in this subsection shall be interpreted to create a cause of action against such proprietor.

D. The proprietor of any restaurant shall:

1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and

2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where smoking is prohibited in accordance with this section.

E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall be subject to the civil penalty of not more than $25.

F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in this section. Any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

G. It shall be an affirmative defense to a complaint brought against a proprietor for a violation of this section that the proprietor or an employee of such proprietor:

1. Posted a "No Smoking" sign as required;

2. Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited;

3. Refused to seat or serve any individual who was smoking in a prohibited area; and

4. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment.

H. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

I. Any local health department or its designee shall, while inspecting a restaurant as otherwise required by law, inspect for compliance with this section.

2009, cc. 153, 154; 2020, cc. 1197, 1248.

**§ 15.2-2826. Designation of "No-Smoking" areas; smoking prohibited in "No-Smoking" areas; penalty for violation.**

A. The proprietor or other person in charge of (i) an educational facility, except any public elementary, intermediate, or secondary school; (ii) a health care facility; (iii) a retail establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, and shoe stores; and (iv) recreational facilities shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building.

B. The proprietor or other person in charge of a space subject to the provisions of this section shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking." Any person failing to post such signs shall be subject to a civil penalty of not more than $25.

C. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

D. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154.

**§ 15.2-2827. Responsibility of building proprietors and managers.**

Except as provided in § 15.2-2825, proprietors or persons who manage or otherwise control any building, structure, space, place, or area governed by this chapter in which smoking is not otherwise prohibited may designate rooms or areas in which smoking is permitted as follows:

1. Designated smoking areas shall not encompass so much of the building, structure, space, place, or area open to the general public that reasonable no-smoking areas, considering the nature of the use and the size of the building, are not provided;

2. Designated smoking areas shall be separate to the extent reasonably practicable from those rooms or areas entered by the general public in the normal use of the particular business or institution; and

3. In designated smoking areas, ventilation systems and existing physical barriers shall be used when reasonably practicable to minimize the permeation of smoke into no-smoking areas. However, this chapter shall not be construed as requiring physical modifications or alterations to any structure.

2009, cc. 153, 154.

## Article 3 - LOCAL REGULATION OF SMOKING

### § 15.2-2828. Ordinances regulating smoking generally.

A. No ordinances enacted by a locality prior to January 1, 1990, shall be deemed invalid or unenforceable because of lack of consistency with the provisions of this chapter.

B. Except as provided in § 15.2-2829, no ordinances adopted after January 1, 1990, shall contain provisions or standards that exceed those established in this chapter.

C. However, any ordinance may provide that employers may regulate smoking in the private work place as they deem appropriate under the following circumstances: (i) if the designation of smoking and no-smoking areas is the subject of a written agreement between the employer and his employees, the provisions of the written agreement shall control such designation and (ii) a total ban on smoking in any work place shall only be enforced by the employer upon an affirmative vote of a majority of the affected employees voting, unless such ban is the subject of a contract of employment between the employer and the employees as a prior condition of employment. No ordinance adopted pursuant to this subsection shall affect no-smoking policies established by employers prior to the adoption of such ordinance.

2009, cc. 153, 154.

### § 15.2-2829. Mandatory provisions of ordinances.

If an ordinance is enacted by a locality in accordance with this chapter, it shall provide that it is unlawful for any person to smoke in any of the following places:

1. Common areas in an educational facility, including but not limited to, classrooms, hallways, auditoriums, and public meeting rooms;

2. School buses and public conveyances; and

3. Any of the places governed by § 15.2-2824 or 15.2-2825.

2009, cc. 153, 154.

### § 15.2-2830. Optional provisions of ordinances.

If an ordinance is enacted by a locality in accordance with this chapter, it may provide that management shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building, in the following places:

1. Retail and service establishments of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, and shoe stores;

2. Educational facilities, except as provided in § 15.2-2824;

3. Health care facilities;

4. Rooms in which a public meeting or hearing is being held;

5. Places of entertainment and cultural facilities, including but not limited to theaters, concert halls, gymnasiums, auditoriums, other enclosed arenas, art galleries, libraries, and museums;

6. Indoor facilities used for recreational purposes; or

7. Other public places.

2009, cc. 153, 154.

**§ 15.2-2831. Other ordinances not authorized.**

The provisions of §§ 15.2-2828, 15.2-2829, and 15.2-2830 shall not be construed to allow local regulation of smoking in:

1. Conference or meeting rooms and public or private assembly rooms while such rooms are being used for private functions;

2. Private work places;

3. Areas of enclosed shopping centers or malls that are external to the retail stores therein, are used by customers as a route of travel from one store to another, and consist primarily of walkways and seating arrangements; or

4. Lobby areas of hotels, motels, and other establishments open to the general public for overnight accommodation.

2009, cc. 153, 154.

**§ 15.2-2832. Regulation of smoking; posting of signs.**

Any person who owns, manages, or otherwise controls any building or area in which smoking is regulated by an ordinance shall post in an appropriate place, in a clear, conspicuous, and sufficient manner, "Smoking Permitted" signs, "No Smoking" signs, or "No-Smoking Section Available" signs.

2009, cc. 153, 154.

**§ 15.2-2833. Enforcement of ordinances.**

A. Any ordinance may provide a civil penalty of not more than $25 for violations of any provision of such ordinance.

B. Any ordinance may provide that no person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after being asked to refrain from smoking may be subject to a civil penalty of not more than $25.

C. Any ordinance shall provide that any law-enforcement officer may issue a summons regarding a violation of the ordinance.

D. Any civil penalties assessed under this section shall be paid into the treasury of the locality where the offense occurred and shall be expended solely for public health purposes.

2009, cc. 153, 154.

# Subtitle III - BOUNDARY ADJUSTMENTS AND CHANGES OF STATUS OF COUNTIES, CITIES AND TOWNS

## Chapter 29 - COMMISSION ON LOCAL GOVERNMENT

### § 15.2-2900. Purpose and intent.

It is the purpose and intent of the General Assembly to create a procedure whereby the Commonwealth will help ensure that all of its localities are maintained as viable communities in which their citizens can live. To carry out this purpose and intent, there is hereby established the Commission on Local Government.

1979, c. 85, § 15.1-945.1; 1997, c. 587.

### § 15.2-2901. Membership; appointment, terms and qualifications of members; vacancies; Executive Director.

The Commission shall consist of five members appointed by the Governor subject to confirmation by the General Assembly. The members' terms of office shall be for five years except that original appointments shall be made for such terms that the term of one member shall expire each year. Members initially appointed shall take office on January 1, 1980; thereafter, the members appointed for regular terms shall take office at the beginning of the term for which appointed and those appointed to fill vacancies shall take office immediately upon their appointment. Members shall be eligible for reappointment.

Each member shall, at the time of appointment and during his term of office, be a qualified voter under the Constitution and laws of the Commonwealth and shall further be a person qualified by knowledge and experience in local government. No member of the Commission shall hold any other elective or appointive public office. Notwithstanding any provision of law to the contrary, no person shall be disqualified from membership on the Commission by virtue of any employment held by him with the United States or a public institution of higher education.

Any vacancy in the membership of the Commission shall be filled for the unexpired term in the same manner in which the original appointment was made.

The Director of the Department of Housing and Community Development shall also serve as the Executive Director of the Commission, who shall employ such personnel as may be required to carry out the purposes of this chapter. The Executive Director shall also (i) make and enter into contracts as necessary or incidental to the performance of the Commission's duties; (ii) accept grants from the

United States or other sources; (iii) exercise supervision of the administration of Commission affairs; and (iv) prepare and submit a budget to the Governor as requested.

1979, c. 85, § 15.1-945.2; 1980, c. 728; 1984, c. 444; 1985, c. 397; 1997, c. 587; 2003, c. 197.

**§ 15.2-2902. Continuing temporary membership for purposes of Commission reports.**

A member whose term expires and who is not reappointed may continue to serve as a temporary member of the Commission if a final report has not been made on an issue with respect to which he has participated in previous hearings, presentations, or investigations prior to the expiration of his term. Such continuing temporary membership shall be solely for the purpose of and limited to participation in the specific report. The beginning of the term of, and the rights, powers, and duties of the successor to the member whose term has expired shall not be affected by such continuing temporary membership.

1985, c. 478, § 15.1-945.2:1; 1997, c. 587.

**§ 15.2-2903. General powers and duties of Commission.**

The Commission shall have the following general powers and duties:

1. To make regulations, including rules of procedure for the conducting of hearings;

2. To keep a record of its proceedings and to be responsible for the custody and preservation of its papers and documents;

3. To serve as a mediator between localities;

4. To investigate, analyze, and make findings of fact, as directed by law, as to the probable effect on the people residing in any area of the Commonwealth of any proposed action in that area:

a. To annex territory,

b. To have an area declared immune from annexation,

c. To establish a town or independent city,

d. To settle or adjust boundaries between localities,

e. To make a transition from city status to town status,

f. To make a transition from a county to a city,

g. To consolidate two or more localities, at least one of which is a county, into a city, or

h. To enter into economic growth-sharing agreements among localities;

5. To conduct investigations, analyses and determinations, in the sole discretion of the Commission, for the guidance of localities in the conduct of their affairs upon the request of such localities;

6. To receive from all agencies, as defined in § 2.2-128, assessments of all mandates imposed on localities administered by such agencies. The assessments shall be conducted on a schedule to be set by the Commission, with the approval of the Governor and the Secretary of Commerce and Trade,

provided that the assessments shall not be required to be performed more than once every four years. The purpose of the assessments shall be to determine which mandates, if any, may be altered or eliminated. If an assessment reveals that such mandates may be altered or eliminated without interruption of local service delivery and without undue threat to the health, safety and welfare of the residents of the Commonwealth, the Commission shall so advise the Governor and the General Assembly;

7. To prepare and annually update a catalog of state and federal mandates imposed on localities including, where available, a summary of the fiscal impact on localities of all new mandates. All departments, agencies of government, and localities are directed to make available such information and assistance as the Commission may request in maintaining the catalog;

8. [Expired];

9. To perform such other duties as may be imposed upon it, from time to time, by law.

1979, c. 85, § 15.1-945.3; 1980, c. 592; 1984, c. 444; 1985, cc. 397, 478; 1988, c. 881; 1993, cc. 652, 723; 1997, c. 587; 2004, c. 234; 2011, c. 381; 2014, c. 242.

**§ 15.2-2904. Meetings; quorum; majority vote; panel to conduct investigation and make report; compensation and expenses.**

The Commission shall fix the time and place for holding regular meetings, which shall be held at least once every two months. Special meetings of the Commission may be called by any member and shall be held on such occasions as may be reasonably necessary to carry out the duties imposed by this chapter. The chairman shall cause to be mailed to all members, at least five days in advance of a special meeting, written notice fixing the time, place, and purpose of such meeting. Written notice of a special meeting shall not be required if the time of the special meeting has been fixed at a regular meeting or if all members file a written waiver of notice. A majority of the members shall constitute a quorum, and no action of the Commission shall be valid unless authorized by a majority vote of those present.

The Commission may appoint a panel of three members of the Commission to conduct any hearing and investigation and make any report required by this chapter. Any vote taken or report made shall be only by those members of the Commission who sat on the panel that heard the evidence. Any temporary absence of a panel member from a hearing will not disqualify such member from participation in the vote or discussion, deliberation, drafting or approval of a report.

Notwithstanding the provisions of § 2.2-2813, each member of the Commission shall be compensated at the rate of $100 per day, plus reasonable and necessary expenses, for each day or portion thereof in which the member is engaged in the business of the Commission.

1979, c. 85, § 15.1-945.4; 1980, c. 592; 1983, c. 202; 1986, c. 384; 1997, c. 587.

**§ 15.2-2905. Officers.**

The members of the Commission shall elect from their number a chairman and vice-chairman whose terms shall be for one year. The Commission may create and fill such other offices as it may deem necessary.

1979, c. 85, § 15.1-945.5; 1997, c. 587.

### § 15.2-2906. Disqualification of Commissioners.

No member of the Commission shall participate in the discussion, deliberation, drafting or approval of any report or finding required to be made under this chapter when any of the parties to the proceeding to which such report relates is a locality in which such member presently resides or owns an interest in real property, or in which such member has resided or owned any interest in real property within the preceding five years.

1979, c. 85, § 15.1-945.6; 1980, c. 592; 1997, c. 587.

### § 15.2-2907. Actions for annexation, immunity, establishment of city, etc.; investigations and reports by Commission; negotiation.

A. No locality or person shall file any action in any court in Virginia to annex territory, to have an area declared immune from annexation based upon provision of urban-type services, to establish an independent city, to consolidate two or more localities, at least one of which is a county, into a city, to make a transition from a county to a city or to make a transition from city status to town status, without first notifying the Commission and all local governments located within or contiguous to, or sharing functions, revenue, or tax sources with, the locality proposing such action. Upon receipt of the notice the Commission shall hold hearings, make investigations, analyze local needs and make findings of facts and recommendations, which may, in cases where immunity or annexation is sought, recommend a grant of immunity or annexation of a greater or smaller area than that proposed by the locality pursuant to the procedures of this chapter. Such findings shall be rendered within six months after the Commission receives notice from the locality intending to file court action, provided that the Commission on its own motion may extend the period for filing its report by no more than sixty days. No further extension thereafter of the time for filing shall be made by the Commission without the agreement of the parties. No court action may be filed until the Commission has made its findings of facts. Unless the parties agree otherwise, no court action may be filed more than 180 days after the Commission renders its final report as provided for in this section. While the matter is before the Commission, the Commission may actively seek to negotiate a settlement of the proposed action between the affected localities. The Commission may direct that the conduct of the negotiations be in executive session. In addition, the Commission may, with the agreement of the parties, appoint an independent mediator, who shall be compensated as agreed to by the parties. Offers and statements made in negotiations shall not be reported in the finding of facts or introduced in evidence in any subsequent court proceedings between the parties.

B. The Commission shall report, in writing, its findings and recommendations to the affected localities, any other localities likely to be affected by such proposed action, and to any court which may subsequently consider the action. The report shall be based upon the criteria and standards established by law for any such proposed action. The report, or any copy thereof, bearing the signature of the chairman of the Commission shall be admissible in evidence in any subsequent proceeding relating to the

subject matter thereof. The court in any such proceeding shall consider the report but shall not be bound by the report's findings or recommendations.

Before making the report the Commission shall conduct hearings at which any interested person may testify. Prior to the hearing, the Commission shall publish a notice of the hearing once a week for two successive weeks in a newspaper of general circulation in the affected counties and cities. The second advertisement shall appear not less than six days nor more than twenty-one days prior to the hearing.

C. A court on motion of any party or of the Commission may for cause shown extend the time for filing of the Commission's report but no such extension of time shall exceed ninety days unless the parties agree otherwise.

D. Except for any hearing or meeting specifically required by law, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 shall not be applicable to the Commission nor meetings convened by members of the Commission, its employees, or by its designated mediators with local governing bodies or members thereof, nor shall such chapter be applicable to meetings of local governing bodies, or members thereof, held for purpose of negotiating any issues which are or would be subject to the Commission's review. Offers and statements made in any negotiation or mediation activity conducted under the direction of the Commission shall not be recorded in any report issued by the Commission, nor shall they be introduced in evidence in any subsequent court proceeding by the Commission or any other party.

E. Notwithstanding any other provision of law, any locality, either prior or subsequent to the filing of any annexation or partial immunity suit in any court of this Commonwealth in which it is one of the parties, may notify the Commission on Local Government that it desires to attempt to negotiate an agreement with one or more adjacent localities relative to annexation or partial immunity under the direction of the Commission. A copy of the notice shall be served on all adjacent localities. The affected localities shall then attempt to resolve their differences relative to annexation or partial immunity, and shall keep the Commission advised of the progress being made. The Commission, or its designee, may serve as a mediator and the Commission's staff and resources shall be available to the negotiating localities. All expenses of the negotiations, including expenses of the Commission or its staff incurred in the negotiations, shall be borne by the parties initiating the notice unless otherwise agreed by the parties. All suits for either annexation or partial immunity by or against any locality involved in such negotiations shall be stayed while the negotiations are in progress. If, after a hearing, the Commission finds that none of the parties is willing to continue to negotiate, or if it finds that three months have elapsed with no substantial progress toward settlement, it shall declare the negotiations to be terminated. Unless the parties agree otherwise, negotiations shall in any event terminate twelve months from the date the initial notice was given to the Commission. Immediately upon such finding and declaration by the Commission, or upon the expiration of twelve months from the initial notice or any agreed extension thereof, whichever first occurs, any stay of a pending suit for annexation or partial immunity entered under this section shall automatically terminate and no new notice to negotiate shall thereafter be filed by any party.

F. A locality may proceed simultaneously under subsections A and E of this section.

1980, c. 558, 577, 592, § 15.1-945.7; 1983, c. 217; 1985, c. 478; 1988, c. 881; 1997, c. 587.

**§ 15.2-2908. Notice to Commission deemed to institute action or proceeding.**
An action or proceeding to which the Commission on Local Government has jurisdiction shall be deemed to have been instituted upon the initial notice to the Commission required by subsection A of § 15.2-2907.

1985, c. 478, § 15.1-945.8; 1997, c. 587.

## Chapter 30 - SPECIAL COURTS

**§ 15.2-3000. Special court to hear certain cases.**
Notwithstanding any contrary provision of law, whenever any matter provided for in Chapters 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 34 (§ 15.2-3400 et seq.), 35 (§ 15.2-3500 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39, (§ 15.2-3900 et seq.), 40 (§ 15.2-4000 et seq.) and 41 (§ 15.2-4100 et seq.) of this title, is required to be decided by a court, the court, unless a different intent appears from the context, shall be composed of three circuit court judges appointed by the Supreme Court of Virginia. Such special court shall sit without a jury. The three judges shall be chosen from a panel of fifteen judges selected to hear such matters by the Supreme Court. Such judges shall remain on the panel for a period of time determined by the Chief Justice of the Supreme Court unless otherwise provided by law. When any petition or other matter required by the above-stated chapters to be decided by the special court is filed in a circuit court, the chief circuit court judge shall certify the filing to the Supreme Court and request the appointment of three members from the panel to hear the matter. No judge may be appointed to hear a matter involving jurisdictions in his own circuit.

1979, c. 85, § 15.1-1168; 1983, c. 523; 1985, c. 66; 1988, c. 881; 1997, c. 587.

**§ 15.2-3001. Priority of proceedings in special courts.**
Any proceeding heard by a special court appointed pursuant to §§ 15.2-3000 and 15.2-3002 shall have priority over all other cases, including criminal cases, on the docket of the court in which such proceeding is pending or on the docket of each judge designated to hear the case.

1993, c. 398, § 15.1-1168.1; 1997, c. 587.

**§ 15.2-3002. Designation of judges for panel.**
The Supreme Court of Virginia shall designate fifteen circuit court judges to compose the panel of judges provided for in this chapter. All special courts appointed pursuant to § 15.2-3000 shall be composed of three judges appointed from this panel. The chief justice shall designate one of the judges as chief judge.

1979, c. 85, § 15.1-1169; 1993, c. 398; 1997, c. 587.

**§ 15.2-3003. Service on special court.**

Judges selected for the panel shall continue to perform their regular duties as required by law. Appointment by the Supreme Court to sit on a three-judge court shall relieve the judge of his other duties to the extent necessary to serve on the three-judge court and participate in the proceedings and decision.

1979, c. 85, § 15.1-1170; 1997, c. 587.

### § 15.2-3004. Vacancies on court occurring during trial.

If a vacancy occurs on such court at any time prior to the final disposition of the case and the completion of all duties required to be performed by it, the court shall not be dissolved and the proceeding shall not fail; the vacancy shall be filled by designation of another judge from the panel provided for in this chapter. Such substitute judge shall have all the power and authority of his predecessor, and the court shall proceed as so constituted to hear and determine the case and do all things necessary to accomplish its final disposition and the completion of all the duties of the court, including such matters as the certification of evidence and exceptions. No decision shall be rendered or action taken after such designation with respect to any question previously submitted to but not decided by the court except after a full hearing in open court by the court as reconstituted of all the evidence theretofore introduced before the court and a hearing of all arguments theretofore made with reference to such question.

Code 1950, § 15-152.9; 1952, c. 328; 1960, c. 474; 1962, c. 623, § 15.1-1039; 1979, c. 85; 1997, c. 587.

## Chapter 31 - SETTLING BOUNDARIES BETWEEN LOCALITIES

## Article 1 - BOUNDARY LINES ESTABLISHED BY COMMISSIONERS

### § 15.2-3100. Commissioners to settle disputed boundary lines.

Whenever a doubt exists or dispute arises over the true boundary line between any two localities, the circuit courts for the respective localities may each appoint not fewer than three nor more than five commissioners, who shall be resident landowners of their respective localities, a majority of those appointed for each locality being necessary to act, who shall meet and proceed to ascertain and establish the true line.

Code 1950, § 15-38; 1954, c. 536; 1962, c. 623, § 15.1-1026; 1979, c. 456; 1997, c. 587.

### § 15.2-3101. Survey and plats.

Commissioners appointed pursuant to § 15.2-3100, before proceeding to ascertain a boundary, shall employ a competent surveyor to run the boundary. The commissioners shall, with the best evidence which they can procure, direct the surveyor where to run the line and shall have him mark the boundary. After the boundary line has been run and marked, the commissioners shall require the surveyor to make two plats of the courses and distances of the line and to note thereon particularly such well-known places or prominent objects through or by which it passes as, in the opinion of the commissioners, will best designate the line.

Code 1950, § 15-39; 1962, c. 623, § 15.1-1027; 1997, c. 587.

### § 15.2-3102. Report of commissioners.

The commissioners shall return such plats to the respective courts by which they were appointed, together with their report of the performance of their duties in ascertaining and establishing the line, which report shall fully describe the line. If the report meets the requirements of this article and is unanimous, the courts shall approve the report. The courts shall direct that the approved report, together with the plat, be recorded in the deed books of their respective clerks' offices and indexed in the name of each locality. The courts shall certify a copy of the report to the Secretary of the Commonwealth. In all controversies thereafter concerning the location of the line, the reports and plats shall be taken as conclusive evidence of its location.

Code 1950, § 15-40; 1954, c. 536; 1962, c. 623, § 15.1-1028; 1970, c. 751; 1978, c. 642; 1997, c. 587.

### § 15.2-3103. Compensation of commissioners, etc.

The circuit court for each locality shall allow a reasonable compensation to the commissioners of such localities respectively, and to the surveyor and his assistants, to be paid by the localities.

Code 1950, § 15-41; 1954, c. 536; 1962, c. 623, § 15.1-1029; 1979, c. 456; 1997, c. 587.

### § 15.2-3104. Procedure when commissioners fail to agree.

If the commissioners fail to agree upon the location of the line, they shall so report to the circuit courts for their respective localities, stating in their reports the points and grounds of disagreement and describing fully the conflicting lines. Either locality may file a petition in the circuit court for either locality to have a court, constituted as hereinafter provided, ascertain and establish the true boundary line in doubt or dispute. Such petition shall describe, with reasonable certainty, the location contended for and shall state the grounds of such contention. A plat, showing the location contended for, filed with the petition, may serve the purposes of such description. The petitioner shall make the other locality the party defendant, and the case shall be commenced by serving a copy of the petition upon the county attorney, if any, or the attorney for the Commonwealth of such county, the city attorney of such city or the town attorney of such town. No formal plea or answer to the petition shall be necessary, but the defendant shall state its grounds of defense in writing, describing, with the same degree of certainty required of the petitioner, the line as contended for by the defendant, and the locality shall be deemed to be at issue. The issue shall be the true location of the boundary line so in doubt or dispute.

The case shall be heard and decided by a court without a jury presided over by three judges as follows: the judge of the circuit court for the petitioning locality, the judge of the circuit court for the defendant locality, and a judge of some circuit court in this Commonwealth remote from the localities, to be designated by the Chief Justice. When the localities are within the same circuit, the Chief Justice shall designate a third judge from an adjoining circuit. The court shall hear the case upon the evidence introduced in the manner in which evidence is introduced in common-law cases and shall ascertain and establish the true boundary line by a majority decision, and shall give judgment accordingly. Costs shall be awarded as the court shall determine. The judgment of the court shall be recorded in the

common-law order book and in the current deed book of the court and indexed in the names of the localities, and, unless reversed, shall forever settle, determine, designate and establish the true boundary line. A copy of any final judgment shall be certified to the Secretary of the Commonwealth. An appeal may be granted by the Supreme Court, or any justice thereof, to either party from the judgment of the court, and the cost of such appeal shall be awarded to the party substantially prevailing.

Code 1950, § 15-42; 1954, c. 536; 1962, c. 623, § 15.1-1030; 1970, c. 751; 1973, c. 544; 1978, c. 642; 1979, c. 456; 1997, c. 587.

### § 15.2-3105. Boundaries to embrace wharves, piers, docks and certain other structures.

The boundary of every locality bordering on the Chesapeake Bay, including its tidal tributaries (the Elizabeth River, among others), or the Atlantic Ocean shall embrace all wharves, piers, docks and other structures, except bridges and tunnels that have been or may hereafter be erected along the waterfront of such locality, and extending into the Chesapeake Bay, including its tidal tributaries (the Elizabeth River, among others), or the Atlantic Ocean. However, only the wharves, piers, docks, or other structures which lie within the territorial jurisdiction of this Commonwealth shall be embraced within the boundary of such locality.

Code 1950, § 15-42.1; 1958, c. 280; 1962, c. 623, § 15.1-1031; 1976, c. 646; 1997, c. 587.

## Article 2 - RELOCATION OR CHANGE, BY AGREEMENT, OF BOUNDARY LINE BETWEEN LOCALITIES; ADJUSTMENT BY COURT

### § 15.2-3106. Establishment by agreement.

Whenever any two or more localities wish to relocate or change the boundary line between them, the governing bodies of such localities may, by agreement, establish, relocate or change such boundary line between them.

1977, c. 277, § 15.1-1031.1; 1983, c. 594; 1993, c. 392; 1997, c. 587.

### § 15.2-3107. Publication of agreed boundary line.

A. Before adopting an agreement pursuant to § 15.2-3106, each governing body shall advertise its intention to approve such an agreement at least once a week for two successive weeks in a newspaper having general circulation in its locality, and such notice shall include a descriptive summary of the proposed agreement. The summary shall describe the new boundary, but need not include a metes and bounds description. The publication shall include a statement that a copy of the agreement is on file in the office of the clerk of the governing body which is considering the proposed agreement. A joint publication of the proposed agreement by the localities which otherwise meets the requirements of this section shall satisfy this requirement. If joint publication is used, the publication costs shall be apportioned between the participating localities in the manner agreed upon by them. After providing the notice required by this section, each locality shall hold at least one public hearing on the agreement prior to its adoption.

B. Notice of any agreement as provided in subsection A hereof shall be served upon the affected property owners, if any, of the area affected by the agreement, and if the owners of at least one third of the affected parcels object to the change, they shall be permitted to intervene in the proceedings as prescribed in § 15.2-3108 and show cause why the boundary line should not be changed. For purposes of this article "affected parcel" means a parcel of real property that is the subject of the boundary relocation or change, as shown on the current real estate tax assessment records. One notice sent by first class mail to the last known address of the owners of such parcels as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of each local governing body shall make affidavit that such mailings have been made and file such affidavit with the papers in the petition as prescribed in § 15.2-3108. Nothing in this subsection shall be construed as to invalidate any subsequently adopted boundary line agreement because of the inadvertent failure by the representatives of the local governments to give written notice to the owner, owners, or their agent of any parcel involved.

1977, c. 277, § 15.1-1031.2; 1983, c. 594; 1993, c. 392; 1997, c. 587; 2014, c. 503.

**§ 15.2-3108. Petition and hearing; recordation of order; costs.**

Within a reasonable time after a voluntary boundary agreement is adopted by the affected localities, each affected locality shall petition the circuit court for one of the affected localities to approve the boundary agreement. The petition shall set forth the facts pertaining to the desire to relocate or change the boundary line between the localities, and the petition shall include or have attached to it either (i) a plat depicting the change in the boundaries of the localities as agreed; (ii) a metes and bounds description of the new boundary line as agreed upon by the two localities; or (iii) a Geographic Information System (GIS) map depicting the change in the boundaries of the localities as agreed, having been established by Virginia State Plane Coordinates System, South Zone or North Zone, as applicable, meeting National Geodetic Survey standards. If the court finds that the procedures required by § 15.2-3107 have been complied with and that the petition is otherwise in proper order, the court shall enter an appropriate order establishing the new boundary. The order shall include a plat depicting the change in the boundaries of the locality, a metes and bounds description of the new boundary line of the locality, or a GIS map depicting the change in the boundaries of the localities that includes the Virginia State Plane, South Zone or North Zone coordinates, as applicable, and that order shall be entered in the land records of the court and indexed in the names of the localities which were involved. Costs shall be awarded as the court may determine. Whenever such an order is entered, a certified copy of the order shall be sent to the Secretary of the Commonwealth by the clerk of the court.

1977, c. 277, § 15.1-1031.3; 1983, c. 594; 1993, c. 392; 1997, c. 587; 2013, c. 773; 2016, c. 153; 2018, cc. 85, 319; 2019, cc. 118, 385, 705.

**§ 15.2-3109. Court-ordered adjustment of boundary lines.**

A. Whenever any two localities have agreed that a change should be made to their common boundary line so that public services in an area may be provided more effectively and more efficiently, but are

unable to agree as to the proper location for the new boundary line, their governing bodies may petition jointly either of the circuit courts for their respective localities for an order establishing the new boundary line within the terms of the petition. The court shall refer the petition to the Commission on Local Government, and shall also certify the filing of the petition to the Supreme Court with a request that a three-judge court be convened pursuant to § 15.2-3000 to decide the matter. The Commission shall conduct a hearing to receive evidence concerning the location of the new boundary line. Any interested persons may present evidence. The Commission shall publish notice of its hearing at least once a week for two successive weeks in newspapers of general circulation in each locality. Based upon the evidence and the report of its staff, the Commission shall determine a new boundary line that best promotes the more effective and efficient provision of public services. The Commission shall transmit its findings to the court in writing, where they shall be received in evidence. The court shall hear evidence with respect to relocating the boundary line and shall enter an order establishing the new boundary line so as to promote, to the extent possible, the more effective and more efficient provision of public services. Such order shall set forth the terms for the transfer of territory and shall be recorded in the common-law order book and in the current deed book for both localities' courts and indexed in the name of the localities as the case may be. A certified copy of the order shall be sent to the Secretary of the Commonwealth by the clerk of the circuit court.

B. Notice of any application as provided in subsection A hereof shall be served upon the property owners, if any, of the area affected by the agreement, and if such property owners object to the change, they shall be permitted to intervene in the proceedings and show cause why the boundary line should not be changed.

1979, c. 85, § 15.1-1031.4; 1997, c. 587.

## Chapter 32 - Boundary Changes of Towns and Cities

## Article 1 - ANNEXATION

### § 15.2-3200. Boundaries of cities and towns to remain as established until changed.

The boundaries of the cities and towns of this Commonwealth shall be and remain as now established unless changed as provided in this title.

Code 1950, § 15-152.2; 1952, c. 328; 1962, c. 623, § 15.1-1032; 1997, c. 587.

### § 15.2-3201. Temporary restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.

Beginning January 1, 1987, and terminating on the first to occur of (i) July 1, 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant

to subsection A of § 9.1-169, no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter except a city that filed an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.

Beginning January 1, 1988, and terminating on the first to occur of (i) July 1, 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) or Chapter 33 (§ 15.2-3300 et seq.) requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.

1987, c. 216, § 15.1-1032.2; 1988, c. 270; 1989, c. 134; 1990, c. 759; 1991, c. 359; 1993, c. 611; 1994, c. 557; 1996, cc. 225, 572; 1997, c. 587; 1999, cc. 692, 705, 744; 2001, c. 733; 2002, c. 786; 2004, c. 879; 2008, c. 347; 2009, cc. 129, 435, 631; 2012, c. 537; 2014, c. 697; 2016, cc. 158, 364.

**§ 15.2-3202. Ordinance for annexation by city or town; appointment of special court.**

The council of any city or town may by an ordinance passed by a recorded affirmative vote of a majority of all the members elected to the council, petition the circuit court for the county in which any territory adjacent to the city or town lies, for the annexation of such territory. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

The ordinance shall set forth the necessity for or expediency of annexation and shall contain the following detailed information:

1. Metes and bounds and size of area sought;

2. Information, which may be shown on a map annexed to the ordinance, of the area sought to be annexed, indicating generally subdivisions, industrial areas, farm areas, vacant areas and others, together with any other information deemed relevant as to possible future uses of property within the area. If a map is not annexed as part of the ordinance, then such information shall be set forth in the ordinance;

3. A general statement of the terms and conditions upon which annexation is sought, and the provisions planned for the future improvement of the annexed territory, including the provision of public utilities and services therein.

Code 1950, § 15-152.3; 1952, c. 328; 1962, c. 623, § 15.1-1033; 1997, c. 587.

**§ 15.2-3203. Petition by voters of adjacent territory, or governing body of adjacent county or town, for annexation; voluntary agreement by governing body to reject annexation.**

A. Whenever fifty-one percent of the voters of any territory adjacent to any city or town or fifty-one percent of the owners of real estate in number and land area in a designated area, or the governing body of the county in which such territory is located, or of the town desiring to annex such territory petition the circuit court for the county, stating that it is desirable that such territory be annexed to the city or town and setting forth the metes and bounds thereof, a copy of such petition shall be served on the city or town council, and published in the manner prescribed in § 15.2-3204. The case shall, except as otherwise provided in this chapter, proceed in all respects as though instituted in the manner prescribed in § 15.2-3202; however, the special court shall not increase the area of the territory described in the petition.

B. Any city or town to which the annexation is proposed may reject such annexation by ordinance, duly adopted by a majority of the elected members of the governing body of the city or town, if such ordinance is adopted either prior to the pretrial conference provided for in § 15.2-3207 or within the time limits set forth in § 15.2-3213.

C. Any county, city or town may enter into a voluntary agreement with any other county, city or town or combination thereof, whereby such city or town agrees to reject any annexations initiated under subsection A. Such agreement may be for such period of time as specified by the parties to such agreement with respect to all or a portion of the county.

Code 1950, § 15-152.4; 1952, c. 328; 1962, c. 623, § 15.1-1034; 1979, c. 85; 1983, c. 594; 1985, c. 478; 1997, c. 587.

**§ 15.2-3204. Notice of motion; service and publication.**

At least thirty days before instituting any annexation proceeding under this chapter, a city or town shall serve notice and a certified copy of the ordinance on the attorney for the Commonwealth, or on the county attorney, if there is one, and on the chairman of the governing body of the county wherein such territory lies that it will, on a given day, petition the circuit court to grant the annexation requested in the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance

and a reference to the place within the city or town where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in some newspaper published in such city or town, and when there is no newspaper published therein, then in a newspaper having general circulation in the county whose territory is affected. The proof of service or certificate of service of the notice and ordinance shall be returned after service to the clerk of the circuit court. Certification from the owner, editor or manager of the newspaper publishing the notice and ordinance or descriptive summary shall be proof of publication.

Code 1950, § 15-152.5; 1952, c. 328; 1962, c. 623, § 15.1-1035; 1979, c. 85; 1997, c. 587.

**§ 15.2-3205. Additional parties.**

A. In any proceedings hereunder any qualified voters or property owners in the territory proposed to be annexed or any adjoining city or town may, by petition, become parties to such proceeding as provided in subsection B hereof. Any county whose territory is affected by the proceedings, or any city, town or persons affected thereby, may appear and shall be made parties defendant to the case, and be represented by counsel.

B. The special court shall by order, fix a time within which such additional parties not served may become defendants to such proceeding, and thereafter, no such petition shall be received, except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper of general circulation in the city or town seeking the territory and in the territory sought to be annexed.

C. The cost of such publication shall be paid by the petitioner or applicant.

Code 1950, § 15-152.6; 1952, c. 328; 1962, c. 623, § 15.1-1036; 1979, c. 85; 1996, c. 352; 1997, c. 587.

**§ 15.2-3206. Conflicting petitions for same territory; petition seeking territory lying in two or more counties; procedure.**

A. When proceedings for the annexation of territory to a city or town are pending and a petition is filed seeking the annexation of the same territory or a portion thereof to another city or town the case shall be heard by the court in which the original proceedings are pending. The court shall consolidate the cases, hear them together, and make such decision as is just, taking into consideration the interests of all parties to each case.

B. When the territory sought by a city or town lies in two or more counties, all such counties shall be made parties defendant to the case. The motion or petition shall be addressed to the circuit court for the county in which the larger part of the territory is located. The provisions of this article shall apply, mutatis, mutandis, to any such proceedings.

Code 1950, § 15-152.7; 1952, c. 328; 1962, c. 623, § 15.1-1037; 1997, c. 587.

**§ 15.2-3207. Pretrial conference; matters considered.**

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it, or in its discretion before a single judge for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values as determined by the State Department of Taxation in the area sought to be annexed, city or town and county, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. Tax rate for the five years next preceding in the area sought, including any sanitary district therein, and in the city or town;

c. School population and school enrollment in the county, in the area sought, and in the city or town, as shown by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction;

4. Estimated population of the county, the area sought and the city or town;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or judge as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

Code 1950, § 15-152.10; 1952, c. 328; 1962, c. 623, § 15.1-1040; 1979, c. 85; 1997, c. 587; 2010, cc. 386, 629.

**§ 15.2-3208. Assistance of state agencies.**

The special court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the guidance of the court. The court shall determine the actual expense of preparing such evidence, other than that secured by the Commission on Local Government, and shall tax such expense as costs in this case; the costs shall be paid by the clerk into the general fund of the state treasury, and credited to the appropriation of the agency furnishing the evidence.

1979, c. 85, § 15.1-1040.1; 1997, c. 587.

**§ 15.2-3209. Hearing and decision.**

The special court shall hear the case upon the evidence introduced as evidence is introduced in civil cases.

The court shall determine the necessity for and expediency of annexation, considering the best interests of the people of the county and the city or town, services to be rendered and needs of the people of the area proposed to be annexed, the best interests of the people in the remaining portion of the county and the best interests of the Commonwealth in promoting strong and viable units of government.

Related to the best interests of the people of the county and city or town, the court shall consider to the extent relevant:

1. The need for urban services in the area proposed for annexation, the level of services provided in the county, city or town, and the ability of such county, city or town to provide services in the area sought to be annexed, including, but not limited to: sewage treatment, water, solid waste collection and disposal, public planning, subdivision regulation and zoning, crime prevention and detection, fire prevention and protection, public recreational facilities, library facilities, curbs, gutters, sidewalks, storm drains, street lighting, snow removal, and street maintenance;

2. The current relative level of services provided by the county and the city or town;

3. The efforts by the county and the city or town to comply with applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, or other state service policies promulgated by the General Assembly;

4. The community of interest which may exist between the petitioner, the territory sought to be annexed and its citizens as well as the community of interest that exists between such area and its citizens and the county. The term "community of interest" may include, but not be limited to, the consideration of natural neighborhoods, natural and man-made boundaries, and the similarity of needs of the people of the annexing area and the area sought to be annexed;

5. Any arbitrary prior refusal by the governing body of the petitioner or the county whose territory is sought to be annexed to enter into cooperative agreements providing for joint activities which would have benefited citizens of both localities; however, the court shall draw no adverse inference from joint activities undertaken and implemented pursuant to cooperative agreements of the parties. It is the purpose of this subdivision to encourage adjoining localities to enter into such cooperative agreements voluntarily, and without apprehension of prejudice;

6. The need for the city or town seeking to annex to expand its tax resources, including its real estate and personal property tax base;

7. The need for the city or town seeking to annex to obtain land for industrial or commercial use, together with the adverse effect on a county of the loss of areas suitable and developable for industrial or commercial uses;

8. The adverse effect of the loss of tax resources and public facilities on the ability of the county to provide service to the people in the remaining portion of the county; and

9. The adverse impact on agricultural operations in the area proposed for annexation.

If a majority of the court is of the opinion that annexation is not necessary or expedient, the petition for annexation shall be dismissed. If a majority of the court is satisfied of the necessity for and expediency of annexation, it shall determine the terms and conditions upon which annexation is to be had, and shall enter an order granting the petition. The court may in the order awarding annexation of any area, fix terms and conditions, including but not limited to the rights provided in Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to protect agricultural operations in the area annexed. In all cases, the court shall render a written opinion.

The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted. Every annexation order shall be effective on January 1 following the year in which issued or, in the discretion of the court, on the second January 1 following the year in which issued; however, the court, upon joint petition of the parties, may order an annexation effective on any other date. Unless the parties otherwise agree, all taxes assessed in the territory annexed for the year at the end of which annexation becomes effective and for all prior years shall be paid to the county.

In any proceedings instituted by a city or town, no annexation shall be decreed unless the court is satisfied that the city or town has substantially complied with the conditions of the last preceding annexation by such city or town, or that compliance therewith was impossible, or that sufficient time for compliance has not elapsed.

In the event that the court enters an order granting the petition, a copy of the order shall be certified to the Secretary of the Commonwealth. The Secretary shall immediately transmit a copy of such order to the State Comptroller for his use in complying with § 4.1-117.

Code 1950, § 15-152.11; 1952, c. 328; 1962, c. 623, § 15.1-1041; 1970, c. 751; 1978, c. 642; 1979, c. 85; 1985, c. 478; 1997, c. 587; 1999, c. 345.

**§ 15.2-3210. Boundary line where territory fronts on river, bay, etc.**

A. In any proceeding under the provisions of this chapter to annex territory, when such territory fronts on a river or creek, the petition may ask that the boundary line be established along the centerline of such river or creek. If any territory is awarded in such proceeding that borders on a river or creek, the decision may order that the boundary line be the centerline of the river or creek that flows beside such territory.

B. If the territory sought to be annexed fronts on a bay, lake or similar type body of water, the boundary line shall be by metes and bounds in such bay, lake or similar type body of water. If a river or creek flows into such bay, lake or similar type body of water and such river or creek fronts all or a portion of the territory sought to be annexed, the metes and bounds shall run only to the point where such river

or creek enters the bay, lake or similar type body of water and thereafter the centerline of the river or creek may be the boundary line to the extent applicable.

C. For purposes of this article, if any city is bisected by a river or any branch thereof then such river or branch shall lie within the boundaries of such city to the extent that there are portions of such city on both opposite shores of such river or branch.

D. For purposes of this article, if any river in the Commonwealth is bordered on both sides by cities of a population of 100,000 or more, according to the 1970 census, to the extent that such cities' borders along the river are in opposition, including the border across any branch as provided in subsection C, the boundaries of such cities shall be the centerline of the river and such cities shall be contiguous one to the other, notwithstanding any judicial decree to the contrary entered prior to 1976. Nothing in this subsection shall apply to that body of water known as Hampton Roads, located between Norfolk, Portsmouth and Suffolk on the south and Newport News and Hampton on the north.

1976, c. 662, § 15.1-1041.1; 1997, c. 587.

**§ 15.2-3211. Powers of court and rules of decision; terms and conditions.**

The special court, in making its decision, shall balance the equities in the case, shall enter an order setting forth what it deems fair and reasonable terms and conditions, and shall direct the annexation in conformity therewith. It shall have power to:

1. Determine the metes and bounds of the territory to be annexed, and may include a greater or smaller area than that described in the ordinance or petition; the court shall so draw the lines of annexation as to have a reasonably compact body of land and so that no land shall be taken into the city which is not adapted to city improvements or which the city will not need in the reasonably near future for development, unless necessarily embraced in such compact body of land;

2. Require the assumption by the city or town of a just proportion of any existing debt of the county or any district therein;

3. Require the payment by the city of a sum to be determined by the court, payable on the effective date of annexation, to compensate the county for the value of public improvements, including but not limited to the paving of public roads and streets, the construction of sidewalks thereon, the installation of water mains, or sewers, garbage disposal systems, fire protection facilities, bridges, public schools and equipment thereof, or any other permanent public improvements owned and maintained by the county at the time of annexation; and further to compensate the county, in not more than five annual installments, for the prospective loss of net tax revenues during the next five years, to such extent as the court in its discretion may determine, because of the annexation of taxable values to the city;

4. Require the payment by a town of a sum to be determined by the court, payable on the effective date of annexation to compensate the county for any such public improvement which becomes the property of the town by annexation; the order may provide that if, within five years after the order, such

town becomes a city, it shall, from and after it becomes a city, make such payments as are provided for in subdivision 3 for a period not to exceed five years from the date of such order;

5. In lieu of providing for compensation of the county for any public improvement, provide that any such improvement shall remain the property of the county, or provide for joint use thereof by the county and the city or town under such conditions as the court may prescribe with the consent of the affected localities;

6. Prescribe what capital outlays shall be made by the city in the area after annexation; the court shall require of the city the provision of any capital improvements which in its judgment are essential to meet the needs of the annexed area and to bring the same up to a standard equal to that of the remainder of the city; and the court may, in its discretion, require as a condition of annexation the provision of capital improvements in addition to those specified in the annexation ordinance when the same are required to meet the needs of the area annexed;

7. Require the payment by the city or town to any common carrier of passengers by motor bus, who may become a party to the annexation proceeding, of a sum to be determined by the court to compensate such carrier for any loss or damage such carrier may suffer from the effects of the annexation order upon its operations. However, the city or town may elect to permit the carrier to continue to operate within the annexed area for such period of time, to be determined by the court, as will permit the carrier to liquidate and recover its investment through depreciation.

Code 1950, § 15-152.12; 1952, c. 328; 1960, c. 550; 1962, c. 623, § 15.1-1042; 1997, c. 587.

**§ 15.2-3212. Determination of value of public improvements.**

In determining the value of any public improvement for the purposes set forth in § 15.2-3211 the special court shall take into consideration the original cost thereof less depreciation, reproduction cost at the time of annexation less depreciation, as well as present value.

The city or town shall receive credit, upon a basis to be determined by the court, for any sums it may have contributed to such public improvement and may in the discretion of the court be allowed credit for any portion of the cost thereof contributed by any federal, state or other agency and not borne by the county. When such improvements consist of a school financed in part from county funds and in part from a state grant, the city or town shall receive such credit only upon that portion of the cost paid for by the state grant and only then upon the ratio that children residing in the area annexed and enrolled in such school therein bears to the total attendance of school children in the county.

The governing body of the county or any town therein, portions of which are proposed to be annexed, shall not between the entry of the decree of annexation and the date when the same becomes effective, make or contract for any permanent public improvements, to be paid for by the city or town seeking annexation, without the consent of the corporate authorities of the city or town and the supervision of the official thereof charged with making similar public improvements within the city or town.

Code 1950, § 15-152.13; 1952, c. 328; 1962, c. 623, § 15.1-1043; 1997, c. 587.

**§ 15.2-3213. Declining to accept annexation on terms and conditions imposed by court.**

In any annexation proceedings instituted by a city or town, the council thereof may, subject to the approval of the special court in which the case is pending, and prior to twenty-one days after entry of an annexation order, or within twenty-one days after denial of a petition for appeal or within twenty-one days after the entry of the mandate in an appeal which has been granted, by ordinance duly adopted decline to accept annexation on the terms and conditions imposed by such court. In such case the court shall enter an order dismissing the motion to annex, and shall direct the payment of the entire costs of the proceedings by the city or town, including reimbursement of the county of costs incurred by it in defending the suit, including such reasonable attorneys' fees, engineering fees, witness fees and other costs as such court shall determine and allow.

Code 1950, § 15-152.14; 1952, c. 328; 1962, c. 623, § 15.1-1044; 1979, c. 85; 1997, c. 587.

### § 15.2-3214. Costs.

The costs in annexation proceedings shall be paid by the locality instituting the proceedings and shall be the same as in other civil cases; however, in proceedings instituted by a town, in assessing the costs, the special court shall consider the extent to which county revenues are derived from within the town, the relative financial abilities of the parties and the relative merits of the case. The costs shall include the per diem and expenses of the court reporter, if any, and, in the discretion of the court, a reasonable allowance to the court for secretarial services in connection with the preparation of the written opinion. If the proceedings are instituted otherwise than by a city, town or county, such costs shall be paid as the court directs considering the relative merits of the case.

On appeal, the appellate court shall determine by whom the appellate costs shall be paid.

Code 1950, § 15-152.15; 1952, c. 328; 1962, c. 623, § 15.1-1045; 1979, c. 85; 1997, c. 587.

### § 15.2-3215. County reimbursement for town annexation proceedings.

In any annexation proceedings in which a town participates, except those in which a town declines to accept an award by the special court, in which case § 15.2-3213 shall apply, the court may direct the county within which the town is located to reimburse the town, as hereinafter provided, for reasonable costs incurred by it in presenting its case. Such costs shall include attorneys' fees, engineering fees, witness fees, and other reasonable costs as the court shall determine and allow. The court shall hear evidence regarding the costs incurred by the town in presenting its annexation case and may order part payment by the county to the town based upon a consideration of the extent to which county revenues are derived from within the town, the relative financial ability of the town and county, and the relative merits of the case.

1979, c. 85, § 15.1-1045.1; 1997, c. 587.

### § 15.2-3216. Proceedings not to fail for technical or procedural defects or errors.

No proceedings brought under this chapter shall fail because of a defect, imperfection or omission in the annexation ordinance or the pleadings which does not affect the substantial rights of the parties or any other technical or procedural defect, imperfection or error, but the special court shall at any time

allow amendment of the ordinance or the pleadings or make any other order necessary to ensure the hearing of the case on its merits.

Code 1950, § 15-152.16; 1952, c. 328; 1962, c. 623, § 15.1-1046; 1979, c. 85; 1980, c. 592; 1997, c. 587.

**§ 15.2-3217. Court granting annexation to exist for ten years.**

The special court shall not be dissolved after rendering a decision granting any motion or petition for annexation, but shall remain in existence for a period of ten years from the effective date of any annexation order entered, or from the date of any decision of the Supreme Court affirming such an order. Vacancies occurring in the court during such ten-year period shall be filled as provided in § 15.2-3004.

The court may be reconvened at any time during the ten-year period on its own motion, or on motion of the governing body of the county, or of the city or town, or on petition of not less than fifty registered voters or property owners in the area annexed; however, if the area annexed contains fewer than 100 registered voters or property owners, a majority of such registered voters or property owners may petition for the reconvening of the court.

The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which annexation was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award attorneys' fees, and court and other reasonable costs to the party or parties on whose motion the court is reconvened.

Any such action of the court shall be subject to review by the Supreme Court in the same manner as is provided with respect to the original decision of the court.

Code 1950, § 15-152.17; 1952, c. 328; 1962, c. 623, § 15.1-1047; 1979, c. 85; 1997, c. 587.

**§ 15.2-3218. Continued existence of court under certain conditions.**

Notwithstanding the provisions of § 15.2-3217, if a decision granting any motion or petition for annexation is subjected to collateral attack in any court, state or federal, the special court shall not be dissolved; or, if heretofore or hereafter dissolved at the time such attack is made or is pending, shall be revived. The court shall thereafter continue in existence for one year after all collateral issues have been resolved, and shall have the same powers and duties as set out in § 15.2-3217. In addition, it shall have the power to fully implement any order or decision of any court of competent jurisdiction with respect to such collateral attack.

1975, c. 32, § 15.1-1047.2; 1997, c. 587.

**§ 15.2-3219. Reduced taxation on real estate in territory added to corporate limits.**

The council of any city or town to which territory has been added may, by ordinance, allow a lower rate of taxation to be imposed for a period not to exceed ten years after the effective date of the annexation upon the real estate or any portion thus added to its corporate limits, than is imposed on similar property within its limits at the time such territory was added.

Such differences in the rate of taxation hereafter shall be established annually and shall bear a reasonable relationship to differences between nonrevenue-producing governmental services giving land urban character which are furnished in the area added as compared to other areas in the city or town.

1970, c. 37, § 15.1-1047.1; 1971, Ex. Sess., c. 36; 1985, c. 478; 1997, c. 587.

**§ 15.2-3220. Mandamus and prohibition.**

Mandamus and prohibition shall lie from the Supreme Court or any circuit court to compel a city or town to carry out the provisions of this article or to forbid any violation of the same.

Code 1950, § 15-152.18; 1952, c. 328; 1962, c. 623, § 15.1-1048; 1997, c. 587.

**§ 15.2-3221. Appeals; how heard.**

An appeal may be granted by the Supreme Court, or any justice thereof. The special court shall certify the facts in the case to the Supreme Court, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. In any case, by consent of all parties of record, the motion to annex may be dismissed at any time before final judgment on appeal.

Code 1950, § 15-152.19; 1952, c. 328; 1962, c. 623, § 15.1-1049; 1997, c. 587; 2003, c. 940.

**§ 15.2-3222. What order to be entered by Supreme Court.**

If the judgment of the special court is reversed on appeal, or if the judgment is modified, the Supreme Court shall enter such order as the special court should have entered, and such order shall be final. In the event that the Supreme Court enters such order, a copy of the order shall be certified to the Secretary of the Commonwealth.

Code 1950, § 15-152.20; 1952, c. 328; 1962, c. 623, § 15.1-1050; 1970, c. 751; 1978, c. 642; 1997, c. 587.

**§ 15.2-3223. What order and proceedings clerk to certify, and where same shall be recorded; fees.**

The clerk of the court wherein an order is entered for the annexation of territory shall make and certify copies of so much of the order and proceedings as shall show the authorization of the transfer of territory from the county or town to the city or town, as the case may be. He shall transmit one copy, along with a full description of the territory so annexed, to the county clerk of the county whose territory is affected, who shall forthwith record the same in the name of the city or town to which the territory is annexed, and one copy to the clerk of the court of such city in which deeds are recorded, who shall likewise record and index the same. The fees of the clerk for such recordation shall be the same as for recording a deed and such fees, as well as the fees of the clerk for making the copies aforesaid, shall be paid by the city or town.

Code 1950, § 15-152.21; 1952, c. 328; 1962, c. 623, § 15.1-1051; 1997, c. 587.

**§ 15.2-3224. Commissioner of revenue for the county to certify list of real estate in annexed territory to commissioner of revenue.**

The commissioner of the revenue of such county shall forthwith make from the land books and certify to the commissioner of the revenue of the city a list of all real estate within the annexed territory as it

appears on such land books, embracing every entry thereon in regard thereto, for which service he shall be paid by such city a reasonable fee.

Code 1950, § 15-152.22; 1952, c. 328; 1962, c. 623, § 15.1-1052; 1994, c. 539; 1997, c. 587.

**§ 15.2-3225. County or district officers resident in annexed territory to remain in office; reelection.**
If a county or district officer resides in a territory annexed to a city, such officer may continue in office until the end of the term for which he was elected or appointed. The provisions of § 15.2-3823 shall prevail with respect to successive reelections of such officers. Removal of such officer, during his term of office from any such territory, to another part of the city or town to which it is annexed shall not vacate his office, but residence in any part of such city or town shall during his term of office be deemed residence in the county or district.

Code 1950, § 15-152.23; 1952, c. 328; 1962, c. 623, § 15.1-1053; 1964, c. 202; 1997, c. 587.

**§ 15.2-3226. Redistricting and elections in city or town following annexation; registration and transfer of registration of voters in annexed territory.**
A. Whenever the boundaries of a city or town, which elects its council by wards or districts, have been expanded through annexation, subject to the provisions of § 24.2-304.1, the council of the city or town shall redistrict the municipality into wards or districts, change the boundaries of existing wards or districts, or increase or diminish the number of wards or districts to incorporate the additional territory.

B. Notwithstanding the provisions of § 24.2-312, there shall be an election for members of council on the first Tuesday in May following the effective date of annexation for terms to commence on July 1 following the election; however, upon the approval of the governing bodies affected and the special court, such election may be on the Tuesday after the first Monday in November following the effective date of annexation for terms to commence on January 1 following the election. If council members are chosen on an at-large basis the election shall be held for the unexpired portion of the term of each council member whose term extends beyond July 1 immediately following the effective date of annexation. If council members are chosen on a ward basis, the election shall be held for each ward affected by the annexation. However, no such election shall be held as a result of an annexation instituted under § 15.2-3202 or § 15.2-3203, unless the city or town increases its population by more than five percent due to the annexation.

C. The registration records of voters residing in the annexed areas shall be transferred, and the appropriate notice given, in accordance with § 24.2-114. Any person residing in the annexed territory who has not registered shall be entitled to register and vote in the city or town if he would have been entitled to register and vote at the next election of the county.

Code 1950, § 15-152.24; 1952, c. 328; 1962, c. 623, § 15.1-1054; 1970, c. 172; 1974, c. 401; 1976, c. 9; 1977, c. 307; 1994, c. 293; 1997, c. 587; 2001, Sp. Sess. I, c. 3.

**§ 15.2-3227. Annexation proceedings final for ten years.**
Except by mutual agreement of the governing bodies affected, no city or town, having instituted proceedings to annex territory of a county, shall again seek to annex territory of such county within the ten

years next succeeding the effective date of annexation in any proceeding under this article or previous acts. In the event annexation is denied, such prohibition shall begin with the date of the final order of the court denying annexation or, in the case of an appeal to the Supreme Court, with the date of the final order of the Supreme Court. However, a city or town moving to dismiss the proceedings before a hearing on its merits may file a new petition five years after the filing of the petition in the prior suit. No county shall, except with the consent of its governing body, be made defendant in any annexation proceeding brought by any city within such ten-year period.

Notwithstanding the foregoing provisions, a city shall have the right to file and maintain an annexation proceeding against any county against which it has not filed such a proceeding during the preceding thirteen years.

The provisions of this section shall not apply to any petition for annexation brought by a city or town, within such ten-year period, if the previous petition was dismissed due to a procedural defect, lack of jurisdiction, or any defense other than the merits of the case. The provisions of this section shall not apply to a city or town which institutes an annexation proceeding by filing notice with the Commission on Local Government but which subsequently fails to petition the court to grant such annexation. In that event, however, the city or town shall not again institute proceedings for annexation against the county for at least two years after the date the Commission renders its final report on the initial proceeding.

This section shall also apply to any city which was a town at the time of the filing of such petition.

Code 1950, § 15-152.25; 1952, c. 328; 1958, c. 378; 1962, c. 623, § 15.1-1055; 1979, c. 85; 1985, c. 478; 1997, c. 587.

**§ 15.2-3228. County not to be reduced to insufficient area, population or sources of revenue.**

If, as the result of an annexation, the area remaining in a county (i) would be reduced below sixty square miles, excluding property owned by the United States of America, or (ii) would otherwise be insufficient in area, population, or sources of revenue to adequately support the county government and schools, then the annexation shall not be decreed unless the whole county is annexed.

Code 1950, § 15-152.26; 1952, c. 328; 1960, c. 519; 1962, c. 623, § 15.1-1056; 1997, c. 587.

**§ 15.2-3229. Annexation of whole town.**

The provisions of this article shall apply to the annexation by a city or town of an adjoining town. No part of a town shall be annexed unless the whole town is annexed. The annexing city or town shall assume all the indebtedness of the town annexed, and shall own all the corporate property, franchises and rights thereof.

Code 1950, § 15-152.27; 1952, c. 328; 1962, c. 623, § 15.1-1057; 1997, c. 587.

**§ 15.2-3230. Article not applicable to consolidation of two cities.**

The provisions of this article shall not apply to the consolidation of two cities.

Code 1950, § 15-152.28; 1952, c. 328; 1962, c. 623, § 15.1-1058; 1997, c. 587.

## Article 2 - AGREEMENTS DEFINING ANNEXATION RIGHTS

### § 15.2-3231. Agreements between towns and counties authorized; effect; provisions.

Towns in counties, or parts of counties, not immune from annexation may voluntarily enter into agreements with such counties for the purpose of defining the town's annexation rights in the future. Upon the execution of such an agreement by both the town and the county, the town shall permanently renounce its right to become a city. Any such agreement shall provide for the regular and orderly growth of the town in conjunction with the county and for an equitable sharing of resources and liabilities. It shall also provide that the town may annex at regular intervals by the adoption of an ordinance.

1979, c. 85, § 15.1-1058.1; 1997, c. 587.

### § 15.2-3232. Hearing before Commission on Local Government required; notice.

A. Once the town and county governing bodies have decided upon the terms of an agreement pursuant to § 15.2-3231, the proposed agreement shall be presented to the Commission on Local Government. The Commission shall conduct a public hearing at some location in the town or the county and interested parties may appear and offer evidence or comments. The hearing shall be duly advertised in some newspaper having general circulation in the county and the town once a week for two successive weeks, stating the time and place of the hearing, and summarizing the terms of the proposed agreement. The second advertisement shall appear not less than six days nor more than 21 days prior to the hearing. The Commission shall then determine whether the proposed agreement provides for the orderly and regular growth of the town and county together, for an equitable sharing of the resources and liabilities of the town and the county, and whether the agreement is in the best interest of the community at large, and shall so advise the governing bodies in a written opinion.

B. In addition to the advertising required in subsection A, written notice of the Commission on Local Government's hearing shall be given by the town at least 10 days before the hearing to the owner, owners, or their agent of each parcel of land included in the area proposed for annexation under the terms of the agreement. One notice sent by first-class mail to the last known address of such owner, owners, or their agent as shown on the current county real estate tax assessment books or current county real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the clerk of the town shall make an affidavit that such mailings have been made and file such affidavit with the Commission. Nothing in this subsection shall be construed as to invalidate any subsequently adopted agreement because of the inadvertent failure by the town to give written notice to the owner, owners, their agent or the occupant of any parcel in the area proposed for annexation.

1979, c. 85, § 15.1-1058.2; 1997, c. 587; 2003, c. 173.

### § 15.2-3233. Adoption of agreement.

After the Commission has advised the governing bodies of the two jurisdictions of its determination, and regardless of whether its determination is favorable, such bodies may adopt the agreement. If the

Commission's determination is unfavorable, however, the governing bodies shall first conduct an additional joint public hearing advertised as provided in § 15.2-3232. Adoption of the agreement by both governing bodies will operate permanently to divest the town of its right to become a city.

1979, c. 85, § 15.1-1058.3; 1997, c. 587.

### § 15.2-3234. Inability to agree; petition to Commission on Local Government.

In the event the governing bodies of the town and county cannot reach a voluntary agreement as to future annexation rights, the town may, by ordinance duly adopted by a majority vote of its governing body, petition the Commission on Local Government for an order establishing the rights of the town to annex territory by ordinance under specified agreed terms. A copy of such petition and ordinance shall be served on the attorney for the Commonwealth, or county attorney, if there is one, and on the chairman of the board of supervisors of the county. The county shall file its response to such petition with the Commission within sixty days after receipt of service thereof.

After the time for filing of a response by the county has elapsed, the Commission shall establish a date, time and place for a hearing, to be conducted in the county or the town, at which the parties, and any resident or property owner of either the county or the town may appear and present evidence or comment on the rights petitioned for by the town. After receiving such evidence, and making such further investigation as it deems appropriate, and based upon the criteria set forth in § 15.2-3209, the Commission shall enter an order which grants such rights to the town, either upon the terms set forth in the petition or upon some modified basis. The order shall in no event grant to the town the right to annex county territory by ordinance more frequently than once every five years.

1979, c. 85, § 15.1-1058.4; 1997, c. 587.

### § 15.2-3235. Appeal.

Any order of the Commission regarding future annexation rights of a town shall become final unless either the town or the county or five percent of the registered voters in either jurisdiction, within thirty days of the entry of the order, petition the circuit court to review such order. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as provided by Chapter 30 (§ 15.2-3000 et seq.) of this title. The special court shall review such decision and enter any order it deems appropriate. A final order of either the Commission or the court granting the town the right to future annexation through the periodic adoption of ordinances shall operate permanently to divest the town of its rights to become a city.

1979, c. 85, § 15.1-1058.5; 1997, c. 587.

## Article 3 - CONTRACTION OF CORPORATE LIMITS

### § 15.2-3236. Council may enact ordinance.

Whenever it is deemed desirable to contract the corporate limits of any city or town, the council thereof may enact an ordinance defining accurately the boundary of the territory proposed to be abandoned. The ordinance, or a descriptive summary of the ordinance, along with a reference of the place in the

city or town where the ordinance may be examined, shall be published in at least ten issues of a daily paper having general circulation in the city or town, if there is such a paper, or in two successive issues of a weekly newspaper having general circulation in such city or town, if there is such a paper. If there is no daily newspaper having general circulation therein, the ordinance shall be conspicuously posted in at least ten public places in the territory for at least ten days before the application to the circuit court for the city or town as provided for in § 15.2-3237 in addition to the publication in the weekly newspaper. A copy of the ordinance shall be served by the city or town upon the chairman of the board of supervisors of the contiguous county or counties of which the territory may become a part.

Code 1950, § 15-153; 1962, c. 623, § 15.1-1059; 1997, c. 587.

**§ 15.2-3237. Application to be made to circuit court; appointment of special court; who may appear against.**

Within thirty days of the enactment of an ordinance proposing to reduce the corporate limits of a city or town, the city or town shall apply to the circuit court for the city, or to the circuit court for the city or town, for an order confirming the ordinance. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. One or more residents or landowners of the territory proposed to be abandoned, or the governing body of the county or counties contiguous thereto, may appear and by petition set forth reasons why the corporate limits should not be reduced.

Code 1950, § 15-154; 1962, c. 623, § 15.1-1060; 1997, c. 587.

**§ 15.2-3238. What court may do.**

If the special court is satisfied that: (i) such contraction of the corporate limits will not leave the bonded debt of the city or town in excess of ten percent of the assessed valuation of the real estate that will be left in the city or town after the proposed contraction, which debt shall be determined as is provided in Article VII, Section 10 of the Constitution of Virginia; (ii) less than three fourths of the landowners in that territory oppose the contraction; (iii) no substantial damage to persons owning real estate in the territory proposed to be abandoned, or to the county of which it will become a part, will be caused by the contraction; and (iv) the abandonment of such territory will be in the best interest of the city or town, the court shall render an order confirming the ordinance contracting the limits of the city or town and declaring the territory abandoned to be a part of the contiguous county designated in the order. Such contraction shall thereupon become final and be taken cognizance of by all public officers, and the territory abandoned shall become a part of the county so designated. Whenever such an order is rendered, a copy of the order shall be certified to the Secretary of the Commonwealth.

Code 1950, § 15-155; 1962, c. 623, § 15.1-1061; 1970, c. 751; 1971, Ex. Sess., c. 1; 1978, c. 642; 1997, c. 587.

**§ 15.2-3239. Certification of real estate list.**

Upon entry of the order under § 15.2-3238, the proper city officers shall certify to the clerk of the county a list of all real estate within the territory, with every entry in regard thereto, as it appears on the city land books. The list and entries so certified shall be entered upon the county land books.

Code 1950, § 15-156; 1962, c. 623, § 15.1-1062; 1997, c. 587.

**§ 15.2-3240. Transfer of registration records.**

Upon entry of the court order under § 15.2-3238, the registration records of voters residing within the territory shall be transferred, and the appropriate notice given, in accordance with § 24.2-114.

Code 1950, § 15-157; 1962, c. 623, § 15.1-1063; 1997, c. 587.

**§ 15.2-3241. Petition for contraction of towns located in two or more counties; appointment of special court.**

Whenever it is deemed desirable to contract the corporate limits of a town located partially in one county and partially in another, a majority of voters registered to vote at the preceding November general election residing in that part of the town which is proposed to be abandoned may petition the circuit court for the county in which that part of the town is located to amend the charter of the town so as to exclude from the corporate limits of the town that part of the town which is located in such county.

Such petition shall be signed by the petitioners. It shall accurately define the boundary of the territory proposed to be abandoned and shall pray that the charter of the town may be amended so as to exclude such territory from the corporate limits of the town. The circuit court with which the petition was filed shall notify the Supreme Court which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

Code 1950, § 15-158; 1962, c. 623, § 15.1-1064; 1997, c. 587.

**§ 15.2-3242. Parties defendant and publication of such petition.**

The county in which the part of the town proposed to be abandoned under § 15.2-3241 is located shall be named as defendant to the petition. Satisfactory proof that the petition, or a descriptive summary of the petition along with a reference to the place in the town where the petition may be examined, has been published in a newspaper having general circulation in the county or town once a week for four successive weeks and has been posted at the front door of the courthouse of the county for a like period shall be filed with the petition. A statement in the publication to the effect that a certain number of registered voters of the territory proposed to be abandoned signed the petition shall be sufficient in lieu of the names of the signers.

Code 1950, § 15-159; 1962, c. 623, § 15.1-1065; 1997, c. 587.

**§ 15.2-3243. Hearing and order upon such petition.**

The special court shall fix a day on which the petition filed pursuant to § 15.2-3241 shall be heard and shall direct the clerk of the court to cause to be summoned the chairman of the board of supervisors of the county and the mayor of the town, who without formal pleadings shall make such defense against

the prayer of the petition as they may have. One or more residents or landowners of the territory proposed to be abandoned may appear and set forth reasons why the same should not be done.

If the court is satisfied that it will be in the best interest of a majority of the people of the territory proposed to be abandoned and that the general good of the community will not be materially affected, it shall by an order entered in its common-law order book, reciting the fact of the due publication of the petition, that it is in the best interest of a majority of the people of that part of the town proposed to be abandoned, and that the general good of the community will not be materially affected by amendment of the charter, order that the charter of such town be amended accordingly. Whenever such an order is entered, a copy of the order shall be certified to the Secretary of the Commonwealth.

The court in its order may make such disposition of the corporate property of the town as may seem to it just and equitable and shall also make such provision as to the payment of any debts or obligations of the town as between the county and the inhabitants of the town as to the court may seem just and equitable.

At the next session of the General Assembly following the final determination of such order, the town shall request that the General Assembly amend its charter in accordance with the court order. The effective date of the transfer of territory shall be the effective date of the court order and not the effective date of the Act of Assembly.

Code 1950, § 15-160; 1962, c. 623, § 15.1-1066; 1970, c. 751; 1978, c. 642; 1997, c. 587.

### § 15.2-3244. Appeal from such order.

Any one or more of the petitioners, or the defendants, or any inhabitants of the town, who may feel themselves aggrieved by an order declaring territory to be abandoned as provided by this article, or by the refusal to enter such order, may, at any time within sixty days from the date of the order, upon giving bond for costs, the amount thereof to be fixed by the court, apply to the Supreme Court for a writ of error and supersedeas according to the general law.

Code 1950, § 15-161; 1962, c. 623, § 15.1-1067; 1997, c. 587.

### § 15.2-3245. Validation of proceedings.

All proceedings prior to July 1, 1960, taken in contraction of the corporate limits of the City of Fairfax are hereby validated, ratified, approved, and confirmed, and all such contractions or attempted contractions of the corporate limits of such city are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

1960, c. 420, § 15.1-1067.1; 1997, c. 587.

## Chapter 33 - IMMUNITY OF COUNTIES OR PARTS OF COUNTIES FROM CITY-INITIATED ANNEXATION AND CITY INCORPORATION

### § 15.2-3300. Purposes of chapter.

The purposes of this chapter are: (i) to provide complete immunity from annexation and incorporation of new cities for those counties or tier-cities which by reason of their population density and numbers are providing urban services and (ii) to provide a system by which portions of counties may receive immunity from annexation and incorporation of new cities in the future if qualified pursuant to this chapter.

1979, c. 85, § 15.1-977.19:1; 1984, c. 695; 1997, c. 587.

**§ 15.2-3301. Initiation of proceeding for declaration of immunity.**

The governing body of any county or tier-city may, by ordinance passed by a recorded affirmative vote of a majority of the members thereof, petition the circuit court for the county for an order declaring the county or tier-city totally or partially immune, as the case may be, from city-initiated annexation and from the incorporation of new cities within its boundaries.

If the petition for total or partial county immunity is filed after the institution of a proceeding for city-initiated annexation of county or tier-city territory or for the incorporation of a new city within the county's or tier-city's boundaries under the provisions of Chapters 32 (§ 15.2-3200 et seq.) or 38 (§ 15.2-3800 et seq.) and before the time limit for pleadings established by the court pursuant to § 15.2-3204 or § 15.2-3805, the proceeding for annexation or incorporation shall be stayed until the court determines the question of total or partial county immunity. The clerk of the circuit court shall give notice of its receipt of a county's or tier-city's petition for immunity to each court in which the county or tier-city may be a party to a city-initiated annexation proceeding or to a proceeding for the incorporation of a new city.

1979, c. 85, § 15.1-977.20; 1984, c. 695; 1985, c. 478; 1997, c. 587.

**§ 15.2-3302. Criteria for total immunity; judicial determination.**

A. If, after receipt of a petition for immunity, the circuit court determines that the county or tier-city has a population at the time of the filing of the petition of at least 20,000 persons and a population density of at least 300 persons per square mile, or a minimum population of at least 50,000 persons and a population density of at least 140 persons per square mile, based either on the latest United States census, on the latest population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision, it shall enter an order declaring the total county or tier-city immune from city-initiated annexation and incorporation of new cities.

B. If the court determines that the county or tier-city has not met the criteria for immunity as set forth in this section, it shall deny the county's or tier-city's petition.

C. In the determination of its population density, a county or tier-city may elect to have excluded from consideration the area of property within its boundaries which is owned by the federal and state governments and the area covered by bodies of water of forty acres or more in size. If a county or tier-city elects to exclude such areas from consideration, any county or tier-city residents residing in such

areas must also be excluded in determining the county's or tier-city's population and population density.

1979, c. 85, § 15.1-977.21; 1984, c. 695; 1997, c. 587.

**§ 15.2-3303. Notice of determination by court; effect on other proceedings.**

The clerk of the circuit court shall give notice of the court's determination of a county's or tier-city's eligibility for immunity to any court in which proceedings were stayed pending a determination of county or tier-city immunity. If county or tier-city immunity is granted by order of the court, any suits stayed pending a determination of such immunity shall be dismissed. If county or tier-city immunity is not granted by order of the court, such stays shall be dissolved.

1979, c. 85, § 15.1-977.22; 1984, c. 695; 1997, c. 587.

**§ 15.2-3304. Immunity based upon provision of urban-type services.**

The governing body of any county which feels appropriate urban-type services are being provided, exclusive of those services which are provided by a city but inclusive of those services provided by cooperative agreement between the county and city, in the part of the county proposed for immunity may, by ordinance passed by a recorded affirmative vote of a majority of the members thereof, petition the circuit court for the county for an order declaring some part or parts of the county immune from city-initiated annexation and from incorporation of new cities within such part or parts. The ordinance passed by the governing body of the county shall designate the area or areas for which the county desires such partial immunity. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

In considering the petition, the special court shall use the list of services set out in subdivision 1 of § 15.2-3209 as a guide in determining whether appropriate urban-type services are being provided in such part or parts of the county. The court shall also consider (i) whether the county has made efforts to comply with applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies promulgated by the General Assembly; (ii) whether a community of interest exists between that part of the county for which immunity is sought and the remainder of the county that is greater than the community of interest that exists between that part of the county for which the immunity is sought and the adjoining municipality; and (iii) whether either party has arbitrarily refused to cooperate in the joint provision of services. Unless the population of a city adjoining a county which is seeking partial immunity exceeds 100,000 persons, the court shall not grant partial immunity to such county which would result in substantially foreclosing such a city from expanding its boundaries by annexation. The court may include a greater or smaller area than the area for which immunity is sought.

Any city or town adjoining or within the county, or the parts proposed for immunity, shall be made parties to the action. The finding of the Commission on Local Government shall be received into evidence, and the court shall receive such additional evidence as the parties may introduce. The court

may limit additional evidence to those kinds of services considered by the Commission. If, after consideration of the evidence, the court finds that the county has appropriate urban-type services, comparable to the type and level of services furnished in the city from which the county seeks immunity, within such parts of the county that are proposed for immunity and that the other conditions in this section are satisfied, the court shall enter an order declaring such part or parts of the county to be immune from city-initiated annexation and incorporation of new cities.

1979, c. 85, § 15.1-977.22:1; 1983, c. 217; 1997, c. 587.

**§ 15.2-3305. Duration of immunity.**

After a county or tier-city or part of a county is once granted immunity as provided by this chapter, it shall thereafter retain it.

1979, c. 85, § 15.1-977.22:2; 1984, c. 695; 1997, c. 587.

**§ 15.2-3306. Limitations to immunity.**

A. Immunity granted by this chapter shall not be interpreted to prohibit any town annexations, or to prohibit annexations to a city initiated under the provisions of § 15.2-3203, except that no city may commence or be a petitioner in any such proceeding.

B. Notwithstanding other provisions of law, including § 15.2-3800, no grant of county immunity shall be interpreted to deny the right of any town, which in 1979 possessed a population in excess of 5,000 persons and was situated in a county possessing a population of 20,000 or more persons and a population density of 300 or more persons per square mile, or a population of 50,000 or more persons and a population density of 140 persons or more per square mile, based either on the United States census, on population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision, to obtain city status. Where a town seeks to become a city under the provisions of this section, the special court shall be limited in its review to a determination of the town's population and population density. Where the court determines that such town has a population of at least 5,000 persons and a density of 200 persons per square mile, it shall enter an order granting the town city status.

1979, c. 85, § 15.1-977.23; 1997, c. 587; 2002, c. 199.

**§ 15.2-3307. Election of city barred from annexation to be treated as immune county.**

Notwithstanding any other provision of law, any city that is barred or that may hereafter become barred from further annexation may, by resolution passed by a majority vote of its governing body, elect to be treated the same as an immune county for purposes of state police services and for the maintenance and construction of streets and highways. Such election shall be exercised by notifying the Governor of the election at least two years prior to the beginning of the biennium in which it takes effect. If, after a minimum period of eight years following the date upon which such treatment has become effective, a city wishes to terminate such treatment as an immune county, it shall notify the Governor of its intention to return to being treated as a city for such purposes. Such return shall become effective two years after such notification to the Governor.

1979, c. 85, § 15.1-977.24; 1997, c. 587.

### § 15.2-3308. Partial immunity proceedings final for five years; exceptions.

No county, having instituted proceedings for immunity for part or parts of the county, shall again seek immunity for substantially the same part or parts of the county within the next five years.

Such prohibition shall begin with the date of the final order of the court granting or denying immunity or, in the case of an appeal to the Supreme Court, with the date of the final order of the Supreme Court. The provisions of this section shall not apply to a petition for partial immunity if the previous petition was withdrawn, or was dismissed for any reason other than the merits of the case.

The provisions of this section further shall not apply to a county which institutes an immunity proceeding by filing notice with the Commission on Local Government but subsequently fails to petition the court to grant such immunity. In that event, however, the county shall not again institute proceedings for immunity for substantially the same part or parts of the county for at least two years after the date the Commission renders its final report on the initial proceeding.

1985, c. 478, § 15.1-977.25; 1997, c. 587.

## Chapter 34 - VOLUNTARY SETTLEMENT OF ANNEXATION, TRANSITION OR IMMUNITY ISSUES

### § 15.2-3400. Voluntary settlements among local governments.

Recognizing that the localities of the Commonwealth may be able to settle the matters provided for in this subtitle through voluntary agreements and further recognizing that such a resolution can be beneficial to the orderly growth and continued viability of the localities of the Commonwealth the following provisions are made:

1. Any locality may enter voluntarily into agreement with any other locality or combination of localities whereby any rights provided for its benefit in this subtitle may be modified or waived in whole or in part, as determined by its governing body, provided that the modification or waiver does not conflict with the Constitution of Virginia.

2. The terms of the agreement may include fiscal arrangements, land use arrangements, zoning arrangements, subdivision arrangements and arrangements for infrastructure, revenue and economic growth sharing, provisions for the acceptance on each other's behalf of proffered conditions under § 15.2-2298 or 15.2-2303, dedication of all or any portion of tax revenues to a revenue and economic growth sharing account, boundary line adjustments, acquisition of real property and buildings and the joint exercise or delegation of powers as well as the modification or waiver of specific annexation, transition or immunity rights as determined by the local governing body including opposition to petitions filed pursuant to § 15.2-3203, and such other provisions as the parties deem in their best interest. The terms of the agreement may also provide for subsequent court review, instituted pursuant to provisions contained in the agreement, by a special court convened under Chapter 30 (§ 15.2-3000 et seq.) of this title.

3. If a voluntary agreement is reached pursuant to this chapter, the governing bodies shall present to the Commission the proposed settlement. The Commission shall conduct a hearing pursuant to subsection A of § 15.2-2907. The Commission shall report, in writing, its findings and recommendations as to whether the proposed settlement is in the best interest of the Commonwealth. Such report shall not be binding upon any court but shall be advisory in nature only.

4. Upon receipt of the Commission report, the localities, by ordinance passed by a recorded affirmative vote of a majority of the members of each governing body thereof, may adopt either the original or a modified agreement acceptable to all parties. Before adopting such ordinance each local governing body shall advertise its intention to approve such agreement, or modified agreement, at least once a week for two successive weeks in a newspaper having a general circulation in its jurisdiction and such advertisements shall contain a descriptive summary of the agreement or modified agreement. Each locality shall hold at least one public hearing on the agreement or modified agreement prior to the adoption of the ordinance. The publication shall include a statement that a copy of the agreement, or modified agreement, is on file in the office of the clerk of the circuit court for each of the affected jurisdictions.

5. The governing bodies shall petition a circuit court having jurisdiction in one or more of the localities for an order affirming the proposed settlement. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. The special court shall be limited in its decision to either affirming or denying the voluntary agreement and shall have no authority, without the express approval of each local governing body, to amend or change the terms or conditions of the agreement, but shall have the authority to validate the agreement and give it full force and effect. The court shall affirm the agreement unless the court finds either that the agreement is contrary to the best interests of the Commonwealth or that it is not in the best interests of each of the parties thereto. In determining whether such agreement should be affirmed, the court shall consider, among other things, whether the interest of the Commonwealth in promoting orderly growth and the continued viability of localities has been met. If the agreement is validated and provides for annexation by a city or town, the agreement shall take effect on the first day of the month succeeding validation of the agreement unless the agreement stipulates that the annexation shall be effective on some other date.

6. The agreement shall not become binding on the localities until affirmed by the special court under this section. Once approved by the special court, the agreement shall also bind future local governing bodies of the localities.

7. The applicable provisions of this chapter shall be deemed to have been met with regard to any voluntary fiscal agreement or voluntary agreement in settlement of an annexation, transition or immunity petition or voluntary settlement agreement entered into pursuant to this chapter (i) which was entered into before July 1, 1990, (ii) which had been reviewed or was in the process of review by the Commission on Local Government on or before July 1, 1990, (iii) which had been or was the subject of review by a special court convened under Chapter 30 of this title on or before July 1, 1990, or (iv)

which had been or was approved by a special court convened under Chapter 30 of this title on or before July 1, 1990.

8. The provisions of § 15.2-3226 shall apply when a voluntary agreement made under this section includes the annexation of territory by a city or town. No election for members of council shall be held as a result of such annexation unless the city or town increases its population by more than five percent due to the annexation.

1983, c. 523, § 15.1-1167.1; 1985, c. 478; 1986, c. 333; 1988, c. 881; 1990, cc. 62, 326; 1994, c. 293; 1996, cc. 644, 650; 1997, c. 587; 2003, cc. 197, 444, 583; 2006, c. 212.

**§ 15.2-3401. Referendum on contracting of debt by counties in voluntary settlement agreements.** Before a county, under the terms of a voluntary agreement pursuant to this chapter, contracts a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, the board of supervisors shall, in conformity with Article VII, Section 10 (b) of the Constitution of Virginia, petition the circuit court for the county for an order calling for a special election in the county on the question of contracting such debt.

The question on the ballot shall be as follows, provided that the circuit court in its order calling for the election may substitute alternative language necessary to specify the type of agreement or the particular debt which the county proposes to contract under an agreement:

"Shall (name of county) be authorized to contract a debt by entering into a contract for the payment (describe the debt or payment) to (name of locality to whom payments are to be made) as a part of the proposed voluntary annexation and immunity settlement agreement between the county and (name of other locality)?

[ ] Yes

[ ] No"

The clerk of the county shall cause a notice of the referendum to be published in a newspaper having general circulation in the county once a week for three consecutive weeks, the first such notice of which must be published not more than sixty days prior to the election and shall post a copy of the notice at the door of the county courthouse.

The election shall be held and the results thereof ascertained and certified in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. If a majority of the voters of the county voting in such election approve the contracting of such debt, the county may proceed to adopt, by ordinance, the agreement.

1985, c. 66, § 15.1-1167.2; 1997, c. 587.

## Chapter 35 - CONSOLIDATION OF LOCALITIES

## Article 1 - CONSOLIDATION OF LIKE UNITS OF LOCAL GOVERNMENT

**§ 15.2-3500. Application of article.**

The provisions of this article shall be applicable only to the consolidation of like units of local government into a consolidated like unit of local government. As used in this article "like unit" means the consolidation of (i) two or more counties into a consolidated county, (ii) two or more cities into a consolidated city or (iii) two or more towns into a consolidated town.

1997, c. 587.

**§ 15.2-3501. Authority to consolidate counties, cities or towns.**

Any two or more adjoining like units of local government are hereby authorized to consolidate into a single consolidated like unit of local government.

Code 1950, § 15-162; 1962, c. 623, § 15.1-1071; 1997, c. 587.

**§ 15.2-3502. Agreement for consolidation.**

The governing bodies of any two or more adjoining localities desiring to consolidate into a consolidated locality in accordance with this article may enter into an agreement for the consolidation, setting forth in such consolidation agreement:

1. The names of the localities which are proposed to be consolidated;

2. The name of the proposed consolidated locality, which name shall be such as to distinguish it from the name of any other like unit of government in Virginia;

3. The property, real and personal, belonging to each locality and the fair value thereof in current money of the United States;

4. The indebtedness, bonded and otherwise, of each locality;

5. The proposed name and location of the county seat of the consolidated county or the address of the administrative offices of the city or town;

6. If the counties have different forms of county organization and government, the proposed form of county organization and government of the consolidated county, or if the cities or towns are to adopt the charter of one of the cities or towns, the name of the city or town whose charter is adopted; and

7. The other terms of the agreement.

The governing body of each of the localities may appoint an advisory committee composed of three persons to assist in the preparation of such agreement and may pay the members of such advisory committee reasonable compensation, approved by the judge of the circuit court for the locality.

In counties, no consolidation agreement shall become effective unless approved by a referendum. In cities and towns, the consolidation agreement may include a provision requiring approval by referendum.

The original of the consolidation agreement and, if appropriate, a petition on behalf of the several governing bodies asking for a referendum on the question of consolidation shall be filed with the judge or one of the judges of the circuit courts for the localities; there shall be filed with each of the other judges a copy of the consolidation agreement and of the petition.

Code 1950, § 15-163; 1962, c. 623, § 15.1-1072; 1997, c. 587.

**§ 15.2-3503. Petition requesting agreement.**

The voters of any locality whose governing body has not taken the initiative under § 15.2-3502 may require the governing body to do so by filing a petition with the governing body. The petition shall be signed by not less than ten percent of the voters of the locality registered as of January 1 of the year in which the petition is filed, which in no case shall be less than 100 voters, and shall ask the governing body to effect, in accordance with § 15.2-3502, a consolidation agreement with the locality named in the petition and to petition the judge for a referendum on the question. A copy of the petition of the voters shall also be filed with the judge of the circuit court for the locality. If the governing body within six months is unable or for any reason fails to perfect such consolidation agreement, then the judge of the circuit court for the locality shall appoint a committee of five representative citizens of the locality to act for and in lieu of the governing body in perfecting the consolidation agreement and in petitioning for a referendum.

Code 1950, § 15-164; 1962, c. 623, § 15.1-1073; 1997, c. 587.

**§ 15.2-3504. Publication of agreement.**

The governing body of each of the consolidating localities shall cause a copy of the consolidation agreement, or a descriptive summary of the agreement and a reference to the place within the locality where a copy of the agreement may be examined, to be published in each locality with which it is proposed to consolidate at least once a week for four successive weeks in a newspaper having a general circulation therein. A copy of the agreement shall be available for public inspection at the circuit court clerk's office of each of the consolidating localities.

Code 1950, § 15-165; 1962, c. 623, § 15.1-1074; 1997, c. 587.

**§ 15.2-3505. Order for election.**

When the publication of the consolidation agreement in each of the localities is completed, the judge or judges of the circuit courts for the counties and, if appropriate, for the cities or towns shall by order entered of record, in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, require the regular election officers of such localities on the day fixed in the order, which day shall be the same in each of the localities proposing to consolidate, to open a poll and take the sense of the qualified voters therein on the question submitted as hereinafter provided. Certification from the owner, editor or manager of each newspaper publishing the agreement shall be proof of publication.

Code 1950, § 15-166; 1962, c. 623, § 15.1-1075; 1975, c. 517; 1997, c. 587.

**§ 15.2-3506. Conduct of election.**

The election authorized by § 15.2-3505 shall be conducted in accordance with general law. The ballots used shall be printed and shall contain the following:

"Shall _____ (here insert names of counties, cities or towns proposing to consolidate) consolidate pursuant to the consolidation agreement?

[ ] Yes

[ ] No."

Code 1950, § 15-167; 1950, p. 395; 1962, c. 623, § 15.1-1076; 1997, c. 587.

**§ 15.2-3507. Result of election.**

The ballots shall be counted, returns made and canvassed as in other elections and the results certified by the electoral boards to the judge or judges of the circuit courts for the localities. If it appears by the report of the electoral boards that a majority of the voters of each locality proposing to consolidate voting on the question submitted are in favor of the consolidation, the judge or judges shall enter of record such fact and shall notify the Secretary of the Commonwealth of such fact.

Code 1950, § 15-168; 1962, c. 623, § 15.1-1077; 1970, c. 751; 1978, c. 642; 1997, c. 587.

**§ 15.2-3508. Election or appointment of county officers.**

At the next regular November election held at least sixty days after the election at which the consolidation is approved by the voters, all county officers provided for by general law shall be elected for the consolidated county. Their terms shall begin on January 1 next succeeding their election, at which time they shall replace all elective county officers of the consolidated counties whose terms shall terminate on such day. The terms of the new officers shall expire on January 1 next succeeding the regular election of county officers in the Commonwealth.

All appointive county officers shall be appointed by the person, board or authority upon whom the power to appoint such officers in other counties is conferred. The terms of such officers shall commence on January 1 next succeeding the first election of officers for the consolidated county and shall continue, unless otherwise removed, until their successors have been appointed and qualified.

The successors of all such officers whose first election or appointment is herein provided for shall thereafter be elected or appointed at the time, in the manner and for the terms provided by general law.

Code 1950, § 15-169; 1962, c. 623, § 15.1-1078; 1997, c. 587.

**§ 15.2-3509. Election or appointment of city or town officers.**

At the next regular May election held at least sixty days after the adoption of the consolidation ordinance by the governing bodies or, if applicable, the election at which the consolidation is approved by the voters, such officers as are provided for by general or special law shall be elected for the consolidated city or town. Their terms shall begin on July 1 next succeeding their election, at which time they shall replace all elective city or town officers of the consolidated cities or towns whose terms shall terminate on such day. The terms of the new officers shall expire on January 1 for constitutional officers next succeeding the regular election of city constitutional officers in the Commonwealth and July 1 next succeeding the regular election of all other city and town officers.

All appointive city and town officers shall be appointed by the person, board or authority upon whom the power to appoint such officers in other cities and towns is conferred. The terms of such officers shall commence on January 1 next succeeding the first election of officers for the consolidated city or

town and shall continue, unless otherwise removed, until their successors have been appointed and qualified.

The successors of all such officers whose first election or appointment is herein provided for shall thereafter be elected or appointed at the time, in the manner and for the terms provided by general or special law.

1997, c. 587.

### § 15.2-3510. General effect of consolidation.

Upon the first day of office following the first election of county, city or town officers for the consolidated localities, the several localities shall be thereafter for all purposes treated and considered as one county, city or town, as the case may be, under the name and upon the terms and conditions set forth in the consolidation agreement and in accordance with the provisions of this article. All the rights, privileges and franchises of each of the several localities and all property, real and personal, and all debts due on whatever account, as well as other things in action, belonging to each of such localities shall be deemed as transferred to and vested in the consolidated locality without further act or deed. All property, all rights-of-way and all other interests shall be as effectually the property of the consolidated locality as they were of the several localities prior to their consolidation. The title to real estate, either by deed or otherwise, under the laws of this Commonwealth vested in any of the localities shall not be deemed to revert or be in any way impaired by reason of the consolidation. The rights of creditors and all liens upon the property of any of the localities shall be preserved unimpaired; the respective localities shall be deemed to continue in existence to preserve such rights and liens, and all debts, liabilities and duties of any of the localities shall thenceforth attach to the consolidated locality and be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

Such consolidated locality shall in all respects, except as otherwise provided herein, be subject to all the obligations and liabilities imposed and shall possess all the rights, powers, and privileges vested by law in other localities.

Code 1950, § 15-170; 1962, c. 623, § 15.1-1079; 1997, c. 587.

### § 15.2-3511. Liabilities.

All valid and lawful charges and liabilities existing against a consolidated locality, or which may thereafter arise or accrue against such locality, which, but for such consolidation would be valid, and lawful charges or liabilities against them, or either of them, shall be deemed and taken to be like charges against or liabilities of the consolidated locality and shall accordingly be defrayed and answered to by it to the same extent, and no further than, the several localities would have been bound if no consolidation had taken place. All bonds, contracts and obligations of the localities which exist as legal obligations shall be deemed like obligations of the consolidated locality, and all such obligations as are authorized or required to be issued or entered into shall be issued or entered into by and in the name of such consolidated jurisdictions.

Code 1950, § 15-213; 1962, c. 623, § 15.1-1123; 1997, c. 587.

### § 15.2-3512. Suits and prosecutions.

From and after the date when consolidation becomes effective, all indictments and prosecutions for crimes committed or ordinances violated and all suits or causes of action arising within the territory of the consolidated locality may be instituted in the county, city or town with the same force and effect as if consolidation had always been effective.

Suits may be brought and maintained against a consolidated locality in any of the courts of this Commonwealth in the same manner as against any other locality.

Any action or proceeding pending by or against any of the consolidating localities may be prosecuted to judgment as if such consolidation had not taken place, or the consolidated locality may be substituted in its place.

Code 1950, §§ 15-171, 15-216; 1962, c. 623, §§ 15.1-1080, 15.1-1126; 1997, c. 587.

### § 15.2-3513. Magisterial, school and election districts, etc.

The magisterial districts in a county, and the school districts, election districts and voting places in the consolidated county, city or town shall continue as in the several counties, cities or towns prior to consolidation, unless and until changed in accordance with law.

Code 1950, § 15-172; 1962, c. 623, § 15.1-1081; 1997, c. 587.

### § 15.2-3514. Courts and judicial circuits.

Until changed by law, the same judicial circuits shall continue, though this may result in the consolidated county or city being a part of two or more circuits. All such courts shall, however, be held at the place designated as the seat of the consolidated county or administrative offices of the city, and each such court shall continue to have and exercise the same jurisdiction as it had and exercised before such consolidation. If two or more judges have jurisdiction in any consolidated county or city, they or a majority of them shall exercise the power to appoint officers and fill vacancies as is vested in judges of circuit courts of other counties and cities.

Code 1950, § 15-173; 1962, c. 623, § 15.1-1082; 1997, c. 587.

### § 15.2-3515. Congressional and assembly districts.

For the purpose of representation in Congress and in the General Assembly, the existing congressional, senatorial and house districts shall continue until changed in accordance with law.

Code 1950, § 15-174; 1962, c. 623, § 15.1-1083; 1997, c. 587.

### § 15.2-3516. Registration of voters.

No new registration shall be necessary in case of consolidation, but all voter registrations of the localities shall be transferred to the proper registration books of the consolidated locality, and new registrations shall be made as provided by law just as if no consolidation had taken place.

Code 1950, § 15-187; 1962, c. 623, § 15.1-1096; 1997, c. 587.

### § 15.2-3517. Existing ordinances.

The ordinances in force in the localities at the time of consolidation, insofar as they are not in conflict with the consolidation agreement, shall be continued in force and effect within the limits of the consolidated localities, subject to repeal or amendment by the governing bodies of the consolidated localities; however, in case of a conflict between the ordinances of localities when the charter of one of them has been retained, the ordinances of the one whose charter has been surrendered shall to the extent of such conflict be void and of no effect. Localities may also provide in the consolidation agreement for an alternative procedure for resolving conflicts between ordinances.

Code 1950, § 15-188; 1962, c. 623, § 15.1-1097; 1997, c. 587.

### § 15.2-3518. Determination of rights.

If any right, title, interest, claim or case arises out of any consolidation or by reason thereof which is not determinable by reference to the provisions of this article or by the Constitution and other laws of the Commonwealth, the governing body of the consolidated locality may by ordinance provide therefor in a manner conforming to law.

Code 1950, § 15-189; 1962, c. 623, § 15.1-1098; 1997, c. 587.

### § 15.2-3519. Repeal of certain charters.

At the session of the General Assembly that follows the elections provided for in either § 15.2-3508 or § 15.2-3509, the governing body of the resulting consolidated county, city or town shall request its delegate or senator in the General Assembly to introduce a bill to repeal all obsolete charters of the local governments that have been consolidated.

1997, c. 587.

## Article 2 - CONSOLIDATION OF CERTAIN COUNTIES, CITIES AND TOWNS

### § 15.2-3520. Counties, cities and towns specified; alternative consolidations.

By complying with the requirements specified in this article, any one or more counties or cities having a common boundary, or any county and all incorporated towns located entirely therein, may consolidate into a single county or city; however, no consolidation instituted under the provisions of this article shall result in the creation of consolidated cities, unless such proposed consolidation is reviewed by the Commission on Local Government and a special court established pursuant to § 15.2-3522 and they meet the criteria set out in subsection A of § 15.2-3526.

The term "incorporated towns" as used in this article means only those incorporated towns which have held municipal elections in the ten years preceding the date of the filing of a petition for a referendum pursuant to § 15.2-3529.

If two or more like units of local government propose to consolidate into a consolidated like unit of local government, they shall do so in accordance with the provisions of Article 1 of this chapter.

This article applies to the (i) consolidation of unlike units of local governments such as a county and a city joining to form either a county or city; (ii) consolidation of like units of local governments into an

unlike unit of local government such as a county and a county joining to form a city; or (iii) other combinations provided for herein.

1979, c. 85, § 15.1-1130.1; 1983, c. 4; 1997, c. 587.

**§ 15.2-3521. Proposed consolidated city; notice of motion; service and publication.**

At least thirty days before instituting a proceeding under the provisions of this article for the creation of a consolidated city, the counties and cities proposing to consolidate shall serve notice on the attorney for the Commonwealth or the attorney for the city or county, and on the chairman of the governing body or mayor of each county and city having a common boundary that they will, on a given day, petition the circuit court for a determination of whether the proposed consolidated city is eligible for city status. The notice served on each official shall include a certified copy of the consolidation agreement. A copy of the notice and the consolidation agreement, or a descriptive summary of the notice and agreement and a reference to the place within the city or town where copies of the notice and agreement may be examined, shall be published at least once a week for four successive weeks in some newspaper or newspapers having general circulation in the localities which are parties to the agreement. The notice and consolidation agreement shall be returned after service to the clerk of the circuit court. Certification of the owner, editor or manager of the newspaper publishing the notice and agreement shall be proof of publication.

1979, c. 85, § 15.1-1130.2; 1986, c. 312; 1997, c. 587.

**§ 15.2-3522. Petition; appointment of special court.**

When a consolidation agreement proposing the creation of a consolidated city in accordance with § 15.2-3529 has been adopted, the original of the consolidation agreement, a petition on behalf of the several governing bodies, signed by the chairman, the mayor and the clerk of each such body, and certificates of publication as provided for in § 15.2-3521 shall be presented to a circuit court having jurisdiction over one or more of the localities. Upon receipt of the consolidation agreement, the petition, and the certificates of publication, the chief judge of the circuit court shall request the Supreme Court to appoint pursuant to Chapter 30 (§ 15.2-3000 et seq.) of this title the special court which shall determine whether the proposed consolidation is eligible for city status.

1979, c. 85, § 15.1-1130.3; 1997, c. 587.

**§ 15.2-3523. Parties.**

In any proceedings instituted under the provisions of this article for the creation of a consolidated city, any voter, person having an interest or property owner of any locality which is a party to the consolidation agreement may by petition become party to the proceedings. Any locality having a common boundary, or other person affected by the proceedings may appear and shall be made party to the case.

1979, c. 85, § 15.1-1130.4; 1997, c. 587.

**§ 15.2-3524. Time limit for intervenors.**

The court shall by order fix a time within which a voter, property owner, other person or political subdivision not served may become a party to proceedings instituted under this article for the creation of a consolidated city and thereafter no such petition shall be received, except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper or newspapers of general circulation in the localities proposing to consolidate and in the counties and cities contiguous thereto.

1979, c. 85, § 15.1-1130.5; 1997, c. 587.

**§ 15.2-3525. Pretrial conference; matters considered.**

The special court shall, prior to hearing any case under this article for the establishment of a consolidated city, direct the attorneys for the parties to appear before it, or, in its discretion, before a single judge for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. The assessed values and the ratio of assessed values to true values as determined by the State Department of Taxation in the counties, cities and towns proposing to consolidate, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessments for each year of the five years immediately preceding;

b. The school population and school enrollment in the area proposing to consolidate, as shown by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction; and

c. The population and the density of population of the area proposing to consolidate;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses, as well as requiring each expert witness who will testify to file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or the judge as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

1979, c. 85, § 15.1-1130.7; 1997, c. 587; 2010, cc. 386, 629.

**§ 15.2-3526. Hearing and decision by court.**

A. The court shall order an election to be held as provided in § 15.2-3538 if, after hearing the evidence, it finds that:

1. The proposed consolidation has a minimum population of 20,000 persons and a density of at least 300 persons per square mile, or a minimum population of 50,000 persons and a population density of at least 140 persons per square mile, based on the latest United States census, or on the latest population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision; however, where the proposed consolidation includes an existing city, the population and density requirements set forth in this subdivision shall not apply;

2. The proposed consolidation has the fiscal capacity to function as an independent city and is able to provide appropriate services; and

3. After a consideration of the best interests of the parties, the interest of the Commonwealth in the compliance with and the promotion of applicable state policies with respect to environmental protection, public planning, education, public transportation, housing and other state service policies declared by the General Assembly, and the interest of the Commonwealth in promoting strong and viable units of government in the area, the proposed consolidation is eligible for city status.

B. The court shall be limited in its decision to granting or denying eligibility for city status and shall have no authority to impose terms or conditions with respect to a proposed consolidation.

C. If a majority of the court is of the opinion that the criteria set out in subsection A herein have not been met, then eligibility for city status shall be denied.

D. The court shall render a written opinion in every case brought under the provisions of this article.

1979, c. 85, § 15.1-1130.8; 1997, c. 587.

**§ 15.2-3527. Assistance of state agencies.**

The court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the court, to be subject to the usual rules of evidence. The court shall determine the actual expense of preparing such evidence, and shall tax such expense as costs in the case; the costs shall be paid by the clerk into the general fund of the state treasury and credited to the agency furnishing the evidence.

1979, c. 85, § 15.1-1130.9; 1997, c. 587.

**§ 15.2-3528. Appeals.**

Appeals may be granted by the Supreme Court of Virginia as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.

1979, c. 85, § 15.1-1130.10; 1997, c. 587.

**§ 15.2-3529. Consolidation agreement generally; advisory committee; filing agreement and referendum petition with court.**

The board of supervisors or council of the locality desiring to consolidate into a county or city, or any county and all incorporated towns located entirely therein desiring to consolidate into a county or city

may enter into a joint agreement for such consolidation, setting forth in such consolidation agreement the following:

1. The names of the localities proposing to consolidate;

2. The name of the county or counties or city into which the localities propose to consolidate; or that the localities agree to conduct a subsequent referendum to be voted on by the people of the consolidated county or city prior to the effective date of the consolidation to select the name for the consolidated county or city. The name chosen shall not be one that has been restricted or prohibited by law;

3. The property, real or personal, belonging to each locality, and the fair value thereof in current money of the United States;

4. The indebtedness, bonded and otherwise, of each locality;

5. The day upon which the consolidation agreement shall become effective, provided that, if an agreement proposes the creation of a consolidated city, the effective date shall be stated in the charter enacted by the General Assembly; and

6. Any other provisions which may be properly embodied in the agreement.

Each governing body may appoint an advisory committee composed of three persons to assist it in the preparation of an agreement, and may pay the members of the advisory committee reasonable compensation, which shall be approved by the circuit court for the locality.

The original of the consolidation agreement, together with a petition on behalf of the several governing bodies, signed by the chairman and the mayor and the clerk of each of the bodies, asking that a referendum on the question of consolidation of the localities, shall be filed with a judge of a circuit court having jurisdiction over any of the localities proposing to consolidate; however, when the consolidation agreement proposes the creation of a consolidated city that includes at least one county, the petition shall ask for proceedings pursuant to §§ 15.2-3521 through 15.2-3528 prior to such referendum. A copy of the agreement shall be filed with the judge of each circuit court having jurisdiction in the localities that are parties to the agreement.

Code 1950, § 15-221; 1956, c. 554; 1962, c. 623, § 15.1-1131; 1968, c. 694; 1975, c. 517; 1979, c. 85; 1997, c. 587.

**§ 15.2-3530. Continuation of services of Department of Transportation after consolidation.**
When a county and city consolidate into a city, or a combination of counties and a city or cities consolidate into a city, or when any county and all of the incorporated towns located entirely therein are consolidated into a city or cities, the Commissioner of Highways shall continue the full services of the Department of Transportation in those areas which were formerly a county or counties in the same manner and to the same extent such services were rendered prior to such consolidation. Funds for the maintenance, construction and reconstruction of streets within the areas formerly a county or counties shall continue to be allocated as if such areas were still in the county or counties, and such city or

cities shall not receive funds for maintenance, construction or reconstruction of streets in those areas. In those areas where the Department of Transportation provides the above services, the governing body of such city or cities, as the case may be, shall have control over the streets and highways to the same extent as was formerly vested in the governing body of the county or counties.

Notwithstanding the above, at any time subsequent to the consolidation, when in the opinion of the Commissioner, the consolidated area which was formerly a county or counties or any portion thereof becomes substantially urbanized, the Commissioner may by agreement with the governing body of the city, transfer the streets in any area deemed urbanized to the city for construction, reconstruction and maintenance, and thereafter funds for such streets shall be allocated as otherwise provided by law for city streets.

1968, c. 694, § 15.1-1131.1; 1970, cc. 180, 223; 1979, c. 85; 1991, c. 189; 1997, c. 587.

**§ 15.2-3531. Voters' petition requesting consolidation agreement and referendum.**

The voters of any locality whose governing body has not taken the initiative under § 15.2-3529, may require it to do so by filing a petition with the governing body. The petition shall be signed by not less than fifteen percent of the voters of the locality registered to vote as of January 1 of the year in which the petition is filed, which number in no case shall be less than 100, and shall ask the governing body in accordance with § 15.2-3529 to effect a consolidation agreement with the localities named in the petition and to petition the judge for a referendum on the question. All of the signatures on the petition must have been made within twelve months. A copy of the petition of the voters shall also be filed with the judge of each circuit court having jurisdiction in the county or town or the judge of the circuit court in the city. If the governing body within one year is unable, or for any reason fails, to perfect such consolidation agreement, then the judge of the circuit court having jurisdiction in the county or town or the judge of the circuit court of the city shall appoint a committee of five representative citizens of the locality to act for and in lieu of the governing body in perfecting the consolidation agreement and in petitioning for a referendum.

When a consolidation agreement adopted under the provisions of this section proposes the creation of a consolidated city which will include at least one existing county, the petition shall ask for proceedings pursuant to §§ 15.2-3521 through 15.2-3528 prior to such referendum.

Code 1950, § 15-222; 1962, c. 623, § 15.1-1132; 1968, c. 634; 1975, c. 517; 1979, c. 85; 1981, c. 78; 1988, c. 728; 1997, c. 587.

**§ 15.2-3532. Required provisions of consolidation agreement.**

In addition to the provisions required by § 15.2-3529, any consolidation agreement adopted pursuant to this article shall contain the following provisions:

1. The disposition of all property, real or personal, of any locality affected by the proposed consolidation, including any and all debts due to any such locality;

2. Reimbursement for, or assumption of, a just proportion of any existing debt of any locality proposed to be consolidated by the consolidated county or city;

3. Towns located within any county which proposes to consolidate with another county or city, or combination thereof, into a consolidated city, and not a party to the consolidation agreement, shall continue as townships within the proposed consolidated city;

4. Towns located within any county which proposes to consolidate with another county or city, or combination thereof, into a consolidated county, and not a party to the consolidation agreement, shall continue as towns within the proposed consolidated county.

Code 1950, § 15-222.1; 1962, c. 623, § 15.1-1133; 1979, c. 85; 1997, c. 587.

**§ 15.2-3533. Transfer of property and indebtedness.**

If the proposed consolidation is approved by a majority vote of the voters of each locality proposed to be consolidated, voting in the election hereinafter provided for, then the title to all property shall be vested in, and the indebtedness become a debt of, the respective localities according to the agreement, without any further act or deed.

Code 1950, § 15-222.2; 1962, c. 623, § 15.1-1134; 1997, c. 587.

**§ 15.2-3534. Optional provisions of consolidation agreement.**

Any such consolidation agreement may contain any of the following provisions:

1. In any territory that will be a part of the consolidated city there shall be no increase in assessments, except for permanent improvements made after the consolidation, for a period not exceeding five years.

2. The rate of tax on real property in any such territory shall be lower than in other territory of the consolidated unit for a period of five years, provided that any difference between such rates of taxation shall bear a reasonable relationship to differences in nonrevenue-producing governmental services giving land urban character which are furnished in such territories.

3. In any area specified in such agreement, for the purpose of repaying existing indebtedness chargeable to such area prior to consolidation, there may be levied a special tax on real property for a period not exceeding twenty years, which may be different from and in addition to the general tax rate throughout the entire consolidated county or counties, city or cities, or tier-city, as the case may be.

4. Geographical subdivisions of the consolidated city, to be known as boroughs, may be established, which may be the same as the existing (i) cities, (ii) counties, or (iii) portions of such counties, which are included in the consolidated city, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section; the names of such boroughs shall be set forth in the consolidation agreement.

5. Geographical subdivisions of the consolidated county or counties, to be known as shires, may be established, which shall be the same as and bear the names of the existing counties, towns, communities, or portions of counties, which are included in the consolidated county or counties, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section.

6. In the event of consolidation of such counties and cities into a single county, there may be established geographical subdivisions of such county, to be known as shires, which shall be the same as and bear the names of the existing cities and counties.

7. In the event of consolidation of such counties and cities into a single county incorporating a tier-city therein, there shall be established geographical and political subdivisions of such county, to be known as "tier-cities"; such tier-cities shall apply for and may receive a charter from the General Assembly in the same manner as may any municipality and when issued shall thereafter qualify in general law, mutatis mutandis, as a town with respect to its rights, powers and obligations, and shall have such other rights, powers and obligations as may be given it by law, general or special.

8. In the event of the establishment of such shires or boroughs, it shall be the duty of the Commissioner of Highways and the Director of the Department of Historic Resources to have suitable monuments or markers erected indicating the limits of such geographical subdivisions and setting forth the history of each.

9. a. In the event of establishment of a consolidated city, there shall be a new election of officers therefor whose election and qualification shall terminate the terms of office of their predecessors; provision may be made for the exclusion from such new election of such elective officers as is deemed desirable.

b. In the event of the establishment of a consolidated city, the constitutional officers of the consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective date of consolidation; the selection of each constitutional officer for the consolidated city shall be made by agreement between those persons holding such respective offices, and the other or others, as the case may be, shall become assistants or chief deputies, upon filing of a certification of such agreement in a circuit court and approval by the court; in the event no agreement is reached or no certification is filed on or before a date stated in the consolidation agreement, the circuit court shall designate one officer as principal and the other or others, as the case may be, as assistants or chief deputies; and in the event of a vacancy in the office of assistant or chief deputy thereby created during such term, the position shall be abolished. Each such officer shall continue in office, whether as the principal officer or as chief deputy or assistant, until January 1 following the next regularly scheduled election pursuant to § 24.2-217, whether or not the term to which such officer was elected may have expired prior to that date. When the effective date of the consolidation plan is the same as the end of the term of one or more existing constitutional officers for the consolidating jurisdictions, an election shall be held to elect such constitutional officers for the consolidating jurisdictions for a new term to begin on the effective date of consolidation. Such newly elected officers may or may not become the principal constitutional officers of the consolidated city under this provision.

c. In the event of the establishment of a consolidated city, the persons holding office as the superintendents of the school divisions within the consolidating jurisdictions may continue in office at no less than their salaries in effect at the effective date of consolidation, for the terms to which they were

appointed; the consolidated city school board shall designate one of such persons as division superintendent and the other as associate superintendent; in the event no designation is made on or before a date stated in the consolidation agreement, the designation shall be made by the circuit court for the consolidated city; and in the event of a vacancy in the position of superintendent or associate superintendent during the term to which appointed, the remaining incumbent shall be the superintendent and the position of associate superintendent shall be abolished.

10. In the event of the establishment of a consolidated city, the tax rate on all property of the same class within the city shall be uniform. However, the council shall have power to levy a higher tax in such areas of the city which desire additional or more complete services of government than are desired in the city as a whole, and, in such case, the proceeds therefrom shall be so segregated as to enable the same to be expended in the areas in which raised; such higher tax rate shall not be levied for school, police or general government services but only for those services which prior to consolidation were not offered in the whole of all of the consolidated localities.

11. The agreement, when proposing the creation of a consolidated city, may incorporate in a proposed charter, subject to the subsequent approval of the General Assembly, any provisions of any charter heretofore granted by the General Assembly for any of the localities proposing to consolidate. It is the intention of this subsection to permit the drafting by the governing bodies, or the committees acting for and in lieu of the governing bodies under § 15.2-3531, of a charter to be adopted as a part of the consolidation agreement for the proposed consolidated city. In such charter the name of the consolidated city, if agreed upon, shall be inserted in lieu of the name of the city which may be specified in the original charters from which the provisions are taken, or if the name of the consolidated city is left to subsequent referendum, then the phrase "the consolidated city" shall be substituted. Any such charter shall be published as provided in § 15.2-3537 as a part of the consolidation agreement.

Any agreement between any localities to form a consolidated city when adopted and approved as provided herein, together with the charter, shall be the form of the consolidated city. The governing body of the consolidated city shall have the power to make amendments to the consolidation agreement not contrary to general law. No such amendments shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

12. Any agreement between any localities to form a consolidated county may likewise incorporate provisions of any charter of any such localities proposing to consolidate and also may include the provisions of any of the optional forms of county government set forth in this title. In any form of government approved by the voters hereunder, irrespective of any other provisions of law, the initial membership of the governing body shall be as set forth in such consolidation agreement. Such agreement when adopted and approved as provided herein shall be the form of the consolidated county, and the provisions of the first paragraph of subdivision 11 above shall be applicable, mutatis mutandis. The governing body of the consolidated county shall have the power to make amendments to the consolidation agreement not contrary to general law. No such amendments, excluding

membership of the governing body, shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

13. In any consolidation by a county and all the towns therein into a consolidated county, or in any consolidation of a county and a city into a consolidated county, the area of any of such town or towns, city or cities may be designated as a special service district, and the delivery of water, sewer and similar type services may be continued. The consolidated county shall have the same powers, rights and duties with respect to the public rights-of-way, streets and alleys within such district and receive State Highway Fund allocations as did such town or towns, city or cities prior to consolidation. The roads in the area formerly located solely within the county shall continue to be maintained as they were prior to the consolidation, and this subdivision shall not be construed to authorize any allocation from highway funds not previously authorized. The boundaries of such special service district or districts may be altered from time to time by ordinance of the governing body duly adopted after public hearing.

14. Any consolidation agreement may provide for offering to the voters the option of adopting a city or county form of government as well as the option between forms of county governments.

15. The agreement between a county and the incorporated towns located entirely therein consolidated pursuant to this article may contain provisions for the establishment of special service tax districts wherein a tax may be levied on all classes of property within those shires, where, upon the effective date of the consolidation agreement, there exists, or the consolidation agreement provides for, additional or more complete governmental services than the level of services which are being provided or will, under the agreement, be provided in other shires, or in the consolidated county as a whole. Additional or more complete governmental services include, but are not limited to, water supply, sewerage, garbage removal and disposal, heat, lighting, streets, sidewalks and storm drains, fire-fighting equipment and services, and additional law-enforcement services but shall not include separate police forces, additional schools or other basic governmental services to which all citizens are entitled. Any additional revenue produced from any such tax shall be segregated into a separate fund and expended by such consolidated county solely in the shire or special service tax district wherein such additional tax is assessed. The consolidation agreement shall establish the initial boundary lines of the shires and the tax rates within each shire. Future adjustments in the boundaries of the shires or special service tax districts shall be made in accordance with § 15.2-2401, which shall apply to the consolidated county as it does to the consolidated cities described therein. The governing body of the consolidated county shall have the same power as the city council referred to in such section. Such governing body also shall have the power to tax all sources of revenue which the previous county or incorporated towns therein had prior to such consolidation.

16. In the event of consolidation of a county and a city into a single county incorporating a tier-city therein, any rights provided to counties, cities and towns in Chapters 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), and 39 (§ 15.2-3900 et seq.) may be modified or waived in whole or in part, as set forth in the consolidation agreement, provided

that the modification or waiver does not conflict with the Constitution of Virginia and provided that such provision in the consolidation agreement is approved pursuant to the provisions of Chapter 34 (§ 15.2-3400 et seq.) prior to the effective date of consolidation.

17. The agreement may provide for a subsequent referendum of the voters of all or part of one or more of the consolidating localities to be held after a favorable referendum on the initial question of consolidating. This subsequent referendum shall take the sense of the voters of an area or areas of the consolidating localities, as determined in the discretion of the governing bodies of the consolidating localities, on the question of dividing that area or portion from the newly consolidated locality and consolidating that area or portion with an adjoining locality not a part of the newly consolidated locality. The terms and conditions of this division and consolidation may be included in the agreement or may be determined by the Commission on Local Government if the affected localities are unable to agree. The nonagreeing locality shall have the right to reject the recommendations of the Commission, and not accept such area or portion.

18. In the event of consolidation of counties and cities into a single city which completely surrounds another city, the agreement may provide for the subsequent unilateral consolidation of the surrounded city into the consolidated city at any time. The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the question of whether the surrounded city and the surrounding consolidated city shall consolidate.

19. In the event of consolidation of such counties and cities into a single city which completely surrounds another city, the agreement may provide for the subsequent unilateral consolidation and conversion of the surrounded city to a township within the surrounding consolidated city at any time. The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the question of whether such city shall convert to a township. The township may, in the discretion of its council, continue to be called a city and may formally be referred to as _____ city, a Virginia township. Such township shall have no right to become an independent city, nor to annex or exercise any extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and immunities granted towns. The consolidated city's legal relationship with such township shall be governed by the same laws that govern county-town relationships, except as modified herein.

Code 1950, § 15-222.3; 1950, p. 1607; 1956, c. 554; 1962, c. 623, § 15.1-1135; 1971, Ex. Sess., c. 36; 1975, c. 214; 1979, c. 85; 1983, c. 4; 1984, c. 695; 1986, c. 312; 1989, c. 656; 1990, c. 424; 1991, c. 189; 1995, c. 728; 1997, c. 587.

### § 15.2-3535. Advertising of charter.

The governing bodies, or a committee acting for and in lieu of the governing body under § 15.2-3531, may draft a charter for a consolidated city or a tier-city to be adopted as a part of the consolidation agreement. The advertising of the consolidation agreement as provided in § 15.2-3537 shall include a statement that a copy of the text of the charter is on file in the clerks' offices of the circuit courts of the consolidating localities and is open to public inspection.

1984, c. 695, § 15.1-1135.1; 1986, c. 312; 1997, c. 587.

### § 15.2-3536. Charter for consolidated city.

If a proposed charter for a consolidated city has been approved by the General Assembly for adoption in any area in which a consolidation of localities is proposed to be effected in accordance with the provisions of this article, then in any subsequent proceedings under the provisions of this article, such charter may be used as the basis for a new consolidation agreement, or upon petition of ten percent of the registered voters of any county and city as of January 1 of the year in which the petition is filed subject to the provisions of this article, such proposed charter may be submitted to the voters of such counties and cities for adoption as the charter of the consolidated city and shall in all respects fulfill the requirements of the consolidation agreement provided for in this article.

Code 1950, § 15-222.4; 1950, p. 1609; 1952, c. 267; 1962, c. 623, § 15.1-1136; 1997, c. 587.

### § 15.2-3537. Publication of consolidation agreement.

Each locality which is a party to a consolidation agreement shall cause a copy of the consolidation agreement, or a descriptive summary of the agreement and a reference to the place in the locality where a copy of the agreement may be examined, to be published in its locality at least once a week for four successive weeks in a newspaper having a general circulation in the locality.

Code 1950, § 15-223; 1962, c. 623, § 15.1-1137; 1997, c. 587.

### § 15.2-3538. Order for election.

When publication of the consolidation agreement or descriptive summary in each of the localities is completed or, in the case of a proposed consolidated new city, when the court has entered an appropriate order under the provisions of subsection A of § 15.2-3526, the respective chief judges of the circuit courts for the counties and for the cities, shall, by order entered of record in each county and city, require the regular election officers of the locality on the day fixed in the order, issued in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, which date shall be the same in each of the localities proposing to consolidate, to open a poll and take the sense of the voters of each locality on the question submitted as hereinafter provided. Certification from the owner, editor or manager of each newspaper publishing the agreement or descriptive summary shall be proof of publication.

Code 1950, § 15-224; 1950, p. 1608; 1956, c. 554; 1962, c. 623, § 15.1-1138; 1975, c. 517; 1979, c. 85; 1986, c. 312; 1997, c. 587.

### § 15.2-3539. Conduct of election.

The regular election officers, at the time designated in the order authorizing the vote, shall open the polls at the various voting places in their respective localities and conduct the election in such manner as is provided by general law for other elections insofar as the same is applicable. The ballots for each county, including the towns therein, and for each city shall be prepared by the electoral boards thereof and distributed to the various election precincts thereof as provided by law. The ballots used shall be printed and shall contain the following:

"Shall..... (here insert the names of localities proposing to consolidate) consolidate?

[ ] Yes

[ ] No"

In the case of a consolidation agreement offering to the voters the option of choosing between two forms of government, the ballots used shall also contain the following:

"What form of consolidated government shall be adopted?

(Vote for one only)

[ ] City charter, or

[ ] County form"

If the option is between other forms of county government, then the ballots shall be printed accordingly.

Code 1950, § 15-225; 1962, c. 623, § 15.1-1139; 1975, c. 214; 1997, c. 587.

**§ 15.2-3540. Result of elections; determination of form of government.**

The ballots shall be counted and returns made and canvassed as in other elections, and the results certified by the electoral board to each of the judges of the circuit courts having jurisdiction in the localities proposing to be consolidated. If it appears by the report that a majority of the voters of each locality voting on the question submitted are in favor of the consolidation provided that no separate vote on the question shall be required in towns within a county when such county proposes to consolidate in its entirety with a county or city having a common boundary, the judge or judges shall enter such fact of record in each such county and city and shall notify the Secretary of the Commonwealth. Upon the day prescribed in the order for the consolidation agreement to become effective, the localities shall be consolidated into a city or into a city and one or more counties or into a single county as proposed in the consolidation agreement.

If the election offers to the voters a choice between forms of government, the question shall be determined by a majority of all the voters voting in such election and reported accordingly.

Code 1950, § 15-226; 1962, c. 623, § 15.1-1140; 1970, c. 751; 1975, c. 214; 1978, c. 642; 1979, c. 85; 1997, c. 587.

**§ 15.2-3541. General effect of consolidation; officers.**

Upon the effective date of consolidation, the localities so consolidated, other than the consolidated county or city or town, and other than townships as provided by § 15.2-3548, shall terminate, as shall the terms of office and the rights, powers, duties and compensation of the officers, agents and employees of each such county, city or town. When such agreement provides for consolidation of the area into a county or city, or when such agreement provides for consolidation of the area into a county in which a tier-city will exist, then the judge or judges of the court or courts having jurisdiction within the area comprised by the consolidated county or city shall order an election to be held not less than thirty nor more than 185 days after the date upon which the referendum provided for in §§ 15.2-3538, 15.2-3539 and 15.2-3540 was held, but at least thirty days before the effective date of such consolidation

agreement, at which election officers for the new consolidated county or city, or for the new consolidated county and tier-city shall be elected.

The officers so elected shall take office upon the effective date of consolidation and shall serve until their successors have been elected, qualified and taken office. Their successors shall be elected at the next regular election time for such officers as provided for by general law.

No election required by this section or by § 15.2-3538 shall be held on the day of a primary election nor within the sixty days prior to a general or primary election. Should the final day by which either such election must be held fall within the sixty days prior to a general election, the required election must be held on the same day as the general election. Should such final day fall within the sixty days prior to a primary election, the required election must be held not less than thirty nor more than forty-five days after the primary election.

Code 1950, § 15-227; 1962, c. 623, § 15.1-1141; 1979, c. 85; 1984, c. 695; 1997, c. 587.

**§ 15.2-3542. Governing body to be elected and take office before effective date of consolidation in certain cases; powers.**

A. Notwithstanding the provisions of § 15.2-3541 or any other statutory provision, in any consolidation which results in the formation of a consolidated county with a tier-city therein, the consolidation agreement may provide as follows:

1. The special election provided in § 15.2-3541 may apply solely to election of members of boards of supervisors and members of tier-city councils, with all other elected officers being elected at the general election next preceding the effective date of consolidation.

2. Members of the governing bodies elected at such special elections may assume office immediately upon qualification, and no later than thirty days following the date upon which the special election was held, as provided in § 24.2-201, and shall hold office prior to the effective date of consolidation, only for such of the following limited purposes as may be provided by the consolidation agreement:

a. Organization of itself and election of one of its members as chairman of the board of supervisors or as mayor, as the case may be.

b. Preparation and approval of budgets applicable to the respective newly formed governmental entities, for the fiscal year or partial fiscal year beginning with the effective date of consolidation.

c. Adoption of ordinances required or permitted by the consolidation agreement, to be effective upon the date of consolidation.

d. Hiring by the newly elected tier-city council of a tier-city manager, tier-city attorney and clerk of council.

e. Hiring by the newly elected board of supervisors of its chief administrative officer, county attorney, and clerk of board.

f. Negotiation, preparation and approval of leases, servicing agreements, and other documents required by the consolidation agreement, or otherwise deemed advisable.

B. Prior to the effective date of consolidation, provision shall be made for funding the activities described in subdivision 2 of subsection A.

C. Upon the effective date of consolidation, all elected officers who have taken the oath of office shall assume full powers, duties, rights and responsibilities of their respective offices.

D. Any member of a governing body of a consolidating locality may be elected to public office, for which he or she is otherwise qualified, in a governing body of a new governmental entity formed by consolidation. For the limited time period and limited purposes specified in subdivision 2 of subsection A, such officers may hold both offices at the same time.

1984, c. 695, § 15.1-1141.1; 1997, c. 587.

**§ 15.2-3543. Electoral board, general registrar and officers of election.**

A. If any county and all incorporated towns located therein consolidate into a county or city, the members of the electoral board, general registrar and officers of election of the consolidating county or city shall continue to serve as like officers of the consolidated county or city until the expiration of the terms to which they were appointed.

B. If one or more counties or cities consolidate into a single county or city, the provisions set forth in this subsection shall apply as follows:

1. Electoral Board. -- The terms of the electoral board members of the consolidating localities shall expire on the effective date of consolidation. The judges of the circuit courts of the consolidating localities, no later than thirty days prior to the effective date of consolidation, shall appoint pursuant to § 24.2-106 for the consolidated county or city an electoral board of three members who shall qualify and take office on the day following the effective date of consolidation. The term of the first member so appointed shall expire at midnight on the last day of February in the year following the year in which he takes office; the term of the second member appointed shall expire one year later; and the term of the third member shall expire two years later. At a meeting to be held on the day its members take office, the electoral board for the consolidated county or city shall (i) designate one of the general registrars of the consolidating jurisdictions to serve as the general registrar of the consolidated county or city until midnight on March 31 following the effective date of consolidation and (ii) appoint pursuant to §§ 24.2-109 and 24.2-115 the officers of election for the consolidated county or city. At a meeting to be held in the first week of March following the effective date of consolidation, such electoral board shall appoint pursuant to §§ 24.2-109 and 24.2-110 a general registrar for the consolidated county or city who shall qualify and take office on April 1 following the effective date of consolidation and serve for the remainder of the term set forth in § 24.2-110.

2. General Registrar. -- The general registrars of the consolidating jurisdictions shall continue in office, with one of them designated the general registrar for the consolidated county or city as hereinabove

provided, until midnight on March 31 following the effective date of consolidation during which time they shall compile, on the schedule and in the manner prescribed by the State Board of Elections, the registration records for the consolidated county or city. The governing body of the consolidated county or city shall pay the salary of each such general registrar in the amount authorized by the State Board of Elections and shall be reimbursed for such compensation from the state treasury.

3. Officers of Election. -- The terms of the officers of election of the consolidating jurisdictions shall expire on the effective date of consolidation.

1986, c. 312, § 15.1-1141.2; 1997, c. 587.

### § 15.2-3544. Effect on pending suits.

Any action or proceeding pending by or against any of the consolidated localities may be perfected to judgment as if such consolidation had not taken place, or the consolidated locality, if any, may be substituted.

Code 1950, § 15-228; 1962, c. 623, § 15.1-1142; 1997, c. 587.

### § 15.2-3545. Effect on assembly districts.

For the purpose of representation of the consolidated localities in the General Assembly, the existing senatorial and house districts shall continue until changed in accordance with law.

Code 1950, § 15-229; 1958, c. 332; 1962, c. 623, § 15.1-1143; 1997, c. 587.

### § 15.2-3546. Effect on jurisdiction of courts.

Unless and until changed by general law, the jurisdiction and authority of the circuit courts having jurisdiction within any area covered by the consolidation agreement shall remain as provided for in general law as if no consolidation had occurred.

Code 1950, § 15-230; 1956, c. 554; 1958, c. 101; 1962, c. 623, § 15.1-1144; 1997, c. 587.

### § 15.2-3547. Consolidation of entire county requires no action of town council.

An entire county may be consolidated with any county or city having a common boundary in accordance with the foregoing provisions of this article without the necessity of any action concerning the consolidation being taken by the council of any town situated in such county and without the necessity of a separate referendum in any such town on the question of the consolidation.

Code 1950, § 15-231; 1962, c. 623, § 15.1-1145; 1979, c. 85; 1997, c. 587.

### § 15.2-3548. Effect on town charter.

A. Notwithstanding any other provision of this article, any town located within or partially within a county proposing to consolidate with another county or city, or combination thereof, into a consolidated county and which is not a party to the consolidation agreement, shall continue as a town in the consolidated county.

B. Notwithstanding any other provision of this article, in the event a proposed consolidation of a county with another county or city into a consolidated city is approved by the voters as provided in §

15.2-3540, any town located within or partially within a county and not a party to the consolidation agreement shall continue as a township. The charter of such town shall become the charter of the township. Such townships established pursuant to this subsection shall continue to exercise such powers and elect such officers as the township charter may authorize and shall exercise such other powers as towns exercise under general law. However, no township shall exercise the powers granted towns by Chapter 38 (§ 15.2-3800 et seq.) or by Article 1 (§ 15.2-3200 et seq.) of Chapter 32, or any extraterritorial authority granted towns by Chapter 22 (§ 15.2-2200 et seq.), except that a township created as a result of a consolidation of a city and county subsequent to July 1, 2011, may institute proceedings for annexation pursuant to Article 1 (§ 15.2-3200 et seq.) of Chapter 32 if the consolidation agreement permits a township to exercise such authority. The consolidated city shall exercise such powers in the township as were exercised by the county in the town prior to consolidation. Townships shall receive from the Commonwealth financial assistance in the same manner and to the same extent as is provided towns. A township may transfer all or part of the revenues it receives, the services it performs, its facilities, other assets, and debts to the consolidated city by agreement of the governing bodies.

1979, c. 85, § 15.1-1146.1; 1997, c. 587; 2011, cc. 337, 349.

**§ 15.2-3549. Powers of a tier-city.**

Notwithstanding any other provisions of this article, any city located entirely within the boundary of any county proposing to consolidate with such county, and which becomes a tier-city shall have, mutatis mutandis, all the powers, duties and responsibilities of a town together with such additional powers as may be granted it by law, general or special. The appropriate provisions of the charter for such city may be made a part of the consolidation agreement and in that event shall become the charter of such tier-city, subject to the subsequent approval of the General Assembly. Such tier-city established pursuant to this section shall continue to exercise such powers and elect such officers as the tier-city charter may authorize and such other powers as tier-cities or towns exercise under general law. Except for those powers reserved to the tier-city in the consolidation agreement, the consolidated county shall exercise such powers in the tier-city as are exercised by counties in towns. Tier-cities shall receive from the Commonwealth financial assistance in the same manner and to the same extent as is provided towns. A tier-city may transfer all or part of the revenues it receives, the services it performs, its facilities, or other assets to the county by agreement of the governing bodies. The governing bodies may provide by agreement for the assumption of all or part of the tier-city's debt by the consolidated county. The tier-city boundaries within the county may be established initially as agreed to and provided for in the consolidation agreement.

1984, c. 695, § 15.1-1146.1:1; 1997, c. 587.

**§ 15.2-3550. Effect of consolidation into single county; exceptions for tier-city.**

If the consolidation agreement provides for the consolidation of counties, cities and towns or any of them into a single county, and such agreement is approved by a majority of the voters voting in the election provided for in this article, then the existence of such localities as governmental entities of the

Commonwealth shall cease, except as to towns continued under the provisions of § 15.2-3548. The governmental powers and functions of the consolidated governmental entities shall be transferred to the county therein provided for, except as herein otherwise set forth. The streets of the former cities and towns shall become and remain a part of the primary state highway system unless otherwise provided in the consolidation agreement. All property, real and personal, of each such county, city or town shall be transferred to and vested in such consolidated county, except as may be otherwise provided for in the consolidation agreement providing for the establishment of a tier-city. All suits or actions or causes of action pending by or against any such county, city or town shall continue to exist and may be brought or continued by or against such consolidated county, except as may be otherwise provided for in the consolidation agreement providing for the establishment of a tier-city.

Code 1950, § 15-231.2; 1962, c. 623, § 15.1-1147; 1975, c. 214; 1979, c. 85; 1984, c. 695; 1997, c. 587.

## Chapter 36 - INCORPORATION OF TOWNS BY JUDICIAL PROCEEDING

### § 15.2-3600. Petition for incorporation of community; appointment of special court.

A petition signed by 100 voters of any community may be presented to the circuit court for the county in which such community, or the greater part thereof, is situated, requesting that the community be incorporated as a town. A plat showing the boundaries of the community shall be attached to the petition. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. The plat shall be prepared by a registered surveyor in a form suitable for recording in the clerk's office of the circuit court. A copy of the petition shall be served upon the county attorney or, if there is no county attorney, the attorney for the Commonwealth, and each member of the governing body of the county or counties wherein the area sought to be incorporated lies. The governing body at its option may become a party to the proceeding. The petition shall be accompanied by proof that:

1. The petition has been available for public inspection in the office of the clerk of the circuit court; and

2. The following have been published once a week for four successive weeks in a newspaper having general circulation in the county:

a. Notice of the time and place the petition would be presented; and

b. The text of the petition in full; or

c. A descriptive summary of the petition and notice that the petition may be inspected at the circuit court clerk's office.

Code 1950, § 15-66; 1962, c. 623, § 15.1-966; 1964, c. 467; 1975, c. 629; 1976, c. 586; 1979, c. 85; 1980, c. 45; 1997, c. 587.

### § 15.2-3601. Hearing before Commission on Local Government; notice; parties; finding of Commission.

Upon request of the special court, the Commission on Local Government shall conduct a hearing to determine whether the criteria in § 15.2-3602 have been satisfied. The hearing shall be set no less than thirty days after receipt of the petition by the Commission. All interested parties may present evidence before the Commission, and any county in which is located the area proposed for incorporation shall be made parties to the Commission's hearing.

1979, c. 85, § 15.1-966.1; 1980, c. 170; 1997, c. 587.

**§ 15.2-3602. Proof required and order for incorporation.**

A. The special court shall order that the proposed town be incorporated upon proof that:

1. It will be in the interest of the inhabitants within the proposed town;

2. The prayer of the petition is reasonable;

3. The general good of the community will be promoted;

4. The number of inhabitants of the proposed town exceeds 1,000;

5. The area of land designated to be embraced within the town is not excessive;

6. The population density of the county in which such community is located does not exceed 200 persons per square mile according to the last preceding United States census, or other census directed by the court; and

7. The services required by the community cannot be provided by the establishment of a sanitary district, or under other arrangements provided by law, or through extension of existing services provided by the county in which the community is located.

B. The order shall recite the substance of the petition and the due publication thereof, and that the requirements of subsection A have been met. The order shall (i) be entered upon the court's common-law order book, (ii) decree that the community is incorporated as a town by the name of "The Town of _____ (naming it)," and (iii) designate the metes and bounds of the town or incorporate by reference the recorded plat. Thereafter the inhabitants within such bounds shall be a body politic and corporate, with all the powers, privileges and duties conferred upon and appertaining to towns under the general law. However, such town shall perform no municipal services or contract any debt until its governing body is elected, qualifies and takes office. A copy of the order shall be certified by the court to the Secretary of the Commonwealth, who shall certify it to all proper officers of the Commonwealth. No town created under this section subsequent to January 1, 1972, and no city formed from such town shall consolidate with any county or portion thereof under the provisions of Article 2 (§ 15.2-3520 et seq.) of Chapter 35 of this title.

Code 1950, § 15-67; 1950, p. 443; 1956, c. 217; 1962, c. 623, § 15.1-967; 1964, c. 467; 1972, c. 863; 1979, c. 85; 1980, c. 45; 1997, c. 587.

**§ 15.2-3603. Request for charter.**

At the session of the General Assembly following its incorporation, the town shall request the General Assembly to grant it a charter.

No judge shall grant a town a charter. Until a town is granted a charter by the General Assembly, the town's affairs shall be conducted exclusively under the provisions of general law.

1980, c. 45, § 15.1-967.2; 1997, c. 587.

### § 15.2-3604. How first election ordered and held.

An order incorporating a town under this chapter shall order the first election of town officers and shall designate the time and place where the election shall be held in the town. The election shall be at least 90 days from the date of the order and not within 120 days of a general election. The electoral board of the county within which the town, or the greater part thereof, is situated shall, not less than 90 days before the election, determine the qualified voters within the town, and the general registrar for the county shall provide the appropriate notice, in accordance with § 24.2-114. At any time the books are not closed pursuant to § 24.2-416, any person residing in the town who has not registered shall be entitled to register and vote in the town if he would have been entitled to register and vote in the county. Five members of council shall be elected and shall serve until their successors, elected pursuant to charter provisions, qualify and take office. The officers of election shall comply with the requirements of Title 24.2. If, for any cause no election is held on the day fixed in the order, the court may, by an order entered in its common-law order book, fix another day for the election, which shall be held as required by this section.

Code 1950, § 15-69; 1962, c. 623, § 15.1-969; 1980, c. 45; 1997, c. 587; 2003, c. 1015.

### § 15.2-3605. How appeals granted and heard.

An appeal may be granted by the Supreme Court or any justice thereof. Court costs shall be awarded as the Supreme Court determines. The costs in the Supreme Court shall be awarded to the party substantially prevailing.

Code 1950, § 15-71; 1962, c. 623, § 15.1-971; 1979, c. 85; 1997, c. 587.

## Chapter 37 - ANNULMENT OF TOWN CHARTERS

### § 15.2-3700. Towns may annul charters.

A town may annul its charter in accordance with the provisions of this chapter.

1992, c. 453, § 15.1-965.28; 1997, c. 587.

### § 15.2-3701. Agreement required.

Before initiating proceedings pursuant to this chapter, a town council shall enter into an agreement with the board of supervisors of the county or counties within which the town is located. The agreement shall provide for the transfer to the county or counties of all of the revenues the town receives, the services it performs, its facilities, including real and personal property, and other assets, including all debts due to the town, and for the assumption by the county or counties of all of the town's indebtedness, bonded and otherwise.

The agreement required by this section may be an agreement between the governing body of the town and the governing bodies of two or more counties or cities, in one or more of which the town is located, which are parties to a consolidation agreement under Chapter 35 (§ 15.2-3500 et seq.) of this title and may provide that the agreement shall be binding on the consolidated jurisdiction upon the effective date of consolidation.

1992, c. 453, § 15.1-965.29; 1997, c. 587.

**§ 15.2-3702. Ordinance required.**

After the agreement required by § 15.2-3701 has been reached, the town council may, by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the county or counties in which the town is located for an order requiring a referendum on the question of whether the town charter shall be annulled and repealed.

1992, c. 453, § 15.1-965.30; 1997, c. 587.

**§ 15.2-3703. Notice of motion; service and publication; docketing.**

Upon adoption of the ordinance required by § 15.2-3702, the town shall serve notice on the attorney for the Commonwealth, or on the county attorney, if there is one, and on the chairman of the governing body of the county or counties in which the town is located that it will, on a given day, not less than thirty days thereafter, move the circuit court for an order as provided by § 15.2-3702. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the town where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in a newspaper having general circulation in the town. The proof of service or certificate of service of the notice and ordinance shall be returned after service to the clerk of the circuit court. When the publication of the notice and ordinance is completed, the case shall be docketed for entry of the referendum order. Certification of the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1992, c. 453, § 15.1-965.31; 1997, c. 587.

**§ 15.2-3704. Order for election; conduct of election.**

When publication of the notice and ordinance is completed, the circuit court shall by order issued in accordance with § 24.2-684 require the regular election officers of the county or counties in which the town is located to open the polls on the day fixed in the order and take the sense of the qualified voters of the town on the question submitted as provided in this section. The regular election officers, at the time designated in the order, shall open the polls at the various voting places in the town and conduct the election in the manner provided by general law for other elections. The ballots used shall be printed and shall contain the following:

"Shall the charter for the Town of _____ be annulled and repealed?

[ ] Yes

[ ] No."

1992, c. 453, §§ 15.1-965.32, 15.1-965.33; 1997, c. 587.

### § 15.2-3705. Results of election.

The ballots shall be counted and returns made and canvassed as in other elections and the results certified by the secretary of the electoral board to the judge of the circuit court. If the report of the secretary of the electoral board shows that a majority of the qualified voters of the town voting on the question submitted are in favor of the annulment, the judge shall enter such fact of record and shall notify the Secretary of the Commonwealth, and the annulment shall be effective on January 1 of the year following the year in which the order entering such fact of record is issued or, in the discretion of the court, on the second January 1 following the year in which issued. However, the court, upon joint petition of the governing bodies of the town and county or counties in which the town is located, may order the annulment effective on any other date or dates.

1992, c. 453, § 15.1-965.34; 1997, c. 587.

### § 15.2-3706. Annulment of surrendered charter.

Upon the effective date of the annulment, the town charter which is surrendered by the ordinance shall be annulled. The terms and conditions of the contract with the county or counties in which the town is located required by § 15.2-3701 shall be a binding and irrevocable contract in favor of the public, compliance with which in all its parts may be enforced, and violation of which may be prevented, by mandamus or injunction from the Supreme Court or from any circuit court at the suit or relation of any citizen or taxpayer.

1992, c. 453, § 15.1-965.35; 1997, c. 587.

### § 15.2-3707. General effect of annulment.

Upon the effective date of annulment, the town shall terminate, as shall the terms of office and the rights, powers, duties and compensation of the officers, agents and employees of the town.

1992, c. 453, § 15.1-965.36; 1997, c. 587.

### § 15.2-3708. Transfer of property and indebtedness.

Upon the effective date of annulment, the title to all property, real and personal, tangible and intangible, of the former town shall be vested in, and the indebtedness become a debt of, the county or counties in which the town was located without any further act or deed.

1992, c. 453, § 15.1-965.37; 1997, c. 587.

### § 15.2-3709. Special debt district.

If so provided in the agreement required by § 15.2-3701, the territory constituting the former town may be a special debt district for the purpose of repaying all or part of the existing indebtedness chargeable to the town before annulment. A special tax on real property within the special debt district shall be levied for a period not exceeding twenty years. The special tax may be different from and in addition to the general tax rate throughout the entire county or counties in which the town was located.

1992, c. 453, § 15.1-965.38; 1997, c. 587.

### § 15.2-3710. Records and documents.

All records and documents of the former town shall pass to and be held by the county or counties in which the town was located which shall be responsible for the preservation, maintenance and custody of these records and documents.

1992, c. 453, § 15.1-965.39; 1997, c. 587.

### § 15.2-3711. Effect on pending suits.

If at the time of annulment there are any pending actions or proceedings by or against the town, or if after the effective date of annulment an action or proceeding out of a cause of action which arose prior to the time of annulment, which but for the annulment would have been by or against the town, is instituted, the county or counties in which the town was located shall be substituted in place thereof and the proceeding may be perfected to judgment. The agreement required by § 15.2-3701 may provide that if judgment against the county or counties results from the proceeding, the liability shall be paid by the special debt district as provided in § 15.2-3709.

1992, c. 453, § 15.1-965.40; 1997, c. 587.

### § 15.2-3712. Repeal of charter.

After a town charter has been annulled in accordance with this chapter, the local governing body of the county or counties in which the town was located shall make a request to a state legislator representing that county that the General Assembly repeal the town charter at the next legislative session.

1992, c. 453, § 15.1-965.41; 1997, c. 587.

## Chapter 38 - TRANSITION OF TOWNS TO CITIES

### § 15.2-3800. Ordinance petitioning court for city status; appointment of special court.

Any town, except a town located within a county or any portion of a county granted immunity as provided by Chapter 33 (§ 15.2-3300 et seq.) from the incorporation of new cities within its boundaries, may, by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the county within which the town lies, alleging that the town meets the criteria set out in subsection A of § 15.2-3807, for an order granting city status to the town. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

1979, c. 85, § 15.1-982.1; 1997, c. 587.

### § 15.2-3801. Referendum.

Prior to the adoption of an ordinance petitioning the court for city status, the town council shall petition the court to order a referendum held within the town on the question of seeking city status. The provisions of § 24.2-684 shall govern the order for a referendum. The question on the ballot shall be:

"Shall the Town of _____ seek to become a city?

[ ] Yes

[ ] No."

If a majority of the electorate voting in the referendum vote "No," the town council shall not proceed in seeking city status. If a majority of the electorate voting in such referendum vote "Yes," the town council shall proceed as provided in § 15.2-3800.

1979, c. 85, § 15.1-982.2; 1982, c. 181; 1997, c. 587.

**§ 15.2-3802. Town and county agreement concerning proposed city.**

No court proceedings shall be instituted until the governing bodies of the town and county have failed, in the sole opinion of the governing body of the town, to reach an agreement with respect to the proposed city. If the governing bodies reach an agreement, it shall be certified by order of the special court and a grant of city status shall be made upon a finding that the criteria set out in subsection A of § 15.2-3807 have been satisfied.

1979, c. 85, § 15.1-982.2; 1982, c. 181; 1997, c. 587.

**§ 15.2-3803. Notice of motion; service and publication; answer or other pleading.**

At least thirty days before instituting a proceeding for a grant of city status, a town shall serve notice on the county attorney, or if there is none, on the attorney for the Commonwealth, and on the chairman of the board of supervisors of the county or counties within which the town lies that it will, on a given day, petition the circuit court for a grant of city status. The notice served on each official shall include a certified copy of the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the town where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in a newspaper having general circulation in the town and county, or counties, in which the town is situated. The notice and ordinance shall be returned after service to the clerk of the circuit court. Certification from the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1979, c. 85, § 15.1-982.3; 1997, c. 587.

**§ 15.2-3804. Parties.**

In any proceeding instituted under the provisions of this chapter, the county or counties in which the town is situated shall be made party to the case. Any voter or property owner of the town or county or counties in which the town is situated may by petition become party to the proceeding. Any locality with a common boundary or other person affected by the proceeding may appear and shall be made party to the case.

1979, c. 85, § 15.1-982.4; 1997, c. 587.

**§ 15.2-3805. Time limit for intervenors; publication of order.**

The special court shall by order fix a time within which a voter, property owner or political subdivision not served may become a party to a proceeding instituted under this chapter, and thereafter no such petition shall be received, except for good cause shown. A copy of the order shall be published at

least once a week for two successive weeks in a newspaper of general circulation in the county and in the adjoining or adjacent counties and cities.

1979, c. 85, § 15.1-982.5; 1997, c. 587.

### § 15.2-3806. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it or, in its discretion, before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the town seeking to become a city and in the remaining portion of the county including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. School population and school enrollment in the town seeking to become a city and in the remaining portion of the county, as shown by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership, as shown by the most recent report of the Superintendent of Public Instruction; and

c. Population and the population density of the town seeking to become a city and of the remaining portion of the county;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications; and

6. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or during the trial or hearing to prevent manifest injustice.

1979, c. 85, § 15.1-982.7; 1997, c. 587; 2010, cc. 386, 629.

### § 15.2-3807. Hearing and decision by court.

A. The special court shall enter an order granting city status to a town if, after hearing the evidence, it finds that:

1. The town has a minimum population of 5,000 persons;

2. The town has the fiscal ability to function as an independent city and is able to provide appropriate urban-type services including, based on the advice of the State Department of Education, an independent school system;

3. The creation of the new independent city will not substantially impair the ability of the county or counties from which the town is to be separated to meet the service needs of the remaining population, particularly in education, unless provision is made by order of the court or by agreement of the governing bodies to offset such impairment; and

4. After a consideration of the best interests of the parties, the interest of the Commonwealth in the compliance with and promotion of state policies with respect to environmental protection, public planning, education, public transportation, housing and other state service policies declared by the General Assembly, and the interest of the Commonwealth in promoting strong and viable units of government in the area, a grant of city status should be made.

B. Any order granting city status to a town shall set forth in detail all such terms and conditions upon which the city status is granted as are not provided in this chapter. The order shall be effective on January 1 following the year in which the order is issued or, in the discretion of the court, on the second January 1 following the year in which the order is issued. All county taxes assessed in the town for the year before which the transition becomes effective, and for all prior years, shall be paid to the county.

C. A copy of the order shall be certified to the Secretary of the Commonwealth.

D. If a majority of the court is of the opinion that the criteria set out in subsection A have not been met, then the petition shall be dismissed.

E. The court shall render a written opinion in every case brought under this chapter.

1979, c. 85, § 15.1-982.8; 1997, c. 587.

**§ 15.2-3808. Assistance of state agencies.**

The special court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the court, subject to the usual rules of evidence. The court shall determine the actual expense of preparing such evidence, and shall tax such expense as costs in the case, which costs shall be paid by the clerk into the general fund of the state treasury, and credited to the agency furnishing the evidence.

1979, c. 85, § 15.1-982.9; 1997, c. 587.

**§ 15.2-3809. Appeals.**

Appeals may be granted by the Supreme Court of Virginia as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.

1979, c. 85, § 15.1-982.10; 1997, c. 587.

**§ 15.2-3810. Declining of grant of city status.**

In any proceeding brought under this chapter, the town council may, by ordinance or resolution, decline to accept city status on the terms and conditions imposed by the court at any time prior to twenty-one days after final adjudication establishing city status. In such case the court shall apportion the total costs, taking into consideration the extent to which county revenues are derived from within the town, the relative financial abilities of the parties, and the relative merits of the case.

1979, c. 85, § 15.1-982.11; 1997, c. 587.

### § 15.2-3811. Proceeding final for three years.

If city status is denied a town, or if city status is declined under § 15.2-3810, no subsequent proceeding shall be brought under this chapter for three years from the date of the final order.

1979, c. 85, § 15.1-982.12; 1997, c. 587.

### § 15.2-3812. Effect when town becomes city.

If a town becomes a city under this chapter, then:

1. Its charter, if it has one, shall remain in full force and effect insofar as its provisions do not conflict with this chapter;

2. Its ordinances shall be the ordinances of the city, insofar as they are applicable, until they are repealed by the city;

3. The officers of the town shall be the officers of the city until their successors are elected or appointed and qualify, except as provided in this chapter, and shall discharge the duties and be subject to the penalties imposed by such charter and ordinances and by general law; and

4. Provisions of the town charter in conflict with this title or other provisions of general law shall be repealed thereby.

Code 1950, § 15-83; 1962, c. 623, § 15.1-983; 1979, c. 85; 1997, c. 587.

### § 15.2-3813. Town liabilities and assets.

If a town becomes a city under this chapter, the city shall be liable for the bonded indebtedness and current debts and obligations of the town and shall be liable for the obligations or other liabilities of the town, both in law and in equity, arising out of any plans or annexations theretofore consummated between the town and any other territory. The title to all the property of the town, and its rights and privileges under any contract, including all moneys belonging to the town, and its books, records, papers and other things of value, shall vest in and become the city's property.

Code 1950, § 15-84; 1962, c. 623, § 15.1-984; 1997, c. 587.

### § 15.2-3814. Mayor of town to continue in office.

If a town becomes a city under this chapter, the mayor of the town shall be the mayor of the city; shall receive the same salary and fees; and shall discharge the duties, be vested with the authority and be subject to the penalties imposed on him by the charter or general law. He shall serve until his successor is elected and qualified.

Code 1950, § 15-85; 1962, c. 623, § 15.1-985; 1997, c. 587.

### § 15.2-3815. Council of town to continue in office; additional members.

If a town becomes a city under this chapter, the town council shall be the city council and discharge the duties and exercise the authority imposed on it by the charter and by general law. If in the order granting city status the special court prescribes a greater number to compose the city council than the number composing the town council, then the council shall, within thirty days after the date of the order of the court, or as soon thereafter as practicable, proceed to elect the additional members of the city council necessary to fill out the number prescribed in such order. The members shall serve until their successors are elected and qualified.

Code 1950, § 15-86; 1962, c. 623, § 15.1-986; 1997, c. 587.

### § 15.2-3816. Town treasurer to continue in office; appointment where town had no treasurer.

If a town becomes a city under this chapter, the town treasurer, if there is one, shall be the city treasurer. If there is no town treasurer, then the vacancy shall be filled by appointment by the circuit court having jurisdiction over the city or town, pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election.

The city treasurer, whether he is such by reason of having held the office of town treasurer or by appointment, shall not discharge any duties as city treasurer until he has given bond in a penalty to be fixed by the city council pursuant to § 15.2-1512 and also the bond required by § 15.2-1530. The treasurer so appointed shall qualify before the court appointing him. The treasurer's duties shall include handling the city's revenues from all sources as the council directs. He shall serve until his successor is elected and qualified.

Code 1950, § 15-87; 1962, c. 623, § 15.1-987; 1971, Ex. Sess., c. 158; 1997, c. 587.

### § 15.2-3817. Commissioner of revenue or assessor to continue in office; appointment where town had no commissioner or assessor.

If a town becomes a city under this chapter, the commissioner of revenue or assessor of the town, if there is one, shall be the commissioner of revenue of the city and discharge the duties imposed on him by the charter or by general law. If there is no commissioner of revenue or assessor of the town, then the circuit court having jurisdiction over such city or town shall, within thirty days after the town is declared to be a city, fill the vacancy by appointment, pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election. The commissioner of revenue so appointed shall forthwith qualify before the court or judge appointing him or before the clerk of the circuit court in the clerk's office. He shall serve until his successor is elected and qualified.

Code 1950, § 15-88; 1962, c. 623, § 15.1-988; 1971, Ex. Sess., c. 158; 1997, c. 587.

### § 15.2-3818. Town sergeant to continue in office.

If a town becomes a city under this chapter, the sergeant of the town, if there is one, shall be the sheriff of the city and discharge all the duties imposed on him by the charter or by general law. The sheriff's

duties and compensation shall be such as are provided by law for town sergeants. He shall serve until his successor is elected and qualified.

Code 1950, § 15-89; 1962, c. 623, § 15.1-989; 1971, Ex. Sess., c. 155; 1997, c. 587.

**§ 15.2-3819. Election and terms of office of mayor and councilmen after town becomes city.**

At a general election of city officers, to be held on the second Tuesday in May after a town is declared to be a city, a mayor and city council shall be elected for the city. The terms of office of the mayor and city council shall begin on July 1 following their election. The mayor shall serve for four years. One half of the council shall serve for two years, and the other half for four years.

Code 1950, § 15-90; 1962, c. 623, § 15.1-990; 1997, c. 587.

**§ 15.2-3820. Election and terms of other city officers.**

At the next general election of state officers after (i) the town is declared to be a city and (ii) the regular term of office of the existing municipal officers expires, to be held on Tuesday after the first Monday in November, when similar officers are elected for other cities, a treasurer, a sheriff, an attorney for the Commonwealth, a clerk of the circuit court, and other officers elected by the qualified voters whose election is not otherwise provided for by law shall be elected. The terms of office of such officers shall begin on January 1 following their election and continue in accordance with § 24.2-217 as applicable to such elections and until their respective successors have been elected and qualify. The commissioner of revenue shall be elected or appointed as the general law directs.

Code 1950, § 15-91; 1962, c. 623, § 15.1-991; 1971, Ex. Sess., c. 68; 1973, c. 545; 1979, c. 85; 1997, c. 587.

**§ 15.2-3821. Qualification of officers; vacancies.**

The officers for the election of whom provision is made by § 15.2-3820 whether elected at the first election for such officers held in the city or at any subsequent election held pursuant to § 24.2-217 or § 24.2-222 shall qualify before the circuit court having jurisdiction in the city or before the clerk of such court in the clerk's office. In the case of a vacancy in any such office the office shall be filled by appointment by the court, pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election.

Code 1950, § 15-92; 1962, c. 623, § 15.1-992; 1971, Ex. Sess., c. 158; 1997, c. 587.

**§ 15.2-3822. Sharing of offices; transfer of jurisdiction.**

A. Any attorney for the Commonwealth, clerk of a circuit court, or sheriff who performed his duties and had jurisdiction in both a city and a county prior to July 1, 1979, under provisions of this chapter in effect prior to that date, shall continue to serve both localities until (i) the city ceases to share such positions in accordance with the provisions of general law or (ii) the city is transferred in accordance with the provisions of §§ 16.1-69.6 and 17.1-506 to a judicial circuit and district which is comprised of a county other than the circuit and district where the city was situated. Until such declaration or transfer is made, the qualified voters residing in the city may vote for these officers at the general election for county officers.

B. Upon the effective date of the transfer referred to in clause (ii) of subsection A, the judges of the circuit court for the county in the judicial circuit to which the city was transferred shall appoint the attorney for the Commonwealth and clerk of the circuit court for that adjoining county. If the city has a locally elected city sheriff, the city sheriff shall be the only sheriff for the city. The city may contract with the county to which it was transferred for jail facilities. If the effective date of the transfer is to take place within 120 days after an election for the clerk of the circuit court or attorney for the Commonwealth in the county to which the city is transferred, the voters of the city shall be entitled to vote in the election for each officer. The voting wards or precincts of the city shall be treated as precincts of the adjoining county and no candidate for these offices shall be required to qualify separately in the city. The qualified voters of the city shall thereafter be entitled to vote for these officers.

C. If the situation in either clause (i) or (ii) of subsection A occurs, then:

1. As to any crime occurring or civil cause of action arising in the city before the effective date of the transfer, the circuit court for the former judicial circuit shall have jurisdiction; and

2. As to any crime occurring or civil cause of action arising in the city on or after the effective date of the transfer involving a matter required by general law to be located in a circuit court, the circuit court for the judicial circuit to which the city was transferred shall have jurisdiction.

D. All writings authorized by law to be recorded in the circuit court for the city transferred pursuant to clause (ii) of subsection A shall be recorded in the circuit court to which the city was transferred beginning on the effective date of the transfer.

1980, c. 592, § 15.1-994.1; 1987, c. 624; 1997, c. 587.

**§ 15.2-3823. Tenure and reelection of county officer whose homesite becomes part of city.**

Any county officer who resides in the county or in any town therein, and has an established home therein, which homesite becomes a part of a city after such officer's election or appointment, shall not vacate his office by reason of his residence in the city, but shall continue to hold such office so long as he is successively elected or appointed to the office held by him at the time of the transition. Such officer shall for the purpose of his office be deemed to be a resident of the magisterial district in which the homesite was before becoming a part of a city. This section shall not apply to members of the school board of such county, who shall be governed by § 22.1-29.

Code 1950, § 15-94.1; 1950, p. 28; 1962, c. 623, § 15.1-995; 1964, c. 202; 1966, c. 239; 1970, c. 455; 1997, c. 587.

**§ 15.2-3824. Town officers.**

Except as provided in this chapter, if a town becomes a city, officers of the town shall be officers of the city until the expiration of the term for which they were chosen or until they are removed according to law or their offices abolished by the city council.

Code 1950, § 15-95; 1962, c. 623, § 15.1-996; 1997, c. 587.

**§ 15.2-3825. Courts.**

When a town is declared to be a city, such city shall at once be, become and continue unless and until changed by general law in every respect within the jurisdiction of the circuit court for the county wherein it is situated.

Code 1950, § 15-96; 1962, c. 623, § 15.1-997; 1979, c. 85; 1997, c. 587.

### § 15.2-3826. Appointment of electoral board, sheriff, attorney for the Commonwealth and circuit court clerk.

If a town becomes a city under this chapter, the circuit court having jurisdiction over the city shall appoint for the city an electoral board of three members, the term of one of whom shall expire on the first day of the following March, the term of another to expire one year later, and the term of the third to expire two years later than the term of the first. The court shall at the same time, if necessary, appoint one sheriff, one attorney for the Commonwealth and one clerk of the circuit court. The terms of all officers appointed by the circuit court shall expire when their successors are elected or appointed and qualify, pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election.

Code 1950, § 15-97; 1962, c. 623, § 15.1-998; 1971, Ex. Sess., c. 158; 1979, c. 85; 1997, c. 587.

### § 15.2-3827. Transfer of assessments to city books.

When the commissioner of the revenue of a city created under this chapter applies to the commissioner of the revenue of the county or other officer assessing real estate, he shall furnish from his books a transcript of the assessment of all real estate and personal property, and on his books he shall note that all such assessments have been transferred to the city books.

Code 1950, § 15-99; 1962, c. 623, § 15.1-1000; 1997, c. 587.

### § 15.2-3828. State, county and district taxes accruing before transition; county sales and use tax becomes city sales and use tax.

All state, county and district taxes on property within the territory occupied by a city created under this chapter that accrued before the city became such shall be payable to and collected by the county treasurer. The proceeds of all county and district taxes on property within the city shall be held by the county treasurer subject to the rights of the city to be adjusted in the manner hereinafter provided.

If a town becomes a city of the second class under this chapter, and a county sales and use tax was in force in the county in which such town was located at the time the order was entered pursuant to § 15.2-3807, such local sales and use tax shall continue in effect in the city as a city sales and use tax on and after the effective date of such order the same as if the tax had been duly imposed by the council of the city. The preceding sentence shall apply until the effective date of a local sales and use tax ordinance adopted by the city council under the applicable provisions of law; but the preceding sentence shall not apply if the council of the city, immediately after the town becomes a city, adopts a resolution to the effect that such local sales and use tax shall not be effective in the city.

Code 1950, § 15-101; 1962, c. 623, § 15.1-1002; 1968, c. 315; 1997, c. 587.

### § 15.2-3829. Assumption of debt; adjustment.

If a town becomes a city under this chapter, the city shall assume and provide for the reimbursement of the county of a just and reasonable proportion of any county debt existing at the date the town becomes a city, including any debt existing on any school district of which the town was a part.

The city council and the board of supervisors shall make an equitable adjustment of such debts. In making such adjustment the parties shall consider (i) the city's just proportion of money collected by the county treasurer under § 15.2-3828 and of any unexpended balance in the county treasury belonging to any fund to which the territory embraced in the city has contributed and (ii) all other equitable claims of the city, county and district. If the parties fail to make such adjustment, either party may proceed against the other by a bill in equity in the circuit court for the county in which the former town lies for a proper adjustment of such matter.

Code 1950, §§ 15-102, 15-103; 1962, c. 623, §§ 15.1-1003, 15.1-1004; 1980, c. 559; 1997, c. 587.

**§ 15.2-3830. Certain costs and expenses to be apportioned between city and county.**

After a town becomes a city under this chapter, the costs and expenses of the circuit court for the county, including jury costs, and the salaries of the judge and clerk of the circuit court and the clerk, attorney for the Commonwealth and sheriff of the county shall be borne by the city and county in the proportion that the population of each bears to the aggregate population of the city and county.

Such expenses and costs shall include stationery, furniture, books, office supplies and equipment for the court and clerk's office; supplies, repairs and alterations on the buildings used jointly by the city and county; and insurance, fuel, water, lights, etc., used in and about the buildings and the grounds thereto. The cost of any new building erected for the joint use of the city and county shall be provided for in like manner. However, in the case of buildings used jointly by the City of Covington and Alleghany County, no repairs or alterations shall be made to any such building, and no new building shall be erected without the approval of the governing body of both the city and the county. If such governing bodies cannot agree, relevant controversies shall be resolved in the manner provided by § 15.2-3829.

Code 1950, § 15-104; 1962, c. 623, § 15.1-1005; 1970, c. 143; 1997, c. 587; 2007, c. 813.

**§ 15.2-3831. Registrars and their duties.**

Upon its appointment, the electoral board for a city created under this chapter shall appoint a general registrar pursuant to § 24.2-110. The registration records of voters residing in the city shall be transferred, and the appropriate notice given, in accordance with § 24.2-114. At any time the books are not closed pursuant to § 24.2-416, any person residing in the city who has not registered shall be entitled to register and vote in the city if he would have been entitled to register and vote in the county.

Code 1950, § 15-105; 1962, c. 623, § 15.1-1006; 1997, c. 587; 2003, c. 1015.

**§ 15.2-3832. Authority to city to provide by condemnation, etc., water, light, power and fuel.**

In addition to the authority given by general law to cities, a city organized under this chapter may acquire in accordance with § 15.2-1800 or construct, own and operate, its own plant, machinery and equipment for supplying its inhabitants, streets, grounds, or buildings with water, light, power or fuel.

To that end it may acquire any plant existing in or near the city; may acquire land and franchises outside of the limits of the city; and may buy, purchase or acquire easements and rights-of-way.

Code 1950, § 15-106; 1962, c. 623, § 15.1-1007; 1997, c. 587.

### § 15.2-3833. Chapter not applicable to cities already existing.

This chapter shall not affect the organization, government, officers, charter or laws governing any city declared to be such prior to January 1, 1976, under former acts of the General Assembly. Statutes under which cities declared to be such prior to January 1, 1976, were organized as cities shall continue in force.

Code 1950, § 15-108; 1962, c. 623, § 15.1-1009; 1979, c. 85; 1997, c. 587.

### § 15.2-3834. Congressional, etc., districts and judicial circuit not changed.

Any city created under this chapter shall continue to be and remain a part of the congressional, senatorial and legislative districts, respectively, and of the judicial circuit wherein such city is geographically located.

Code 1950, § 15-109; 1962, c. 623, § 15.1-1010; 1997, c. 587.

## Chapter 39 - TRANSITION OF COUNTIES TO CITIES

### § 15.2-3900. Transition authorized.

Any county in this Commonwealth may become an independent city by complying with the requirements and procedures set forth in this chapter.

1979, c. 85, § 15.1-977.1; 1997, c. 587.

### § 15.2-3901. Ordinance petitioning court to declare eligibility.

The governing body of any county may, by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the county, alleging that the county meets the criteria set out in § 15.2-3907, for an order declaring the county eligible for city status. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

1979, c. 85, § 15.1-977.2; 1997, c. 587.

### § 15.2-3902. Moratorium on annexation suits pending transition to city.

Any annexation suit filed against a county on or after the day the county's petition for city status is filed in the circuit court shall be stayed pending the special court's order denying eligibility for city status or the election ordered on the proposed city charter, whichever occurs. If the voters approve the city charter, all annexation suits stayed pending the outcome of the election shall be dismissed. If the voters disapprove the city charter, all pending stays shall be dissolved.

1979, c. 85, § 15.1-977.2:1; 1997, c. 587.

### § 15.2-3903. Notice of motion; service and publication; answer.

At least thirty days before instituting a proceeding under the provisions of this chapter, a county shall serve notice on the attorney for the Commonwealth, or on the city or county attorney, if there is one, and on the chairman of the board of supervisors of each adjoining county and the mayor of each city and town within the county instituting proceedings that it will, on a given day, petition the circuit court for an order declaring the county eligible for city status. The notice served on each official shall include a certified copy of the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the county where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in some newspaper having general circulation in the county seeking eligibility for city status. The notice and ordinance shall be returned after service to the clerk of the circuit court. Certification from the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1979, c. 85, § 15.1-977.3; 1997, c. 587.

### § 15.2-3904. Parties.

In any proceedings instituted under the provisions of this chapter, any voter or property owner or person having an interest in the county may by petition become a party to the proceedings. Any locality having a common boundary or other person affected by the proceedings may appear and shall be made a party to the case.

1979, c. 85, § 15.1-977.5; 1997, c. 587.

### § 15.2-3905. Time limit for intervenors; publication of order.

The special court shall by order fix a time within which a voter, property owner, person having an interest, or locality not served may become a party to proceedings instituted under this chapter, and thereafter no such petition shall be received, except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper or newspapers of general circulation in the county and in the adjoining or adjacent counties and cities.

1979, c. 85, § 15.1-977.6; 1997, c. 587.

### § 15.2-3906. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it, or in its discretion before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values, if appropriate, and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the county seeking to become a city, including real property, per-

sonal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. School population and school enrollment in the county, as shown by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction;

c. Population of the county and its population density;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or during the trial or hearing to prevent manifest injustice.

1979, c. 85, § 15.1-977.8; 1997, c. 587; 2010, cc. 386, 629.

**§ 15.2-3907. Hearing and decision by court.**

A. The special court shall order an election to determine if the voters of the county desire the General Assembly to grant the county a municipal charter if, after hearing the evidence, it finds that:

1. The county possesses at the time of the filing of the petition a minimum population of 20,000 persons and a density of population of at least 300 persons per square mile, or a minimum population of 50,000 persons and a density of population of at least 140 persons per square mile, based either on the latest United States census, on the latest estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision; and

2. The county has the fiscal capacity to function as an independent city and to provide appropriate services; and

3. After a consideration of the best interests of the parties, the interest of the Commonwealth in the county's compliance with and promotion of applicable State policies with respect to environmental protection, public planning, education, public transportation, housing and other State service policies declared by the General Assembly, and the interest of the Commonwealth in promoting strong and viable units of government in the area, the county is eligible for city status.

B. An election held pursuant to this section shall comply with §§ 24.2-682 and 24.2-684. The order for election shall allow sufficient time for the preparation of a charter as hereafter provided for in this chapter. Such election shall be held no earlier than 180 days and no later than 300 days subsequent to the entry of the order of election.

C. The court shall be limited in its decision to granting or denying eligibility for city status and shall have no authority to impose terms or conditions with respect to such eligibility.

D. If a majority of the court is of the opinion that the criteria set out in subsection A have not been met, then eligibility for city status shall be denied.

E. The court shall render a written opinion in every case brought under the provisions of this chapter.

1979, c. 85, § 15.1-977.9; 1997, c. 587.

**§ 15.2-3908. Assistance of state agencies.**

The special court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the court, subject to the usual rules of evidence. The court shall determine the actual expense of preparing such evidence and shall tax such expense as costs in the case; the costs shall be paid by the clerk into the general fund of the state treasury, and credited to the agency furnishing the evidence.

1979, c. 85, § 15.1-977.10; 1997, c. 587.

**§ 15.2-3909. Appeals.**

Appeals may be granted by the Supreme Court of Virginia as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.

1979, c. 85, § 15.1-977.11; 1997, c. 587.

**§ 15.2-3910. Charter commission; appointment; compensation.**

Upon entry of the order provided in subsection A of § 15.2-3907, the governing body of the county shall appoint a charter commission, composed of not less than seven persons, to assist it in the preparation of a charter and form of government for the new city. The governing body shall fix the compensation of members of the charter commission, the amount of which shall be subject to approval by the circuit court for the county.

1979, c. 85, § 15.1-977.12; 1997, c. 587.

**§ 15.2-3911. Charter provisions generally.**

The charter shall provide for the orderly transition from a county form of government to a city form, for the assumption by the new city of the debt and contractual obligations of the former county and of all towns formerly located therein, and for the transfer of all assets from such county and towns to the new city. The city charter shall recognize any townships which may be created pursuant to § 15.2-3916, and where such townships are created, they shall assume the assets and debts of the towns they succeed. However, the city charter shall provide that all or part of the revenues of a township, the services it performs, its facilities, other assets, and debts may be transferred to the city by agreement of the governing bodies. The provisions of the charter with respect to elected officials shall conform to the applicable requirements of the Constitution of Virginia. The charter may also provide that the new city may continue any agreements or arrangements undertaken under other provisions of law for the joint support of officials, facilities, and services that exist on the effective date of the city charter. Such charter shall become effective on July 1 in the year of enactment by the General Assembly.

1979, c. 85, § 15.1-977.13; 1997, c. 587.

### § 15.2-3912. Optional charter provisions.

Any charter adopted pursuant to this chapter may include any of the following provisions:

1. The rate of tax on real property in any territory which is a part of the proposed city shall be lower than in other territory of the proposed city for a period of five years, provided that any difference between such rates of taxation shall bear a reasonable relationship to differences in nonrevenue-producing governmental services giving land urban character which are furnished in such territories.

2. A special tax may be levied on real property for a period not exceeding twenty years in any area specified in the charter. The special tax may be different from and in addition to the general tax rate throughout the entire city and shall be for the purpose of repaying existing indebtedness chargeable to such area prior to the county becoming a city.

3. There shall be a new election of officers for the city whose election and qualification shall terminate the terms of office of the officers of the former county. However, no new election need be held for offices required to be continued by the Constitution, nor for any other office for which a new election is deemed unnecessary.

4. The tax rate on all property of the same class within the city shall be uniform. However, the governing body of the city shall have power to levy a higher tax in such areas of the city that desire additional or more complete services of government than are desired in the city as a whole. The proceeds of the higher tax shall be segregated and expended in the areas in which raised. Such higher tax rate shall not be levied for school, police or general government services but only for those services which prior to the transition were not offered in the whole of the former county.

1979, c. 85, § 15.1-977.13:1; 1997, c. 587.

### § 15.2-3913. Public hearing on charter; notice and publication; adoption of charter by governing body.

Upon the completion of the proposed charter the governing body shall hold a public hearing at which the citizens shall have an opportunity to be heard with respect thereto. Notice of the time and place of such hearing and the text of the charter, or an informative summary thereof, shall be published in a newspaper of general circulation in the county at least once a week for two successive weeks. The hearing shall not be held sooner than thirty days subsequent to the first publication. Such hearing may be adjourned from time to time, but shall be completed not less than thirty days before the election. Upon completion of the hearing the governing body shall adopt the charter with such revisions as it may accept.

1979, c. 85, § 15.1-977.14; 1997, c. 587.

### § 15.2-3914. Rejection or adoption of charter at election.

If the proposed charter is not adopted by a majority of those voting in the election, an order shall be entered of record accordingly, and no other election for any change in the county form of government shall be held within three years after the date of the election. If the proposed charter is adopted by a majority of those voting in the election, the special court shall enter an order accordingly, a copy of

which shall be forthwith certified to the Secretary of the Commonwealth, and two copies, in the form of a proposed bill to grant the charter, shall be certified to one or more members of the General Assembly representing the county for introduction as a bill in the General Assembly.

1979, c. 85, § 15.1-977.15; 1997, c. 587.

**§ 15.2-3915. Transition of county to independent city requires no action of town council.**

A county may become an independent city in accordance with the foregoing provisions of this chapter without the necessity of any action being taken by the council of any town situated in such county and without the necessity of separate referenda in any such town on the question of the transition of the county to a city.

1979, c. 85, § 15.1-977.16; 1997, c. 587.

**§ 15.2-3916. Creation of townships; effect on town charters; right of certain townships to obtain city status.**

A. Each town located within any county which becomes a city pursuant to the provisions of this chapter shall automatically continue as a township within the city, and the charter of each such town shall become the charter of the township with the law governing the relationship of the town to the county continuing in effect. Such townships established pursuant to this subsection shall continue to exercise such powers and elect such officers as the township charter may authorize and such other powers as the former town previously exercised under general law. However, no township shall exercise the authority granted towns by Chapter 38 (§ 15.2-3800 et seq.) of this title or by Article 1 (§ 15.2-3200 et seq.) of Chapter 32 of this title, or any extraterritorial authority granted towns by Chapter 22 (§ 15.2-2200 et seq.) of this title. Townships shall receive from the Commonwealth financial assistance in the same manner and to the same extent as is provided towns. However, a township may transfer all or part of the revenues it receives, the services it performs, its facilities, other assets, and debts to the city by agreement of the governing bodies.

B. Notwithstanding the provisions of subsection A of this section, any town which in 1979 possessed a population in excess of 5,000 persons and was situated within a county possessing a population of 20,000 or more persons and a density of population of 300 or more persons per square mile, or a minimum population of 50,000 persons and a density of population of at least 140 persons per square mile, based on the United States census, on population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision, shall retain as a township the right to obtain city status. Where such township seeks to become a city under the authority granted by this subsection and in accordance with § 15.2-3801 et seq., the special court shall be limited in its review, as provided in § 15.2-3809, to a determination of the township's population and population density. Where the court determines that such township has a population of at least 5,000 persons and a density of at least 200 persons per square mile, it shall enter an order granting the township city status.

1979, c. 85, § 15.1-977.17; 1997, c. 587.

### § 15.2-3917. Certain cities not affected by chapter.

This chapter shall in no way affect the organization, government, officers, charter or laws governing any city declared to be such prior to July 1, 1978.

1979, c. 85, § 15.1-977.18; 1997, c. 587.

### § 15.2-3918. Optional status of streets.

Any city formed under the provisions of this chapter may, by ordinance, elect to continue receiving, for a period not to exceed ten years from the date of the granting of a city charter, the full services of the Department of Transportation in the same manner and to the same extent such services were rendered prior to such city being formed. Upon the passage of such ordinance, funds for the maintenance, construction or reconstruction of streets within the areas formerly a county shall continue to be allocated as if such areas were still in a county and the city shall not receive funds for maintenance, construction or reconstruction of streets in those areas during the period the Department of Transportation furnishes such services. In those areas where the Department provides the above services, the governing body of the city shall have control over the streets and highways to the same extent as was formerly vested in the governing body of the county. At any time prior to the expiration of the ten-year period, the governing body may elect, by ordinance, to place its streets, or a portion of them, in the urban system of highways and shall receive funds as provided by law for all cities.

1979, c. 85, § 15.1-977.18:1; 1997, c. 587.

### § 15.2-3919. Legislative, etc., district and judicial circuit not affected.

Any city formed under the provisions of this chapter shall be and remain a part of the congressional, senatorial and legislative districts, respectively, and of the judicial circuit in which, as a county, it was geographically located, unless otherwise changed by general law.

1979, c. 85, § 15.1-977.19; 1997, c. 587.

## Chapter 40 - JUDICIAL DETERMINATION OF CITY STATUS

### § 15.2-4000. Enjoyment of city status until requirements of chapter fulfilled.

A city which no longer qualifies for city status under Article VII, Section 1 of the Constitution of Virginia shall change to town status under the provisions of this chapter. Until the court enters an order under § 15.2-4004 for such change, a city shall enjoy all the rights and obligations of city status.

1971, Ex. Sess., c. 140, § 15.1-965.1; 1988, c. 881; 1997, c. 587.

### § 15.2-4001. Investigation by Commission on Local Government; certification of findings to governing body.

If it appears from the most recent United States census that a city may not meet the requirements for city status under Article VII, Section 1 of the Constitution of Virginia, the Commission on Local Government shall commence an investigation of the population, assets, liabilities, rights and obligations of such city and certify the findings to the governing body.

1971, Ex. Sess., c. 140, § 15.1-965.2; 1997, c. 587.

**§ 15.2-4002. Report from Commission to be certified to circuit court; appointment of special court.**
When the governing body of any city receives a report compiled pursuant to § 15.2-4001 from the Commission on Local Government concluding that the city does not meet the requirements for city status under Article VII, Section 1 of the Constitution of Virginia, it shall petition the circuit court for the city for a determination of city status. All adjoining counties shall be given notice of the petition.

The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

1971, Ex. Sess., c. 140, § 15.1-965.3; 1997, c. 587.

**§ 15.2-4003. Investigation by special court; public hearing.**
A special court appointed pursuant to this chapter shall investigate all matters contained in the report certified to the court under § 15.2-4002, and any other matters it deems pertinent to the purpose of the inquiry. The court shall fix a time and place for a public hearing on such report.

1971, Ex. Sess., c. 140, § 15.1-965.6; 1997, c. 587.

**§ 15.2-4004. Determination of city status.**
If the special court determines that the city no longer qualifies for city status, it shall enter an order changing the city to a town. The court shall have authority to impose such terms and conditions as it deems appropriate to ensure an orderly transition from city status to town status.

1997, c. 587.

**§ 15.2-4005. Effect when city becomes town; officers.**
When a city becomes a town under the provisions of this chapter, its ordinances shall become the ordinances of the town, insofar as they are applicable and consistent with law, until they are repealed, and the existence of such city as an independent city of the Commonwealth shall terminate, as shall the terms of office and the rights, powers, duties and compensation of its constitutional officers and their deputies and employees. All officers, agents and employees of the city, including the mayor and the members of city council, shall continue to serve as the officers, agents and employees of the town, until they are terminated as provided by law, or in the case of the mayor and members of council, until their successors are elected or appointed. The court shall order an election to be held pursuant to § 24.2-682 not less than thirty nor more than 180 days after the date of the court order granting town status, but at least thirty days before the effective date of the transition from city to town status, at which election the town council and other elected officers of the town shall be selected. The terms of such officers shall commence on the day the transition from city to town status becomes effective and shall continue, unless otherwise removed, until their successors have been elected and assume office. The successors or all such officers whose first election is herein provided for shall thereafter be elected at the time, in the manner and for the terms provided by general law.

1997, c. 587.

## Chapter 41 - TRANSITION OF CITY TO TOWN STATUS

### § 15.2-4100. City may change to town status.

A city may change to town status in accordance with the provisions of this chapter.

1988, c. 881, § 15.1-965.9; 1997, c. 587.

### § 15.2-4101. Ordinance petitioning court for town status; notice of motion.

A. Any city in this Commonwealth with a population at the time of the latest United States decennial census of less than 50,000 people, after fulfilling the requirements of Chapter 29 (§ 15.2-2900 et seq.), may by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the city, alleging that the city meets the criteria set out in § 15.2-4106 for an order granting town status to the city. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. Before instituting a proceeding under this chapter for a grant of town status, a city shall serve notice on the county attorney, or if there is none, on the attorney for the Commonwealth, and on the chairman of the board of supervisors of the adjoining county that it will, on a given day, petition the circuit court for a grant of town status. The notice served on each official shall include a certified copy of the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the city or adjoining county where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in some newspaper having general circulation in the city and adjoining county. The notice and ordinance shall be returned after service to the clerk of the circuit court. Certification by the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1988, c. 881, §§ 15.1-965.10, 15.1-965.11; 1997, c. 587.

### § 15.2-4102. Citizen petition for town status.

Voters equal in number to fifteen percent or more of the registered voters of the city as of January 1 of the year in which the petition is filed may petition the circuit court for the city, stating that it is desirable that such city make the transition to town status. All of the signatures on the petition shall have been made and filed within a twelve-month period. A copy of the petition shall be served on the city attorney and the county attorney, or if there is none, on the attorney for the Commonwealth for the county and on the mayor of the city and the chairman of the board of supervisors of the adjoining counties. A copy of the petition shall be published at least once a week for four successive weeks in a newspaper having general circulation in the city and the adjoining county. The case shall proceed in all respects as though instituted in the manner prescribed in § 15.2-4101, and the court shall forthwith refer the petition to the Commission on Local Government for review pursuant to Chapter 29 (§ 15.2-2900 et seq.).

1988, c. 881, § 15.1-965.10; 1997, cc. 178, 587.

### § 15.2-4103. Parties.

In any proceedings instituted under the provisions of this chapter, the adjoining county shall be made party to the case. Any qualified voter or property owner of the city or adjoining county may by petition become party to the proceedings.

1988, c. 881, § 15.1-965.12; 1997, c. 587.

**§ 15.2-4104. Time limit for intervenors; publication of order.**

The special court shall by order fix a time within which a qualified voter, property owner, political subdivision, or other interested party not served may become a party to proceedings instituted under this chapter, and thereafter no such petition shall be received except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper of general circulation in the city and county.

1988, c. 881, § 15.1-965.13; 1997, c. 587.

**§ 15.2-4105. Pretrial conference; matters considered.**

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it or, in its discretion, before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the city seeking to become a town and in the county including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. School population and school enrollment in the city seeking to become a town and in the county, as shown by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership, as shown by the last preceding report of the Superintendent of Public Instruction;

c. Population and population density of the city seeking to become a town and of the county;

4. Long-term and short-term indebtedness of both the city and the county;

5. Limitation or expansion of pretrial discovery procedures;

6. Limitation of the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

7. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified for good cause before or during the trial or hearing.

1988, c. 881, § 15.1-965.15; 1997, c. 587; 2010, cc. 386, 629.

**§ 15.2-4106. Hearing and decision by court.**

A. The special court shall enter an order granting town status if, after hearing the evidence, the court finds that:

1. The city has a current population of less than 50,000 people;

2. The adjoining county or counties have been made party defendants to the proceedings;

3. The proposed change from city to town status will not substantially impair the ability of the adjoining county in which the town will be located to meet the service needs of its population;

4. The proposed change from city to town status will not result in a substantially inequitable sharing of the resources and liabilities of the town and the county;

5. The proposed change from city to town status is, in the balance of equities, in the best interests of the city, the county, the Commonwealth, and the people of the county and the city; and

6. The proposed change from city status to town status is in the best interests of the Commonwealth in promoting strong and viable units of government.

B. The court shall have authority to impose such terms and conditions as it deems appropriate to:

1. Ensure an orderly transition from city status to town status;

2. Adjust financial inequities;

3. Balance the equities between the parties; and

4. Ensure protection of the best interests of the city, the county, the Commonwealth, and the people of the county and the city.

C. The court shall render a written opinion in every case brought under the provisions of this chapter.

D. In the event the court enters an order declaring the city eligible for town status, a copy of the order shall be certified to the Secretary of the Commonwealth.

1988, c. 881, § 15.1-965.16; 1997, c. 587.

**§ 15.2-4107. Assistance of state agencies.**

The special court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the court, to be subject to the usual rules of evidence. The court may determine the actual expense of preparing such evidence and may tax such expense as costs in the case; the costs, if so taxed, shall be paid by the clerk into the general fund of the state treasury, and credited to the agency furnishing the evidence.

1988, c. 881, § 15.1-965.17; 1997, c. 587.

**§ 15.2-4108. Appeals.**

Appeals may be granted by the Supreme Court of Virginia as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.

1988, c. 881, § 15.1-965.18; 1997, c. 587.

**§ 15.2-4109. Declining a grant of town status.**

In any proceedings brought under the provisions of this chapter, the governing body of the city, may, by ordinance or resolution, decline to accept eligibility for town status on the terms and conditions imposed by the special court at any time prior to twenty-one days after entry of an order granting eligibility for town status, or within twenty-one days after denial of a petition for appeal or within twenty-one days after the entry of the mandate in an appeal which has been granted.

1988, c. 881, § 15.1-965.19; 1997, c. 587.

**§ 15.2-4110. Proceedings final for five years.**

In the event the special court determines the city to be ineligible for town status or in the event that town status is declined under the provisions of § 15.2-4109, no subsequent proceedings shall be brought under the provisions of this chapter within five years of the date of the final order.

1988, c. 881, § 15.1-965.20; 1997, c. 587.

**§ 15.2-4111. Effective date of transition.**

The special court in its order granting town status shall specify the effective date of transition from city status to town status, but in no event shall such date be sooner than six months from the date of the court order.

1988, c. 881, § 15.1-965.21; 1997, c. 587.

**§ 15.2-4112. Charter for resulting town.**

A. If a proposed charter for the resulting town has been approved by the General Assembly for adoption pending order of the special court pursuant to this chapter, such proposed charter shall be the charter of the town upon approval of the transition from city to town status.

B. If no such proposed charter for the resulting town has been approved by the General Assembly, the court shall enter an order conforming the city charter to a town charter, which shall be the charter of the town until a new charter is granted by the General Assembly.

1988, c. 881, § 15.1-965.22; 1997, c. 587.

**§ 15.2-4113. Restriction on subsequent change in status.**

Notwithstanding any contrary provision of law, general or special, a town created under this chapter shall not return to its previous independent city status.

1996, cc. 337, 349, § 15.1-965.22:1; 1997, c. 587.

**§ 15.2-4114. Liabilities and assets of such city.**

Unless otherwise provided by agreement of the governing bodies of the city and county, or by order of the special court pursuant to § 15.2-4106, a town created under this chapter shall remain liable for all

of the bonded indebtedness, current debts, obligations, and liabilities if incurred as a city. Unless otherwise provided by agreement of the governing bodies of the city and county, or by order of the court pursuant to § 15.2-4106, the title to all of the real and personal property of the former city and all of its rights and privileges under any contract, and all of its books, records, papers and other things of value, shall vest in and become the property of the town.

1988, c. 881, § 15.1-965.23; 1997, c. 587.

**§ 15.2-4115. Effect when city becomes town; officers.**

When a city becomes a town under the provisions of this chapter, its ordinances shall become the ordinances of the town, insofar as they are applicable, and consistent with law, until they are repealed, and the existence of such city as an independent city of the Commonwealth shall terminate, as shall the terms of office and the rights, powers, duties and compensation of its constitutional officers and their deputies and employees. All officers, agents and employees of the city, including the mayor and the members of city council, shall continue to serve as the officers, agents and employees of the town, until their positions or offices are terminated as provided by law, or in the case of the mayor and members of council, until their successors are elected or appointed. The circuit court shall order an election to be held pursuant to § 24.2-682 not less than thirty nor more than 180 days after the date of the special court order granting town status, but at least thirty days before the effective date of the transition from city to town status, at which election the town council and other elected officers of the town shall be selected. The terms of such officers shall commence on the day the transition from city to town status becomes effective and shall continue, unless otherwise removed, until their successors have been elected and assume office. The successors or all such officers whose first election is herein provided for shall thereafter be elected at the time, in the manner and for the terms provided by general law.

1988, c. 881, § 15.1-965.24; 1997, c. 587.

**§ 15.2-4116. Library aid continued.**

In any transition under the provisions of this chapter, if a regional library system existed between a former city and the county surrounding it, or if the former city continues to operate an independent library, the Commonwealth shall continue state aid to the former regional library system or independent library the same as if no transition had occurred.

1991, c. 189, § 15.1-965.24:1; 1994, c. 775; 1997, c. 587; 2009, c. 483; 2013, c. 363.

**§ 15.2-4117. Temporary restriction on annexation.**

For a period of two years from the effective date of a court order granting town status to a city making the transition from city status to town status, the town shall not file an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, nor shall it institute an annexation court action against any county. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an

annexation agreement, provided that the extent, terms and conditions of such agreement have been agreed upon by the governing bodies of the county and the town.

1996, cc. 641, 649, § 15.1-965.24:2; 1997, c. 587.

### § 15.2-4118. Effect on pending suits.

If at the time a city becomes a town under the provisions of this chapter there are any pending actions or proceedings by or against the city, or if after a city becomes a town under the provisions of this chapter an action or proceeding out of a cause of action which arose prior to the time the city became a town, which but for said transition would have been by or against the city, is instituted, the resulting town shall be substituted in place of the city and the action or proceeding may be perfected to judgment.

1988, c. 881, § 15.1-965.25; 1997, c. 587.

### § 15.2-4119. Effect on jurisdiction of courts.

Upon the effective date of the transition from city to town status, all criminal prosecutions then pending therein, whether by indictment, warrant or other complaint, and all suits, actions, motions, warrants, and other proceedings of a civil nature, with all the records of the courts of the city, shall stand ipso facto removed to the courts of concurrent or like jurisdiction of the appropriate county. The circuit and other courts having courthouses and records in and jurisdiction over the city shall, at some convenient time, as closely preceding the period of removal as practicable, by formal orders entered of record, direct the removal of all such causes and proceedings, civil and criminal, to the court or courts of concurrent or like jurisdiction of the county. The clerk of the court or courts to which the causes and proceedings have been removed shall thereupon proceed as in other cases of removal or changes of venue and such matters shall be docketed and handled as though initially filed in such court or courts. At the same time such clerk or clerks shall also deliver to the proper clerk or clerks of the county all the deed books, order or minute books, execution dockets, judgment dockets and other records of his office, of whatever kind or nature. The clerk or clerks of the court or courts to which the records are removed shall take charge of and preserve the records for reference and use in the same manner and with the same effect as though they were original records of his office.

1988, c. 881, § 15.1-965.26; 1997, c. 587; 2005, c. 681.

### § 15.2-4120. Court granting transition to town status to exist for ten years.

A. The special court created pursuant to § 15.2-4101 shall not be dissolved after rendering a decision granting any motion or petition for transition to town status, but shall remain in existence for a period of ten years from the effective date of any transition order entered, or from the date of any decision of the Supreme Court affirming such an order. Vacancies occurring in the court during such ten-year period shall be filled by designation of another judge from the panel provided for in Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. The court may be reconvened at any time during the ten-year period on its own motion, or on motion of the governing body of the county, or of the town, or on petition of not less than fifteen percent of the registered voters of the town.

C. The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which town status was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award attorneys' fees, court and other reasonable costs to the party or parties on whose motion the court is reconvened.

D. Any such action of the court shall be subject to review by the Supreme Court in the same manner as is provided with respect to the original decision of the court.

1988, c. 881, § 15.1-965.27; 1997, c. 587.

# Subtitle IV - OTHER GOVERNMENTAL ENTITIES

## Chapter 42 - REGIONAL COOPERATION ACT

### § 15.2-4200. Short title.

This chapter shall be known and may be cited as the "Regional Cooperation Act."

1968, c. 224, § 15.1-1400; 1995, cc. 732, 796; 1997, c. 587.

### § 15.2-4201. Purpose of chapter.

This chapter is enacted:

1. To improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the Commonwealth on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration.

2. To provide a means of coherent articulation of community needs, problems, and potential for service.

3. To foster planning for such development by encouraging the creation of effective regional planning agencies and providing the financial and professional assistance of the Commonwealth.

4. To provide a forum for state and local government on issues of a regional nature.

5. To encourage regional cooperation and coordination with the goals of improved services to citizens and increased cost-effectiveness of governmental activities.

6. To deter the fragmentation of governmental units and services.

1968, c. 224, § 15.1-1401; 1995, cc. 732, 796; 1997, c. 587.

### § 15.2-4202. Definitions.

For the purposes of this chapter:

"Commission" means a planning district commission. Planning district commissions are composed of the duly appointed representatives of the localities or Indian tribes which are parties to the charter agreement.

"Indian tribe" means an Indian tribe or band that is recognized by federal law.

"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development.

"Population," unless a different census is clearly set forth, means the number of inhabitants according to the United States census latest preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, unless there is available an annual estimate of population prepared by the Weldon Cooper Center for Public Service of the University of Virginia, which has been filed with the Department of Housing and Community Development, in which event the estimate shall govern.

1968, c. 224, § 15.1-1402; 1976, c. 760; 1986, c. 164; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587; 2017, c. 377.

**§ 15.2-4203. Organization of planning district commission.**

A. At any time after the establishment of the geographic boundaries of a planning district, the localities or Indian tribes embracing at least 45 percent of the population within the district acting by their governing bodies may organize a planning district commission by written agreement. Any locality not a party to such charter agreement shall continue as a part of the planning district, but, until such time as such locality elects to become a part of the planning district commission as hereinafter provided, shall not be represented in the composition of the membership of the planning district commission. Any Indian tribe (i) whose land is located within the boundaries of the planning district and (ii) that is not a party to such charter agreement may elect to become part of the planning district commission at any time after its formation, and may negotiate the terms of such membership with the planning district commission. Whenever a planning district is created which contains only two counties, the governing body of either county may organize a planning district commission in accordance with the provisions of this chapter if the governing body of the other county does not agree to organize such a planning district commission.

B. The charter agreement shall set forth:

1. The name of the planning district. An entity organized as a planning district commission under this act may employ the name "regional council" or "regional commission" as a substitute for the name "planning district commission."

2. The locality in which its principal office shall be situated.

3. The effective date of the organization of the planning district commission.

4. The composition of the membership of the planning district commission. At least a majority of its members shall be elected officials of the governing bodies of the localities within the district, or

members of the General Assembly, with each county, city and town of more than 3,500 population having at least one representative. In any planning district other than planning district number 23, a town of 3,500 or less population may petition the planning district commission to be represented thereon. The planning district commission may, in its discretion, grant representation to such town by a majority vote of the members of the commission. Other members shall be qualified voters and residents of the district. In planning districts number 4 and 14, the membership may also include representatives of higher education institutions. Should the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of each of the governing bodies of the participating localities.

5. The term of office of the members, their method of selection or removal and the method for the selection and the term of office of a chairman.

6. The voting rights of members. Such voting rights need not be equal and may be weighed on the basis of the population of the locality represented by the member, the aggregation of the voting rights of members representing one locality, or otherwise.

7. The procedure for amendment, for addition of other localities within the planning district which are not parties to the original charter agreement, and the withdrawal from the charter agreement by localities within the planning district electing to do so.

C. The governing body of any locality which is a member of the planning district commission may provide for compensation to be paid by it for its commission members, except for any full-time salaried employees of the locality. The amount of such compensation shall not exceed the amount fixed by the planning district commission.

1968, c. 224, § 15.1-1403; 1970, cc. 303, 703; 1972, c. 595; 1973, c. 176; 1982, c. 660; 1989, c. 49; 1993, c. 838; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2000, c. 984; 2005, c. 819; 2017, c. 377.

**§ 15.2-4204. Disposition of earnings and assets of planning district commissions.**

No part of the net earnings of any planning district commission organized under the provisions of this chapter shall inure to the benefit of, or be distributable to, any of its members, officers or other private persons, other than to its member localities as provided in this chapter. However, the commission may pay reasonable compensation for services rendered and make payments and distributions in furtherance of the purposes of a planning district commission as set forth in this chapter and in its charter and bylaws. Upon the dissolution or termination of any planning district commission, it shall, after paying or making provisions for the payment of its liabilities, distribute its assets to its member localities, pro rata, based upon the formula used to determine local government dues to the commission.

1989, c. 178, § 15.1-1403.1; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4205. Powers of commission generally.**

A. Upon organization of a planning district commission, pursuant to charter agreement, it shall be a public body corporate and politic, the purposes of which shall be to perform the planning and other

functions provided by this chapter, and it shall have the power to perform such functions and all other powers incidental thereto.

B. Without in any manner limiting or restricting the general powers conferred by this chapter, the planning district commission may:

1. Adopt and have a common seal and to alter the same at pleasure.

2. Sue and be sued.

3. Adopt bylaws and make rules and regulations for the conduct of its business; however, a planning district commission shall not amend its budget once adopted during the applicable fiscal year except pursuant to an affirmative vote of the same number of the entire membership of the planning district commission required to adopt the budget.

4. Make and enter into all contracts or agreements, as it may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter.

5. Apply for and accept, disburse and administer, for itself or for member localities so requesting, loans and grants of money or materials or property at any time from any private or charitable source or the United States of America or the Commonwealth, or any agency or instrumentality thereof.

6. Exercise any power usually possessed by private corporations, including the right to expend such funds as may be considered by it to be advisable or necessary in the performance of its duties and functions.

7. Employ engineers, attorneys, planners, such other professional experts and consultants and such general and clerical employees as may be deemed necessary, and prescribe their powers and duties and fix their compensation.

8. Do and perform any acts and things authorized by this chapter through or by means of its own officers, agents and employees, or by contracts with any persons.

9. Execute instruments and do and perform acts or things necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this chapter.

10. Create an executive committee which may exercise the powers and authority of the planning district commission under this chapter. The chairman of the planning district commission shall serve as a member and as the chairman of the executive committee. The composition of the remaining membership of the executive committee, the term of office of its members and any alternate members, their method of selection or removal, the voting rights of members, procedures for the conduct of its meetings, and any limitations upon the general authority of the executive committee shall be established by the bylaws of the planning district commission. Any planning district commission may establish such other special and standing committees, advisory, technical, or otherwise, as it deems desirable for the transaction of its affairs.

1968, c. 224, § 15.1-1404; 1975, c. 83; 1986, c. 164; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587.

### § 15.2-4206. Additional powers of planning district commissions.

Planning district commissions may, in addition to and not in limitation of all other powers granted by this chapter:

1. Acquire, lease, sell, exchange, donate and convey its projects, property or facilities in furtherance of the purposes of planning district commissions as set forth in this chapter;

2. Issue its bonds, notes or other evidences of indebtedness, whether payable solely out of the revenues and receipts derived or to be derived from the leasing, sale or other disposition or use of such projects, property or facilities or otherwise, for the purpose of carrying out any of its powers or purposes set forth in this chapter; and

3. As security for the payment of the principal of and premium, if any, and interest on any such bonds, notes or other evidences of indebtedness, mortgage and pledge its projects, property or facilities or any part or parts thereof and pledge the revenues therefrom or from any part thereof.

1989, c. 178, § 15.1-1404.1; 1995, cc. 732, 796; 1997, c. 587.

### § 15.2-4207. Purposes of commission.

A. It is the purpose of the planning district commission to encourage and facilitate local government cooperation and state-local cooperation in addressing on a regional basis problems of greater than local significance. The cooperation resulting from this chapter is intended to facilitate the recognition and analysis of regional opportunities and take account of regional influences in planning and implementing public policies and services. Functional areas warranting regional cooperation may include, but shall not be limited to: (i) economic and physical infrastructure development; (ii) solid waste, water supply and other environmental management; (iii) transportation; (iv) criminal justice; (v) emergency management; (vi) human services; and (vii) recreation.

Types of regional cooperative arrangements that commissions may pursue include but are not limited to (i) the facilitation of revenue sharing agreements; (ii) joint service delivery approaches; (iii) joint government purchasing of goods and services; (iv) regional data bases; and (v) regional plans.

B. The planning district commission shall also promote the orderly and efficient development of the physical, social and economic elements of the district by planning, and encouraging and assisting localities to plan, for the future. If requested by a member locality or group of member localities and to the extent the commission may elect to act, the commission may assist the localities by carrying out plans and programs for the improvement and utilization of their physical, social and economic elements. The commission shall not, however, have a legal obligation to perform the functions necessary to implement the plans and policies established by it or to furnish governmental services to the district. Additionally, Planning District Commissions 1, 2, and 13 shall be designated as economic development organizations within the Commonwealth.

C. The authority of the commission includes the power, to the extent the commission may from time to time determine, when requested to do so by a member locality or group of member localities, (i) to participate in the creation or organization of nonprofit corporations to perform functions or operate

programs in furtherance of the purposes of this chapter; (ii) to perform such functions and to operate such programs itself; (iii) to contract with nonprofit entities, including localities, performing such functions or operating such programs to provide administrative, management, and staff support, accommodations in its offices, and financial assistance; and (iv) to provide financial assistance, including matching funds, to interdistrict entities which perform governmental or quasi-governmental functions directly benefiting the commission's district and which are organized under authority of the Commonwealth or of the federal government.

D. Nothing herein shall be construed to permit the commission to perform functions, operate programs, or provide services within and for a locality if the governing body of that jurisdiction opposes its doing so.

1968, c. 224, § 15.1-1405; 1972, c. 814; 1975, c. 381; 1984, c. 739; 1986, c. 164; 1991, c. 208; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2009, c. 863.

**§ 15.2-4208. General duties of planning district commissions.**

Planning district commissions shall have the following duties and authority:

1. To conduct studies on issues and problems of regional significance;

2. To identify and study potential opportunities for state and local cost savings and staffing efficiencies through coordinated governmental efforts;

3. To identify mechanisms for the coordination of state and local interests on a regional basis;

4. To implement services upon request of member localities;

5. To provide technical assistance to state government and member localities;

6. To serve as a liaison between localities and state agencies as requested;

7. To review local government aid applications as required by § 15.2-4213 and other state or federal law or regulation;

8. To conduct strategic planning for the region as required by §§ 15.2-4209 through 15.2-4212;

9. To develop regional functional area plans as deemed necessary by the commission or as requested by member localities;

10. To assist state agencies, as requested, in the development of substate plans;

11. To participate in a statewide geographic information system, the Virginia Geographic Information Network, as directed by the Department of Planning and Budget; and

12. To collect and maintain demographic, economic and other data concerning the region and member localities, and act as a state data center affiliate in cooperation with the Virginia Employment Commission.

1995, cc. 732, 796, § 15.1-1405.1; 1997, c. 587; 1998, cc. 668, 686.

**§ 15.2-4209. Preparation and adoption of regional strategic plan.**

A. Except in planning districts in which regional planning also is conducted by multi-state councils of government, each planning district commission shall prepare a regional strategic plan for the guidance of the district. The plan shall concern those elements which are of importance in more than one of the localities within the district, as distinguished from matters of only local importance. The plan shall include regional goals and objectives, strategies to meet those goals and objectives and mechanisms for measuring progress toward the goals and objectives. The strategic plan shall include those subjects necessary to promote the orderly and efficient development of the physical, social and economic elements of the district such as transportation, housing, economic development and environmental management. The plan may be divided into parts or sections as the planning district commission deems desirable. In developing the regional strategic plan, the planning district commission shall seek input from a wide range of organizations in the region, including local governing bodies, the business community and citizen organizations.

B. In planning districts in which regional planning also is conducted by multi-state councils of government, each planning district commission may prepare a regional strategic plan for the guidance of the district. If prepared in accordance with this section, such plan shall conform with the requirements of subsection A and also shall include references to the relevant provisions of the most current regional strategic plan prepared by the multi-state council of governments that includes any of the area comprising the planning district.

C. Before the strategic plan is adopted, it shall be submitted to the Department of Housing and Community Development and to the governing body of each locality within the district for a period of not less than thirty days prior to a hearing to be held by the planning district commission thereon, after notice as provided in § 15.2-2204. Each such local governing body shall make recommendations to the planning district commission on or before the date of the hearing with respect to the effect of the plan within its locality. The Department of Housing and Community Development shall notify the planning district commission prior to the hearing as to whether the proposed strategic plan conflicts with plans of adjacent planning districts.

D. Upon approval of the strategic plan by a planning district commission after a public hearing, it shall be submitted to the governing body of each locality (excluding towns of less than 3,500 population unless members of the commission) within the district for review and possible adoption. The plan shall become effective with respect to all action of a planning district commission upon approval by the planning district commission. The plan shall not become effective with respect to the action of the governing body of any locality within the district until adopted by the governing body of such locality.

E. The adopted strategic plan shall be submitted within thirty days of adoption to the Department of Housing and Community Development for information and coordination purposes.

1968, c. 224, § 15.1-1406; 1976, c. 760; 1981, c. 315; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2013, c. 607.

**§ 15.2-4210. Commission to act only in conformity with regional strategic plan.**

When the strategic plan becomes effective as the district plan, the planning district commission shall not, except as provided in the plan, establish any policies or take any action which, in its opinion, is not in conformity with the plan.

1968, c. 224, § 15.1-1407; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686.

**§ 15.2-4211. Amendment of regional strategic plan.**

The strategic plan may be amended in the same manner as provided for the original approval and adoption of the plan. However, if the planning district commission determines that a proposed amendment has less than districtwide significance, such amendment may be submitted only to the governing bodies of those localities which the planning district commission determines to be affected. The amended strategic plan shall be submitted within thirty days of amendment to the Department of Housing and Community Development.

1968, c. 224, § 15.1-1408; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4212. Review of regional strategic plan by commission.**

At least once every five years the regional strategic plan shall be revised and formally approved by the planning district commission. The revised plan shall not become effective with respect to the action of the governing body of any locality within the district until adopted by the governing body of such locality.

1968, c. 224, § 15.1-1409; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4213. Commission to be informed of applications for state or federal aid by local governing bodies.**

In each planning district in which a planning district commission has been organized, the governing body of each locality shall make available to the planning district commission a summary of applications to agencies of the state or federal government for loans or grants-in-aid for local projects. Submission of the summary of applications is for informational purposes only, unless otherwise directed by state or federal regulations or laws.

1968, c. 224, § 15.1-1410; 1972, c. 599; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4214. Cooperation and consultation with other agencies.**

A planning district commission may cooperate with other planning district commissions, councils of governments, or the legislative and administrative bodies and officials of other districts or localities within or outside a district, so as to coordinate the planning, development and services of a district with the plans and services of other districts and localities and the Commonwealth. A planning district commission may appoint committees and adopt rules to effect such cooperation. A planning district commission shall also cooperate with the Department of Housing and Community Development and use advice and information furnished by such Department and by other state and federal officials, departments and agencies. Such Department and such officials, departments and agencies having information, maps and data pertinent to the planning and development of a district may make the material, together with services and funds, available for use of a planning district commission.

All agencies of the Commonwealth shall notify the Department of Housing and Community Development prior to engaging in planning activities which will require planning district commission participation. State agencies are encouraged to consult with planning district commissions in the development of regional plans and services and for data collection.

1968, c. 224, § 15.1-1411; 1976, cc. 488, 760; 1977, c. 613; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4215. Annual report required.**

Each planning district commission shall submit an annual report by September 1 to its member local governments and the Department of Housing and Community Development in accordance with a format prescribed by the Department. The annual report shall contain at a minimum a description of the activities conducted by the planning district commission during the preceding fiscal year, including how the commission met the provisions of this chapter, and information showing the sources and amounts of funding provided to the commission. The Department of Housing and Community Development shall summarize the annual reports in a report to be distributed in accordance with § 36-139.6.

1995, cc. 732, 796, § 15.1-1411.1; 1997, c. 587.

**§ 15.2-4216. State aid.**

A. Upon the organization of a planning district commission, it shall be entitled to receive state financial support to assist it in carrying out its purposes. Such state aid shall be in an amount as provided in the general appropriations act. In order to be allocated such state aid, each planning district commission shall prepare and submit an annual report, as required in § 15.2-4215, which details its compliance with the provisions of this chapter, and an annual work program of activities proposed for the next fiscal year. The fiscal year of the planning district commission shall end June 30.

B. If two planning districts are merged pursuant to § 15.2-4221, the new district shall be entitled to receive the combined amount of aid to which the two districts it replaced separately would have been entitled for five years from the effective date of the merger.

1968, c. 224, § 15.1-1412; 1977, c. 613; 1985, c. 127; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587.

**§ 15.2-4217. Regional Cooperation Incentive Fund created; administration thereof.**

A. There is hereby created a Regional Cooperation Incentive Fund for the purpose of encouraging inter-local strategic and functional area planning and other regional cooperative activities. In addition, the fund shall have the purpose of fostering inter-local service delivery consolidation or coordination where such consolidation or coordination will result in the more efficient use of local funds. The Fund shall be administered by the Department of Housing and Community Development. Fund availability is subject to the Appropriation Act.

B. From time to time the General Assembly and the Governor may designate specific functional areas or activities which are to be given highest priority for funding, including but not limited to economic development, criminal justice, solid waste management, water supply, emergency management and transportation.

C. Disbursements from the Regional Cooperation Incentive Fund shall be made on a matching grant basis to planning district commissions, or in the case of inter-local service delivery consolidation or coordination, to two or more cooperating localities. The Department of Housing and Community Development shall promulgate regulations for the administration of the funds, including application forms, eligibility requirements and terms and duration of grants. In establishing regulations, the following criteria shall be met:

1. The planning district commission or member localities must provide, at a minimum, a 25 percent match to the grant, or in the case of inter-local service delivery consolidation or coordination, the Regional Cooperation Incentive Fund may provide up to 50 percent of the cost of implementation; and

2. Any project for which a grant is sought shall use private initiative and enterprise insofar as feasible, and emphasize coordination of available governmental and private financial and technical resources.

D. The Department of Housing and Community Development shall require periodic reports from grant recipients concerning progress of the project and the use of funds.

1995, cc. 732, 796, § 15.1-1412.1; 1997, c. 587; 2012, c. 500.

**§ 15.2-4217.1. Specialized Transportation Incentive Fund.**

The Specialized Transportation Incentive Fund (the "Fund") is established and shall be used to assist participating planning districts in the development of coordinated specialized transportation plans and projects. In order to be eligible to receive monies from the Fund, a planning district commission or single locality shall establish, in consultation with its metropolitan planning organization if one exists, an advisory transportation coordination committee and shall submit to the Disability Commission a plan for cost-effective coordination of specialized transportation services in the planning district or in localities within the planning district. Single localities may appoint an advisory transportation coordinating committee independent of the planning district commission and receive specialized transportation incentive funds if the locality is located in a regional planning district in which all other localities are recipients of the federal funds and subject to the provisions of Title II of the Americans with Disabilities Act, Public Law 101-336 (42 U.S.C. § 12131 et seq.). The advisory transportation coordination committee shall guide planning for the coordination and administration of specialized transportation with human service agencies, participating public transportation systems and, where appropriate, with private for-profit and nonprofit transportation providers. Advisory transportation coordination committees shall be composed of, but not limited to, elderly and disabled persons, providers of specialized transportation systems, participating public transportation systems, and local private for-profit and nonprofit transportation providers. Localities and public transportation systems subject to Title II of the Americans with Disabilities Act, Public Law 101-336 (42 U.S.C. § 12131 et seq.), shall not be required to participate in coordinated specialized transportation plans, but may participate at their option.

2003, c. 454.

**§ 15.2-4218. Local governing bodies authorized to appropriate or lend funds.**

The governing bodies of the localities within a planning district are authorized to appropriate or lend funds to the planning district commission.

1968, c. 224, § 15.1-1413; 1997, c. 587.

### § 15.2-4219. Exemption of commission from taxation.

The planning district commission shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by it or upon the income therefrom. For purposes of subdivision 4 of § 58.1-609.1, a planning district commission is deemed a "political subdivision of this Commonwealth" as the term is used in that section.

1968, c. 224, § 15.1-1415; 1993, c. 310; 1997, c. 587.

### § 15.2-4220. Dual membership authorized.

Any locality which is a member of a planning district commission may become a member of an additional planning district commission upon such terms and conditions as mutually agreed to by the locality and the additional planning district commission. The locality shall notify the Department of Housing and Community Development of its membership status in the additional planning district commission within thirty days of becoming a member. Whenever a state-directed activity is conducted by all the planning district commissions, the planning district boundaries identified by the Department of Housing and Community Development shall be used, unless alternative boundaries are agreed to by the localities and the planning district commissions affected. No additional state financial support shall be paid due to a locality becoming a member of an additional planning district commission.

1985, c. 109, § 15.1-1416; 1988, c. 263; 1991, c. 35; 1993, c. 797; 1994, c. 650; 1995, cc. 732, 796; 1997, c. 587.

### § 15.2-4221. Merger of two planning district commissions.

The commissions of any two planning districts and a majority of the governing bodies of the localities comprising each district, upon finding that the community of interest, ease of communications and transportation, and geographic factors and natural boundaries among the localities of the two districts are such that the best interest of the localities would be served, may by resolutions concurrently adopted vote to merge into one district and request the Department of Housing and Community Development to declare the districts so merged. Upon such declaration, the commissions of the two districts shall be merged into one commission. The commission of the new district thereupon shall organize as provided in § 15.2-4203; however, nothing shall prevent the commissions of the two districts which are to be merged from agreeing to the terms of such organization prior to their vote to merge.

1990, c. 722, § 15.1-1416.1; 1997, c. 587.

### § 15.2-4222. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provisions of this chapter are hereby declared to be inapplicable to the provisions of this chapter.

1968, c. 224, § 15.1-1452; 1997, c. 587.

# Chapter 43 - AGRICULTURAL AND FORESTAL DISTRICTS ACT

## § 15.2-4300. Short title.

This chapter shall be known and may be cited as the "Agricultural and Forestal Districts Act."

1977, c. 681, § 15.1-1506; 1997, c. 587.

## § 15.2-4301. Declaration of policy findings and purpose.

It is the policy of the Commonwealth to conserve and protect and to encourage the development and improvement of the Commonwealth's agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also the policy of the Commonwealth to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, as well as for aesthetic purposes. It is the purpose of this chapter to provide a means for a mutual undertaking by landowners and localities to protect and enhance agricultural and forestal land as a viable segment of the Commonwealth's economy and as an economic and environmental resource of major importance.

1977, c. 681, § 15.1-1507; 1987, c. 552; 1997, c. 587.

## § 15.2-4302. Definitions.

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

"Advisory committee" means the agricultural and forestal districts advisory committee.

"Agricultural products" means crops, livestock and livestock products, including but not limited to: field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

"Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, and includes the processing or retail sales by the producer of crops, livestock or livestock products which are produced on the parcel or in the district.

"Agriculturally and forestally significant land" means land that has recently or historically produced agricultural and forestal products, is suitable for agricultural or forestal production or is considered appropriate to be retained for agricultural and forestal production as determined by such factors as soil quality, topography, climate, markets, farm structures, and other relevant factors.

"Application" means the set of items a landowner or landowners must submit to the local governing body when applying for the creation of a district or an addition to an existing district.

"District" means an agricultural, forestal, or agricultural and forestal district.

"Forestal production" means the production for commercial purposes of forestal products and includes the processing or retail sales, by the producer, of forestal products which are produced on the parcel or in the district. "Forestal products" includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees and other tree and wood products for sale or for farm use.

"Landowner" or "owner of land" means any person holding a fee simple interest in property but does not mean the holder of an easement.

"Program administrator" means the local governing body or local official appointed by the local governing body to administer the agricultural and forestal districts program.

1977, c. 681, § 15.1-1508; 1979, c. 377; 1981, c. 54; 1987, c. 552; 1997, c. 587; 2011, cc. 344, 355.

**§ 15.2-4303. Power of localities to enact ordinances; application form and fees; maps; sample form.**

A. Each locality shall have the authority to promulgate forms and to enact ordinances to effectuate this chapter. The locality may charge a reasonable fee for each application submitted pursuant to this chapter; such fee shall not exceed $500 or the costs of processing and reviewing an application, whichever is less.

B. The locality shall prescribe application forms for districts that include but need not be limited to the following information:

1. The general location of the district;

2. The total acreage in the district or acreage to be added to an existing district;

3. The name, address, and signature of each landowner applying for creation of a district or an addition to an existing district and the acreage each owner owns within the district or addition;

4. The conditions proposed by the applicant pursuant to § 15.2-4309;

5. The period before first review proposed by the applicant pursuant to § 15.2-4309; and

6. The date of application, date of final action by the local governing body and whether approved, modified or rejected.

C. The application form shall be accompanied by maps or aerial photographs, or both, prescribed by the locality that clearly show the boundaries of the proposed district and each addition and boundaries of properties owned by each applicant, and any other features as prescribed by the locality.

D. For each notice required by this chapter to be sent to a landowner, notice shall be sent by first-class mail to the last known address of such owner as shown on the application hereunder or on the current real estate tax assessment books or maps. A representative of the local planning commission or local governing body shall make affidavit that such mailing has been made and file such affidavit with the papers in the case.

1977, c. 681, § 15.1-1509; 1978, c. 604; 1979, c. 377; 1984, c. 20; 1987, c. 552; 1997, c. 587; 2005, c. 667; 2011, cc. 344, 355.

**§ 15.2-4304. Agricultural and forestal districts advisory committee.**

A. Upon receipt of the first agricultural and forestal districts application, the local governing body shall establish an advisory committee which shall consist of four landowners who are engaged in agricultural or forestal production, four other landowners of the locality, the commissioner of revenue or

the local government's chief property assessment officer, and a member of the local governing body. The members of the committee shall be appointed by and serve at the pleasure of the local governing body. The advisory committee shall elect a chairman and a vice-chairman and elect or appoint a secretary who need not be a member of the committee. The advisory committee shall serve without pay but the locality may reimburse each member for actual and necessary expenses incurred in the performance of his duties. Any expenditures of the committee shall be within the amounts appropriated for such purpose by the local governing body. The committee shall advise the local planning commission and the local governing body and assist in creating, reviewing, modifying, continuing or terminating districts within the locality. In particular, the committee shall render expert advice as to the nature of farming and forestry and agricultural and forestal resources within the district and their relation to the entire locality.

B. The local governing body may designate the planning commission to act for and in lieu of an agricultural and forestal districts advisory committee if the membership of the planning commission includes at least four landowners who are engaged in agricultural or forestal production.

1977, c. 681, § 15.1-1510; 1987, c. 552; 1989, c. 52; 1997, c. 587; 2011, cc. 344, 355.

**§ 15.2-4305. Application for creation of district in one or more localities; size and location of parcels.**

On or before November 1 of each year or any other annual date selected by the locality, any owner or owners of land may submit an application to the locality for the creation of a district or addition of land to an existing district within the locality. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district (i) if the nearest boundary of the parcel is within one mile of the boundary of the core, (ii) if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core, or (iii) if the local governing body finds, in consultation with the advisory committee or planning commission, that the parcel not part of the core or within one mile of the boundary of the core contains agriculturally and forestally significant land. No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one locality, provided that (i) separate application is made to each locality involved, (ii) each local governing body approves the district, and (iii) the district meets the size requirements of this section. In the event that one of the local governing bodies disapproves the creation of a district within its boundaries, the creation of the district within the adjacent localities' boundaries shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subsection be construed to create two districts.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

**§ 15.2-4306. Criteria for evaluating application.**

Land being considered for inclusion in a district may be evaluated by the advisory committee and the planning commission through the Virginia Land Evaluation and Site Assessment (LESA) System or, if one has been developed, a local LESA System. The following factors should be considered by the local planning commission and the advisory committee, and at any public hearing at which an application that has been filed pursuant to § 15.2-4303 is being considered:

1. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;

2. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;

3. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;

4. Local developmental patterns and needs;

5. The comprehensive plan and, if applicable, the zoning regulations;

6. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and

7. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587.

**§ 15.2-4307. Review of application; notice; hearing.**

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee.

The advisory committee shall review and make recommendations concerning the application or modification thereof to the local planning commission, which shall:

1. Notify, by first-class mail, adjacent property owners, as shown on the maps of the locality used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the local governing body; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local

planning commission within thirty days of the date of the notice; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to § 15.2-4309; and (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;

2. Hold a public hearing as prescribed by law; and

3. Report its recommendations to the local governing body including but not limited to the potential effect of the district and proposed modifications upon the locality's planning policies and objectives.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

**§ 15.2-4308. Repealed.**

Repealed by Acts 2011, cc. 344 and 355, cl. 2.

**§ 15.2-4309. Hearing; creation of district; conditions; notice.**

A. The local governing body, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

B. The governing body may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. Local governing bodies shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or divisions of parcels for such family members, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district. To further the purposes of this chapter and to promote agriculture and forestry and the creation of districts, the local governing body may adopt programs offering incentives to landowners to impose land use and conservation restrictions on their land within the district. Programs offering such incentives shall not be permitted unless authorized by law. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more

than ten years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

C. The local governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from (i) November 1 or (ii) the other date selected by the locality as provided in § 15.2-4305. Upon the adoption of an ordinance creating a district or adding land to an existing district, the local governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the local governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

### § 15.2-4310. Additions to a district.

Additional parcels of land may be added to an existing district at any time by following the process and application deadlines prescribed for the creation of a new district.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 2011, cc. 344, 355.

### § 15.2-4311. Review of districts.

The local governing body may complete a review of any district created under this section, together with additions to such district, no less than four years but no more than ten years after the date of its creation and every four to ten years thereafter. If the local governing body determines that a review is necessary, it shall begin such review at least ninety days before the expiration date of the period established when the district was created. In conducting such review, the local governing body shall ask for the recommendations of the local advisory committee and the planning commission in order to determine whether to terminate, modify or continue the district. When each district is reviewed, land within the district may be withdrawn at the owner's discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district. The local planning commission or the advisory committee shall schedule as part of the review a public meeting with the owners of land within the district, and shall send by first-class mail a written notice of the meeting and review to all such owners. The notice shall state the time and place for the meeting; that the district is being reviewed by the local governing body; that the local governing body may continue, modify, or terminate the district; and that land may be withdrawn from the district at the owner's discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district. The local governing body shall hold a public hearing as provided by law. The governing body may stipulate conditions to continuation of the district and may establish a period before the next

review of the district, which may be different from the conditions or period established when the district was created. Any such different conditions or period shall be described in a notice sent by first-class mail to all owners of land within the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance continuing the district. Unless the district is modified or terminated by the local governing body, the district shall continue as originally constituted, with the same conditions and period before the next review as that established when the district was created.

If the local governing body determines that a review is unnecessary, it shall set the year in which the next review shall occur.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587.

**§ 15.2-4312. Effects of districts.**

A. Land lying within a district and used in agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, if the requirements for such assessment contained therein are satisfied. Any ordinance adopted pursuant to § 15.2-4303 shall extend such use-value assessment and taxation to eligible real property within such district whether or not a local ordinance pursuant to § 58.1-3231 has been adopted.

B. No local government shall exercise any of its powers to enact local laws or ordinances within a district in a manner which would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the purposes of this chapter unless such restrictions or regulations bear a direct relationship to public health and safety. The comprehensive plan and zoning and subdivision ordinances shall be applicable within said districts, to the extent that such ordinances are not in conflict with the conditions to creation or continuation of the district set forth in the ordinance creating or continuing the district or the purposes of this chapter. Nothing in this chapter shall affect the authority of the locality to regulate the processing or retail sales of agricultural or forestal products, or structures therefor, in accordance with the local comprehensive plan or any local ordinances. Local ordinances, comprehensive plans, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to any district shall take into account the existence of such district and the purposes of this chapter.

C. It shall be the policy of all agencies of the Commonwealth to encourage the maintenance of farming and forestry in districts and all administrative regulations and procedures of such agencies shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans or other funding.

D. No special district for sewer, water or electricity or for nonfarm or nonforest drainage may impose benefit assessments or special tax levies on the basis of frontage, acreage or value on land used for primarily agricultural or forestal production within a district, except a lot not exceeding one-half acre surrounding any dwelling or nonfarm structure located on such land. However, such benefit assessment or special ad valorem levies may continue if imposed prior to the formation of the district.

1977, c. 681, § 15.1-1512; 1979, c. 377; 1987, c. 552; 1997, c. 587.

**§ 15.2-4313. Proposals as to land acquisition or construction within district.**

A. Any agency of the Commonwealth or any political subdivision which intends to acquire land or any interest therein other than by gift, devise, bequest or grant, or any public service corporation which intends to: (i) acquire land or any interest therein for public utility facilities not subject to approval by the State Corporation Commission, provided that the proposed acquisition from any one farm or forestry operation within the district is in excess of one acre or that the total proposed acquisition within the district is in excess of ten acres or (ii) advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures, shall at least ninety days prior to such action notify the local governing body and all of the owners of land within the district. Notice to landowners shall be sent by first-class or registered mail and shall state that further information on the proposed action is on file with the local governing body. Notice to the local governing body shall be filed in the form of a report containing the following information:

1. A detailed description of the proposed action, including a proposed construction schedule;

2. All the reasons for the proposed action;

3. A map indicating the land proposed to be acquired or on which the proposed dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures are to be constructed;

4. An evaluation of anticipated short-term and long-term adverse impacts on agricultural and forestal operations within the district and how such impacts are proposed to be minimized;

5. An evaluation of alternatives which would not require action within the district; and

6. Any other relevant information required by the local governing body.

B. Upon receipt of a notice filed pursuant to subsection A, the local governing body, in consultation with the local planning commission and the advisory committee, shall review the proposed action and make written findings as to (i) the effect the action would have upon the preservation and enhancement of agriculture and forestry and agricultural and forestal resources within the district and the policy of this chapter; (ii) the necessity of the proposed action to provide service to the public in the most economical and practical manner; and (iii) whether reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts on agricultural and forestal resources within the district. If requested to do so by any owner of land that will be directly affected by the proposed action of the agency, corporation, or political subdivision, the Director of the Department of

Conservation and Recreation, or his designee, may advise the local governing body on the issues listed in clauses (i), (ii) and (iii) of this subsection.

C. If the local governing body finds that the proposed action might have an unreasonably adverse effect upon either state or local policy, it shall (i) issue an order within ninety days from the date the notice was filed directing the agency, corporation or political subdivision not to take the proposed action for a period of 150 days from the date the notice was filed and (ii) hold a public hearing, as prescribed by law, concerning the proposed action. The hearing shall be held where the local governing body usually meets or at a place otherwise easily accessible to the district. The locality shall publish notice in a newspaper having a general circulation within the district, and mail individual notice of the hearing to the political subdivisions whose territory encompasses or is part of the district, and the agency, corporation or political subdivision proposing to take the action. Before the conclusion of the 150-day period, the local governing body shall issue a final order on the proposed action. Unless the local governing body, by an affirmative vote of a majority of all the members elected to it, determines that the proposed action is necessary to provide service to the public in the most economic and practical manner and will not have an unreasonably adverse effect upon state or local policy, the order shall prohibit the agency, corporation or political subdivision from proceeding with the proposed action. If the agency, corporation or political subdivision is aggrieved by the final order of the local governing body, an appeal shall lie to the circuit court having jurisdiction of the territory wherein a majority of the land affected by the acquisition is located. However, if such public service corporation is regulated by the State Corporation Commission, an appeal shall be to the State Corporation Commission.

1977, c. 681, § 15.1-1512; 1979, c. 377; 1987, c. 552; 1997, c. 587; 1998, c. 833; 2000, c. 1069.

**§ 15.2-4314. Withdrawal of land from a district; termination of a district.**

A. At any time after the creation of a district within any locality, any owner of land lying in such district may file with the program administrator a written request to withdraw all or part of his land from the district for good and reasonable cause. The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the local governing body. Land proposed to be withdrawn may be reevaluated through the Virginia or local Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of § 15.2-4307 or § 15.2-4311.

B. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate

family as defined in § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

C. Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subsection B of § 15.2-4312.

D. Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the local governing body and the local commissioner of the revenue within two years of the date of death of the owner.

E. Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the local governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the local governing body shall delete the identification of such parcel from the zoning map, where applicable.

F. The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to § 15.2-4311 of this chapter.

1977, c. 681, § 15.1-1513; 1979, c. 377; 1985, c. 13; 1987, c. 552; 1997, c. 587; 2000, c. 521; 2011, cc. 344, 355.

## Chapter 44 - LOCAL AGRICULTURAL AND FORESTAL DISTRICTS ACT

### § 15.2-4400. Short title.

This chapter shall be known and may be cited as the "Local Agricultural and Forestal Districts Act."

1982, c. 374, § 15.1-1513.1; 1997, c. 587.

### § 15.2-4401. Declaration of policy findings and purpose.

It is state policy to encourage localities of the Commonwealth to conserve and protect and to encourage the development and improvement of their agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also state policy to encourage localities of the Commonwealth to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, aesthetic quality and other environmental purposes. It is the purpose of this chapter to provide a means by which localities may protect and enhance agricultural and forestal lands of local

significance as a viable segment of the local economy and as an important economic and environmental resource.

1982, c. 374, § 15.1-1513.2; 1997, c. 587.

**§ 15.2-4402. Definitions.**

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

"Advisory committee" means the agricultural and forestal advisory committee.

"Agricultural products" means crops, livestock and livestock products, including but not limited to field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

"Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, but not processing or retail merchandising of crops, livestock or livestock products.

"Agriculturally and forestally significant land" means land that has historically produced agricultural and forestal products, or land that an advisory committee considers good agricultural and forestal land based upon such factors as soil quality, topography, climate, markets, farm improvements, agricultural and forestry economics and technology, and other relevant factors.

"Clerk" means the clerk of the local circuit court or the clerk of the local governing body.

"Forestal products" includes, but is not limited to, lumber, pulpwood, posts, firewood, Christmas trees and other wood products for sale or for farm use.

"Landowner" or "owner of land" means any person holding a fee simple interest in property but does not mean the holder of an easement.

"Participating locality" means the Counties of Albemarle, Augusta, Fairfax, Hanover, James City, Loudoun, Prince William, Roanoke, and Rockingham.

1982, c. 374, § 15.1-1513.3; 1991, c. 67; 1992, c. 344; 1997, c. 587; 2007, c. 813; 2012, c. 419.

**§ 15.2-4403. Power of participating localities to enact ordinances; application form and fees.**

A. Participating localities shall have the authority to enact ordinances and to promulgate forms to effectuate this chapter. The participating locality may charge a reasonable fee for all applications submitted pursuant to this chapter; such fee shall not to exceed fifty dollars or the costs of processing and reviewing an application, whichever is less.

B. The participating locality shall prescribe application forms for agricultural and forestal districts that include but are not limited to the following information:

1. The general location and boundaries of the district;

2. A summary of the acreage in the district including (i) estimated total acreage in the district and (ii) acreage owned by persons proposing the district;

3. The name, address, total acreage owned within the proposed district and signature of each landowner proposing the district; and

4. The date of application, date of final county action and whether approved, modified or rejected.

C. The application form shall be accompanied by maps or aerial photographs, or both, prescribed by the participating locality which clearly show the boundaries of the proposed district, boundaries of properties within the proposed district owned by each applicant, and any other features as prescribed by the participating locality.

1982, c. 374, § 15.1-1513.4; 1997, c. 587.

**§ 15.2-4404. Agricultural and forestal districts advisory committee.**

Upon receipt of the first agricultural and forestal district application submitted as permitted under an ordinance adopted pursuant to this chapter, the local governing body shall establish an advisory committee as prescribed in § 15.2-4304, which section shall apply mutatis mutandis. If an advisory committee has already been established pursuant to § 15.2-4304, it shall carry out the duties prescribed in Chapter 43 (§ 15.2-4300 et seq.) as well as in this chapter.

1982, c. 374, § 15.1-1513.5; 1997, c. 587.

**§ 15.2-4405. Creation of districts of local significance.**

A. A participating locality shall have the authority to create agricultural, forestal, or agricultural and forestal districts of local significance by the adoption of a general ordinance establishing a local districts program according to the provisions of this chapter.

B. In participating localities where such an ordinance has been adopted by the local governing body, any owner or owners of land may submit an application pursuant to § 15.2-4403 to the locality for the creation of an agricultural, forestal, or an agricultural and forestal district of local significance within such locality. Each individual district of local significance shall have a core of no less than the minimum acreage specified in the general ordinance, which minimum acreage in no case shall be less than 20 acres in one parcel or contiguous parcels, provided that (i) any noncontiguous parcel that is not part of the core may be included in a district of local significance if the nearest boundary of such noncontiguous parcel is within one-quarter of a mile of the core and (ii) such noncontiguous parcel had previously been included in a district of local significance. No owner of land shall be included in any agricultural, forestal, or agricultural and forestal district of local significance without the owner's written approval. A separate application may be made by any owner or owners of land for additional contiguous qualifying lands, or noncontiguous lands that meet the conditions of clauses (i) and (ii), to be included in an already created district at any time following such creation.

C. Upon receipt of a proposal for a district of local significance, the local governing body shall refer the proposal to the planning commission which shall:

1. Provide notice of the proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in three conspicuous places within the

jurisdiction in which the proposed district is located. The notice shall state that an application for an agricultural, forestal, or agricultural and forestal district of local significance has been submitted to the local governing body, that a copy of the application is on file open to public inspection in the office of the clerk, that any proposals for modifications of the district shall be filed within 30 days, that any owner included in the proposal may withdraw his land, in whole or in part, at any time until the local governing body makes a final decision as to the constitution of the district pursuant to subsection D, and that hearing dates of the planning commission and local governing body shall be published and posted within 30 days.

2. Refer such proposal and modifications to the advisory committee.

D. Within one year of the date of filing of the application for such original proposal, the proposal: shall be reviewed by (i) the advisory committee, which shall report to the local planning commission its recommendations concerning the proposal and proposed modifications; (ii) the planning commission, which, after receiving the report of the advisory committee, shall hold a public hearing as prescribed in subsection E, and shall report its recommendations concerning the proposal and proposed modifications to the local governing body; and (iii) the local governing body, which, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as prescribed below, and may create the district or any modification of the district by the adoption of a district ordinance as described in subsection E, or reject the creation of a district as it deems appropriate. All districts shall meet the minimum requirements set forth in the participating locality's general ordinance for the creation of districts of local significance.

E. Public hearings required to be held by the planning commission and local governing body shall be conducted in the following manner:

1. The hearing as prescribed by law shall be held where the local governing body usually meets or at a place otherwise readily accessible to the proposed district;

2. The notice of the public hearing as prescribed by law shall contain a description of the proposed district, any proposed modifications and any recommendations of the local planning commission or the advisory committee; and

3. The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing complete with proposed modifications to those municipalities whose territory encompasses or is part of the proposed district.

F. The general ordinance establishing the program to create agricultural, forestal, or agricultural and forestal districts of local significance shall state the criteria which shall be considered by the advisory committee and the local planning commission in advising the local governing body and by the local governing body in making its decision on whether or not to create a district. These criteria shall be based on and consistent with the following factors:

1. The agricultural and forestal significance within the proposed district and in areas adjacent thereto;

2. The presence of any significant agricultural lands or significant forestal lands within the proposed district and adjacent thereto that are not now in active farming or production;

3. The nature and extent of land uses other than active farming or forestry within the proposed district and adjacent thereto;

4. Local developmental patterns and needs including zoning and the comprehensive plan;

5. The scenic and historic features of land uses within the proposed district and adjacent thereto;

6. The environmental benefits of preserving the lands in the district in their existing use; and

7. Any other matter which may be relevant.

In judging significance, any relevant agricultural and forest maps may be considered as well as soil, climate, topography, quality of tree cover, other natural factors, markets for farm and forest products, the extent and nature of farm and forest improvements, evidence of commitment to long-term farm and forest use, anticipated trends in agricultural and forest economic conditions and technology, and such other factors as may be relevant. Criteria for judging the significance of lands in local agricultural and forestal districts to be created pursuant to this chapter may differ from those for judging the significance of lands in statewide districts to be created pursuant to Chapter 43 (§ 15.2-4300 et seq.).

1982, c. 374, § 15.1-1513.6; 1994, c. 431; 1997, c. 587; 2010, c. 653.

**§ 15.2-4406. Provisions of district ordinances for districts of local significance.**

Any district ordinance adopted by the local governing body in order to create or renew an agricultural, forestal, or agricultural and forestal district shall include the following provisions:

1. That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance creating the district for eight years from the date of adoption of such ordinance;

2. That no parcel added to an already created district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight years from the date of adoption of the original district ordinance;

3. That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, if the requirements for such assessment contained therein are satisfied, whether or not a local land-use plan or local ordinance pursuant to § 58.1-3231 has been adopted;

4. That the district shall be reviewed by the local governing body at the end of the eight-year period and that it may by ordinance renew the district or modification thereof for another eight-year period; and

5. Any other provisions to the mutual agreement of the landowner and the local governing body that further the purposes of this chapter.

1982, c. 374, § 15.1-1513.7; 1997, c. 587.

### § 15.2-4407. Withdrawal of land from district of local significance.

A. At any time after the creation of an agricultural, forestal, or an agricultural and forestal district of local significance within Fairfax County, any owner of land lying in such district may file a written notice of withdrawal with the local governing body which created the district, and upon the filing of such notice, the withdrawal shall be effective. In no way shall this section affect the ability of an owner to withdraw his land from a proposed district as is authorized by subsection C of § 15.2-4405.

B. Any person withdrawing land from a district located in the Counties of Albemarle, Augusta, Hanover, James City, Loudoun, Prince William, Roanoke, and Rockingham shall follow the withdrawal procedures required by § 15.2-4314.

C. Upon withdrawal of land from a district, the real estate previously included in such district shall be subject to roll-back taxes, as are provided in § 58.1-3237, and also a penalty in the amount equal to two times the taxes determined in the year following the withdrawal from the district on all land previously within the district.

D. Upon withdrawal of land from a district no provisions of the ordinance which created the district shall any longer apply to the lands previously in the district which were withdrawn.

E. The withdrawal of land from a district shall not itself serve to terminate the existence of the district. Such district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to § 15.2-4405.

1982, c. 374, § 15.1-1513.8; 1983, c. 558; 1991, c. 67, § 15.1-1513.9; 1994, c. 193; 1997, c. 587; 2007, c. 813; 2012, c. 419.

## Chapter 45 - TRANSPORTATION DISTRICT ACT OF 1964 [Repealed]

### §§ 15.2-4500 through 15.2-4534. Repealed.

Repealed by Acts 2014, c. 805, cl. 11, effective October 1, 2014.

## Chapter 46 - Multicounty Transportation Improvement Districts

## Article 1 - Multicounty Transportation Improvement Districts

### § 15.2-4600. Short title; application.

This chapter shall be known as the "Multicounty Transportation Improvement Districts." No district shall be created under this chapter after June 30, 1993.

1997, c. 587.

### § 15.2-4601. Purpose of chapter.

It is the intent of the legislature to encourage the formation of transportation improvement districts in multicounty circumstances in order to facilitate regional transportation initiatives and to gain access to

revenues in addition to general state and local taxes for the purpose of accelerating construction of vital transportation improvements.

It is the further intent of the legislature to grant to governing bodies of counties in which such transportation improvement districts may be formed the authority to provide long-term zoning and land use protection to properties paying the special taxes that further the purpose of this chapter.

It is the further intent of the legislature that all districts created pursuant to this chapter provide such long-term zoning protection where such special taxes have been imposed.

It is the further intent of the legislature to declare that the formation of transportation improvement districts and the granting of long-term land use protection in exchange for the payment of special taxes promote the public health, safety, and welfare.

1997, c. 587.

**§ 15.2-4602. Definitions.**

As used in this chapter, unless the context indicates another meaning or intent:

"Commission" means the governing body of the local district.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, or enlargement of a public mass transit system or highway that is located in counties that are authorized by this chapter to create a transportation improvement district, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary, or incident to, the construction of the project or, solely as to districts created pursuant to this chapter after July 1, 1990, the creation of the district (the costs of which creation shall not exceed $150,000), and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicability of such construction, the cost of financing such construction, additions, or expansion and placing the project and such additions or expansion in operation.

"County" means Arlington, Fairfax, Loudoun, and Prince William Counties.

"District" or "local district" means any transportation improvement district created under the provisions of § 15.2-4603.

"District advisory board" or "advisory board" means the board appointed by the commission in accordance with § 15.2-4605.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Owner" or "landowner" means the person or entity that has the usufruct, control, or occupation of the taxable real property as determined by the commissioner of the revenue of the jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

"Revenues" means any or all fees, tolls, taxes, rents, notes, receipts, assessments, moneys, and income derived by the local district and includes any cash contributions or payments made to the local district by the Commonwealth or any agency, department, or political subdivision thereof or by any other source.

"Town" means any town having a population of more than 1,000.

"Transportation improvements" means any and all real or personal property utilized in constructing and improving (i) any mass transportation project and (ii) any primary highway or portion thereof, located within any district created pursuant § 15.2§ 4603. Such improvements include, without limitation, public mass transit systems, public highways, all buildings, structures, approaches, and other facilities and appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

1997, c. 587; 2019, c. 632.

**§ 15.2-4603. Creation of district; extension of term of district.**

A. A transportation improvement district shall be created under this chapter only by the resolutions of the boards of supervisors of the adjoining counties, as defined in § 15.2-4602, upon the joint petition to each board of supervisors in which the proposed district is located of the owners of at least 51 percent of either the land area or the assessed value of land in each county that is within the boundaries of the proposed district and that has been zoned for commercial or industrial use or is used for such purposes. Any proposed district shall include land in each county and may include any land within a town located within such county. Such petitions should:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation facilities proposed within the district;

3. Describe a proposed plan for providing such transportation facilities within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto which the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation facilities within the district; and

5. Request each board to establish the proposed district for the purposes set forth in the petition.

B. Upon the filing of such a petition, each local board of supervisors shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or who own taxable real property within the boundaries of the proposed district may appear and show cause why any property or properties should not be included in the proposed district. If real property situated within a town is included in the proposed district, the board of supervisors shall deliver a copy of the petition and notice of the public hearing thereon to the town council at least 30 days prior to the public hearing, and the town council may, by resolution, determine if it wishes such property to be included within the proposed district and shall deliver a copy of any such resolution to the board of supervisors at the public hearing required hereunder; the resolution shall be binding upon the board of supervisors with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the county. At least 10 days shall intervene between the third publication and the date set for the hearing.

C. If each board of supervisors finds the creation of the proposed district would be in furtherance of the applicable county comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and general welfare, each board of supervisors shall pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with § 15.2-4605. Each resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with any related criteria, and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criterion set forth therein shall not be eliminated, reduced, or restricted if a special tax is imposed as provided in § 15.2-4607. However, this commitment shall not limit the legislative prerogative of the board of supervisors in any county in which a district is wholly or partly located with respect to land use approvals of any kind arising from requests initiated by an owner of property therein, or as specifically required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or the regulations adopted pursuant thereto, or other state law, or the requirements of the federal Clean Water Act (33 U.S.C. § 1342(p)) and regulations promulgated thereunder by the federal Environmental Protection Agency or applicable state regulations.

Notwithstanding the foregoing provisions of this subsection, in the case of any district created under this section prior to July 1, 1992, all commercial and industrial zoning classifications, and all zoning ordinance text and regulations relating thereto, including site plan regulations, regarding allowable uses, densities, setbacks, building heights, required parking, and open space in force in the district on the date of the district's creation, shall be deemed to have been a part of the ordinance creating the

district and shall remain at least as permissive without limitation, reduction, or restriction, except as provided in this section with respect to land use approvals of any kind or nature arising from requests initiated by landowners or as required to comply with the Chesapeake Bay Preservation Act or regulations adopted pursuant thereto, other state law or the requirements of the federal Clean Water Act (33 U.S.C. § 1342(p)) and regulations promulgated thereunder by the federal Environmental Protection Agency or applicable state regulations, until the earlier of July 1, 2037, or for a period of 15 years from the date the district was created so long as there remain any outstanding monetary obligations of the district or the commission incurred pursuant to the powers of the commission set forth in this chapter. Any rezonings, with respect to individual parcels of land in a district that have been duly approved by a board of supervisors prior to July 1, 1992, shall remain in effect, regardless of who initiated such rezonings. Each resolution shall also provide that the district shall expire either 35 years from the date upon which the resolution is passed or when the district is abolished in accordance with § 15.2-4616; however, the term of any district created under this chapter is extended for a period of 15 years beyond any such 35-year term.

After the public hearing, each board of supervisors shall deliver a true copy of its proposed resolution creating the district to the petitioning landowners or their attorney-in-fact. Any petitioning landowner may then withdraw his signature on the petition in writing at any time prior to the vote of the board of supervisors. If any signatures on the petition are withdrawn as provided herein, the board of supervisors may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A with respect to minimum acreage or assessed value, as the case may be. After the boards of supervisors have adopted resolutions creating the district, the district shall be established, and the name of the district shall be "The ____ Transportation Improvement District."

1997, c. 587; 2000, c. 435; 2002, c. 770.

**§ 15.2-4604. Commission established.**

The powers of the local district created in accordance with this chapter shall be exercised by a commission composed of four of the elected members of each of the boards of supervisors of the counties in which it is located, appointed by their respective boards of supervisors. The Chairman of the Commonwealth Transportation Board, or his designee, shall be an ex officio member of the commission.

The members of the commission shall elect one of their number chairman. The chairman may or may not be the chairman or presiding officer of a board of supervisors. In addition, commission members, with the advice of the district advisory board, shall elect a secretary and treasurer, who may or may not be a member or employee of a board of supervisors or other governmental body represented on the commission. The offices of secretary and treasurer may be combined. A majority of commission members shall constitute a quorum, and the vote of a majority of the commission membership shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a majority of the members to form a quorum or to exercise all of its rights, powers, and duties. The 1990 amendments to the provisions of this paragraph shall not be effective

for the Route 28 Primary Highway Transportation Improvement District until such time as the special tax revenues from the District exceed the total debt service on the bonds issued pursuant to Chapter 676 of the 1988 Acts of Assembly for three consecutive years.

1997, c. 587.

**§ 15.2-4605. Creation of district advisory boards.**

Within 30 days after the establishment of a district in accordance with the procedures provided in § 15.2-4603, the commission shall appoint a district advisory board of 12 members, consisting of: three members appointed by the board of supervisors of each participating county, each of whom either resides on or owns land within that portion of the district that is located in the county from which the member is appointed or is a designee of a landowner as described below; three members who own land zoned for commercial or industrial use within that portion of the district from each participating county or who are designees of landowners as described below who are elected by the landowners of the district, voting on a basis weighted by acreage owned or assessed value, as the case may be. Such elections may be conducted by the commission by mail ballot of owners of land within that portion of the district in each participating county. A corporation owning land within the district may designate one of its officers or employees, and a partnership owning land within the district may designate an individual who is one of its general partners, and such designees are eligible to be appointed members of the district advisory board. Each member shall be appointed for a definite term of four years, except the initial appointment of advisory board members shall provide that the terms of half of the members shall be for two years. Thereafter, elections shall be conducted biennially on the anniversary of the creation of the district in the same manner as described in the preceding provisions of this section. Members may be reelected or reappointed, provided that they, or the corporation or partnership they represent, own land zoned for commercial or industrial use within the district at the time of their reelection or reappointment. If a vacancy occurs with respect to an advisory member initially elected by a board of supervisors, or any successor of such a member, that board of supervisors shall appoint a new member who is a resident or landowner within the local district. If a vacancy occurs with respect to an advisory member initially elected by landowners, or any successor of such a member, then the board of supervisors shall appoint a new board member who is a landowner within the district elected in the manner provided in this section.

The members shall serve without pay, but the commission shall provide the advisory board with facilities for holding meetings and shall appropriate funds needed to defray the reasonable expenses and fees of the board, which shall not exceed $20,000 annually, including, without limitation, expenses and fees arising out of the preparation of the annual report. Such appropriations shall be based on an annual budget submitted by the advisory board, approved by the commission, sufficient to carry out its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The board shall fix the time for holding regular meetings, but it shall meet at least once every year. Special meetings of the board shall be called by the chairman or by two members of the board upon written request to the secretary of the board. A majority of

the members shall constitute a quorum. The 1990 amendments to the provisions of this paragraph shall not be effective for the Route 28 Primary Highway Transportation Improvement District until such time as the special tax revenues from the District exceed the total debt service on the bonds issued pursuant to Chapter 676 of the 1988 Acts of Assembly for three consecutive years.

The advisory board shall present an annual report to the commission on the transportation needs of the district and on the activities of the board, and the advisory board shall present special reports on transportation matters as requested by the commission or the board of supervisors of either county concerning taxes to be levied pursuant to § 15.2-4607.

1997, c. 587.

**§ 15.2-4606. Powers and duties of commission.**

The commission shall have the following powers and duties:

1. To construct, reconstruct, alter, improve, and expand (i) any public mass transit system in the district or (ii) any primary highway located within the district having no more than two through travel lanes as of January 1, 1987, which is located in both counties that comprise the district and which was not financed under the authority provided by the Commonwealth of Virginia Transportation Facilities Bond Act of 1979.

2. To acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any public mass transit system or primary highway transportation improvements in the district and to sell, lease as lessor, transfer, or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing regarding such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least 10 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. To negotiate and contract with any person, authority, or state or federal agency or instrumentality with regard to any matter necessary and proper to provide any public mass transit system or primary highway transportation facility, including the financing, acquisition, construction, reconstruction, alteration, improvement, expansion, or maintenance of any transportation improvements in the district. No such contract shall extend for a period that exceeds 30 years.

4. To enter into a continuing service contract for a purpose authorized by this chapter and to make payments of the proceeds received from the special taxes levied pursuant to § 15.2-4607, together with any other revenues, for the payment of installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to make the installment payments due under the contract, subject to the limitation imposed by § 15.2-4607. However, payments for any such service contract shall be conditioned upon the receipt of services pur-

suant to the contract. Such a contract may not obligate a county to make payments for services of the district.

5. To accept the allocations, contributions, or funds of, or to reimburse from, any available source, including any person, authority, or state or federal agency or instrumentality, for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion of any transportation improvements in the district.

6. To contract for the extension and use of any public mass transit system or primary highway into territory outside of the local district on such terms and conditions as the commission determines.

7. To employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any public mass transit system or primary highway in the district.

8. To have prepared an annual audit of the district's financial obligations and revenues and, upon review of such audit, to request a tax rate adequate to provide tax revenues that, together with all other revenues, are required by the district to fulfill its annual obligations.

9. To invest any funds received pursuant to § 15.2-4608 that are not otherwise obligated to make payments to the Commonwealth Transportation Board or to any other purpose, in accordance with the Investment of Public Funds Act (§ 2.2-4500 et seq.).

1997, c. 587.

**§ 15.2-4607. Annual special improvements tax; use of revenues.**

Upon the written request of the district commission made concurrently to both boards of supervisors pursuant to subdivision 8 of § 15.2-4606, each board of supervisors may levy and collect an annual special improvements tax on taxable real estate zoned for commercial or industrial use or used for such purposes and taxable leasehold interests in that portion of the improvement district within its jurisdiction. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, the tax shall be levied upon the assessed fair market value of the taxable real property. The rate of the special improvements tax shall not be more than $0.20 per $100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. Such special improvement taxes shall be collected at the same time and in the same manner as county taxes are collected, and the proceeds shall be kept in a separate account. The effective date of the initial assessment shall be January 1 of the year following adoption of the resolution creating and establishing the district. All revenues received by each county pursuant to such taxes shall be paid to or at the direction of the district commission for its use pursuant to §§ 15.2-4606 and 15.2-4608.

1997, c. 587.

**§ 15.2-4608. Agreements with Commonwealth Transportation Board; payment of special improvements tax to Transportation Trust Fund.**

A. The district may contract with the Commonwealth Transportation Board for the Board to perform any of the purposes of the district.

The district may agree by contract to pay over all or a portion of the special improvements tax and all or a portion of the sums received pursuant to subsection C to the Commonwealth Transportation Board, which shall hold such sums in and disburse them from a special account. The Commonwealth Transportation Board shall have the right to assign, convey, pay over, or deliver such sums to a third party in connection with the provision of services to the district pursuant to an agreement entered into under this chapter or any other applicable law.

Prior to executing any such contract, the district shall seek the agreement of each board of supervisors creating the district that the county administrator or other officer charged with the responsibility for preparing the county's annual budget shall submit in the budget for each fiscal year in which any Commonwealth of Virginia transportation contract revenue bonds issued for such district are outstanding, all amounts to be paid to the Commonwealth Transportation Board under such contract during such fiscal year.

If the amount required to be paid to the Commonwealth Transportation Board under the contract is not paid for a period of 60 days after the amount is due, the Commonwealth Transportation Board is hereby directed, until the amount has been paid, to withhold sufficient funds from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which a project covered by such contract is located or to any county in which such project is located and to use such funds to satisfy the contractual requirements.

B. While nothing in this article shall limit the authority of any county to change the classification of any parcel of land zoned for commercial or industrial use or used for such purpose, upon the written request or approval of the owner of the property affected by such change after the effective date of any such contract, except for changes in zoning classification from commercial or industrial use to residential use approved in accordance with subsection C, should a change in zoning classification so requested result in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board pursuant to the contract, the district shall request the board of supervisors to increase the rate of such tax by such amount up to the maximum authorized rate as may be necessary to prevent such shortfall. If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at the maximum authorized rate and cannot be increased, then the amount of funds otherwise appropriated and allocated pursuant to the highway allocation formula as provided by Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2 to the highway construction district in which a project covered by such contract is located or to a county in which such project is located shall be reduced by the amount of such deficit and used to satisfy the deficit.

C. For any property within the district for which a county changes its zoning classification from commercial or industrial use to residential use upon the written request or approval of the owner, the

county shall require the simultaneous payment from the property owner of a sum representing the present value of the future special improvements taxes estimated by the county to be lost as a result of such change in classification. On a case-by-case basis, however, the board of supervisors may, in its sole discretion, defer for no more than 60 days the effective date of such change in zoning classification. Upon deferral, the lump sum provided for in this subsection shall be paid to the county in immediately available funds acceptable to the county before the deferred effective date. If the landowner fails to make this lump sum payment as and when required, the change in zoning classification shall not become effective and the ordinance shall be void. Special improvements taxes previously paid in the year of the zoning change may be credited toward the payment on a prorated basis. The portion of the payment that may be credited shall be that portion of the year following the change in zoning classification. The district and the Commonwealth Transportation Board shall agree to a method of calculating the present value of the loss of future special improvements taxes resulting from such a change in zoning classification and the procedure for payment of such funds to the Commonwealth Transportation Board. Sums paid pursuant to this subsection that represent the estimated special improvements taxes that otherwise would have been imposed upon the rezoned property in any given year shall be included in calculations that may be made pursuant to §§ 15.2-4604 and 15.2-4605 in order to determine whether special tax revenues from the district have exceeded total debt service on the bonds issued pursuant to Chapter 676 of the 1988 Acts of Assembly for three consecutive years. Whenever any county acts in accordance with such an agreement between the district and the Commonwealth Transportation Board, the change in zoning classification shall not be considered to have resulted in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board.

1997, c. 587; 2002, c. 770.

**§ 15.2-4609. Jurisdiction of counties and officers, etc., not affected.**

Neither the creation of a district nor any other provision in this chapter shall affect the power, jurisdiction, or duties of the respective local governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit, district, or other courts, clerks of any court, magistrates, or any other county or state officer in regard to the area embraced in any district or restrict or prevent any county or town or its governing body from imposing and collecting taxes or assessments for public improvements as permitted by law. Any county that creates a district pursuant to this section may obligate itself with respect to the zoning ordinances, zoning ordinance text, and regulations relating thereto for all commercial and industrial classifications within the district as provided in subsection C of § 15.2-4603 for a term not to exceed 20 years from the date on which such district is created.

1997, c. 587.

**§ 15.2-4610. Allocation of funds to local transportation districts.**

The board of supervisors of any county that has created a local district pursuant to § 15.2-4603 may advance funds, or provide matching funds, from money not otherwise specifically allocated or obligated, from whatever source received or generated, including without limitation general revenues,

special fees and assessments, state allocations, and contributions from private sources, to a local district to assist the local district to undertake the project for which it was created. The Commonwealth Transportation Board may allocate funds to a district only from the construction district or districts in which such transportation district is located pursuant to the highway allocation formula to assist the district with an approved project as provided by law.

1997, c. 587.

**§ 15.2-4611. Reimbursement for advances to local transportation district.**

The commission shall direct the district treasurer to reimburse the county or town from any funds of the district not otherwise specifically allocated or obligated, to the extent that a county or town has made advances.

1997, c. 587.

**§ 15.2-4612. Cooperation between districts and other political subdivisions.**

Any local district created under the provisions of this chapter may enter into agreements with localities and other political subdivisions within the Commonwealth for joint or cooperative action in accordance with the authority contained in § 15.2-1300.

1997, c. 587.

**§ 15.2-4613. Tort liability.**

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any county, town, or landowner therein because of any act, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance, by or on the part of a district created under this chapter or its agents, servants, or employees.

1997, c. 587.

**§ 15.2-4614. Approval by Commonwealth Transportation Board.**

The district may not construct or improve a mass transit system or public highway without the approval of the Commonwealth Transportation Board and without the approval of each county in which the transportation improvement will be located. At the request of the commission, the Commonwealth Transportation Commissioner may exercise his powers of condemnation pursuant to Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 or 3 (§ 25.1-300 et seq.) of Title 25.1 or § 33.2-705 for the purpose of acquiring property for transportation improvements within the district. Upon completion of the construction or improvement, the Commonwealth Transportation Board shall take the public highway into the primary system of state highways for purposes of maintenance and subsequent improvement as necessary. Upon acceptance by the Commonwealth of the highway into the primary system of highways, all rights, title, and interest in the right-of-way held by the commission and improvements of such highway shall vest in the Commonwealth. Upon completion of the construction or improvement of a mass transit system, all rights, title, and interest in the right-of-way and improvements of the mass transit system shall vest in the Northern Virginia Transportation Commission or other agency or instrumentality of the Commonwealth.

1997, c. 587.

## Article 2 - Boundary Changes for Local Districts

### § 15.2-4615. Enlargement of local districts.

A. The district shall be enlarged by resolutions of the boards of supervisors of the participating counties upon the concurrent joint petitions of the commission and the owners of at least 51 percent of the land area of the district within each county, and of at least 51 percent of the land area located within the territory sought to be added to the district; however, any such territory shall be contiguous to the existing district. Joint petitions shall present the information required by subsection A of § 15.2-4603. Upon receipt of such petitions, each county shall use the standards and procedures described in subsections B and C of § 15.2-4603; however, the residents and owners of both the existing district and the area proposed for the enlargement shall have the right to appear and show cause why any property should not be included in the proposed district.

B. If each county board of supervisors finds the enlargement of a local district would be in accordance with the applicable county comprehensive plan for the development of the area, in the best interests of the residents and owners of the property within the proposed district, and in furtherance of the public health, safety, and general welfare, and if each board finds that enlargement of the district does not limit or adversely affect the rights and interests of any party that has contracted with the district, each board shall pass identical resolutions providing for the enlargement of the district.

1997, c. 587.

### § 15.2-4616. Abolition of local transportation districts.

A. Any district created under the provisions of this chapter may be abolished by resolutions passed by each board of supervisors upon the joint petition of the commission and the owners of at least 51 percent of the land area located within the district in each county. A joint petition:

1. May state whether the purposes for which the district was formed substantially have been achieved;

2. May state that all obligations theretofore incurred by the district have been fully paid;

3. May describe the benefits which can be expected from the abolition of the district; and

4. Shall request each board of supervisors to abolish the district.

B. Upon receipt of such a petition, each board shall use the standards and procedures described in subsections B and C of § 15.2-4603, mutatis mutandis; however, all interested persons who either reside on or who own real property within the boundaries of the district shall have the right to appear and show cause why the district should not be abolished.

C. If each board of supervisors finds that the abolition of the district would be (i) in accordance with the applicable county comprehensive plan for the development of the area, (ii) in the best interests of the residents and owners of the property within the district, and (iii) in furtherance of the public health, safety, and general welfare; and that all debts of the district have been paid and the purposes of the

district either have been fulfilled or should not be fulfilled by the district, or that each board of supervisors, with the approval of the voters of each county, has agreed to assume the debts of the district, then each board shall pass a resolution abolishing the district and the district advisory board. Upon abolition of the district, the title to all funds and properties owned by the district at the time of such dissolution shall vest in the county in which the district was located.

1997, c. 587; 2002, c. 770.

## Article 3 - Construction of Chapter

### § 15.2-4617. Chapter to constitute complete district for acts authorized; liberal construction.

This chapter shall constitute full and complete authority for the district, without regard to the provisions of any other law, for the doing of the acts and things herein authorized. This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof. Any court test concerning the validity of any bonds which may be issued for transportation improvements made pursuant to this chapter may be determined pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26.

1997, c. 587; 2015, c. 709.

### § 15.2-4618. Validation of districts.

All proceedings held in the creation of a district pursuant to § 15.2-4603 prior to March 1, 1988, are hereby ratified, validated, and confirmed, and all such districts so created or attempted to be created pursuant to the provisions of Article 1 (§ 15.2-4600 et seq.) are declared hereby to have been validly created, notwithstanding any defects or irregularities in the creation of such a district or in the selection or appointment of the commission or the advisory board of such a district.

1997, c. 587.

# Chapter 47 - Transportation Improvement District in Individual Localities

## Article 1 - General Provisions

### § 15.2-4700. Short title; application.

This chapter shall be known as the "Transportation Improvement District in Individual Localities Act." No district shall be created under this chapter after June 30, 1993.

1997, c. 587.

### § 15.2-4701. Definitions.

As used in this chapter, unless the context indicates another meaning or intent:

"Commission" means the governing body of the local district.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, utilities, parking, or enlargement of a public mass transit system or highway that is located in localities that are authorized by this chapter to create a transportation improvement district, including

the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration, or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications, and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project or creation of the district (which shall not exceed $150,000), and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicability of such construction, the cost of financing such construction, additions, or expansion and placing the project and such additions or expansion in operation.

"District" or "local district" means any transportation improvement district created under the provisions of § 15.2-4702.

"District advisory board" or "advisory board" means the board appointed by the commission in accordance with § 15.2-4704.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Locality" means Chesterfield and Prince William Counties and the City of Richmond.

"Owner" or "landowner" means the person or entity that has the usufruct, control, or occupation of the taxable real property as determined by the commissioner of the revenue of the jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

"Revenues" means any or all fees, tolls, taxes, rents, notes, receipts, assessments, moneys, and income derived by the local district and includes any cash contributions or payments made to the local district by the Commonwealth or any agency, department, or political subdivision thereof or by any other source.

"Town" means any town having a population of more than 1,000, as determined by the 1980 census.

"Transportation improvements" means any and all real or personal property utilized in constructing and improving any public mass transit system or any highway or portion or interchange thereof, including utilities and parking facilities within the secondary, primary, or Interstate Highway System of the Commonwealth or any highway included in the county's land use and transportation plan located within the district created pursuant to § 15.2-4702. Such improvements include, without limitation, public mass transit systems or public highways, all buildings, structures, approaches, and other facilities

and appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

1997, c. 587; 2019, c. 632.

### § 15.2-4702. Creation of district.

A. A transportation improvement district shall be created under this chapter only by the resolution of the local governing body of the locality in which the proposed district is located, upon the petition to the governing body (i) of the owners of at least 51 percent of either the land area or assessed value of land that is within the boundaries of the proposed district and that has been zoned for commercial or industrial use or is used for such purposes or (ii) in Chesterfield County, of 51 percent of the owners of land that is designated for such purposes in the county's land use and transportation plan and is not zoned for residential use at the time the district is created.

The roads, intersections, and rights-of-way thereof that form boundaries of these districts shall be considered as part of each respective district. Any proposed district may include any land within a town in such county. Such petitions shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation facilities proposed within the district;

3. Describe a proposed plan for providing such transportation facilities within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation facilities within the district; and

5. Request the local governing body to establish the proposed district for the purposes set forth in the petition.

B. Upon the filing of such a petition, the governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or who own taxable real property within the boundaries of the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, the governing body shall deliver a copy of the petition and notice of the public hearing thereon to the town council at least 30 days prior to the public hearing, and the town council may, by resolution, determine if it wishes such property to be included within the proposed district and shall deliver a copy of any such resolution to the board of supervisors at the public hearing required hereunder; the resolution shall be binding upon the governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be

given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality. At least 10 days shall intervene between the third publication and the date set for the hearing.

C. If the local governing body finds the creation of the proposed district would be in furtherance of the applicable comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and general welfare, the governing body of the qualifying locality may, at its option, pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with § 15.2-4704. The resolution shall provide (i) a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with any related criteria, and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criteria set forth therein shall not be eliminated, reduced, or restricted, except upon the written request or approval of the owner of any property affected by a change, or as specifically required to comply with the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or other state law and (ii) that the district shall expire either 35 years from the date upon which the resolution is passed or when the district is abolished in accordance with § 15.2-4714.

After the public hearing, the local governing body shall deliver a true copy of its proposed resolution creating the district to the petitioning landowners or their attorney-in-fact. Any petitioning landowner may then withdraw his signature on the petition in writing at any time prior to the vote of the local governing body. If any signatures on the petition are withdrawn as provided herein, the local governing body may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A with respect to minimum acreage or assessed value, as the case may be. After the local governing body has adopted resolutions creating the district, the district shall be established and the name of the district shall be "The ____ Transportation Improvement District."

1997, c. 587; 2019, c. 632.

**§ 15.2-4703. Commission established.**

A. The powers of the local district created in accordance with this chapter shall be exercised by a commission composed of three of the elected members of the local governing body of the locality in which it is located, appointed by such governing body. The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of the commission ex officio.

B. The commission members shall elect one of their number as chairman. The chairman may or may not be the chairman or presiding officer of the local governing body. In addition, the commission members, with the advice of the district advisory board, shall elect a secretary and treasurer, who may or may not be members or employees of the governing body. The offices of secretary and treasurer may be combined. A majority of commission members shall constitute a quorum, and the vote of a majority

of commission members shall be necessary for any action taken by the commission. No vacancy in commission membership shall impair the right of a majority of the members to form a quorum or to exercise all of its rights, powers, and duties.

1997, c. 587.

**§ 15.2-4704. Creation of district advisory boards.**

Within 30 days after the establishment of a district in accordance with the procedures provided in § 15.2-4702, the local governing body shall appoint a district advisory board of seven members. All members shall reside on or own or represent commercially or industrially zoned land within the district. Should there not be enough residents or landowners within a district to appoint a seven-member advisory board, then such board shall consist of the lesser number of existing residents or landowners. Each member shall be appointed for a definite term of four years, except the initial appointment of advisory board members shall provide that the terms of three of the members shall be for two years. If a vacancy occurs with respect to an advisory member initially appointed by the local governing body, or any successor of such a member, the local governing body shall appoint a new member who is a representative or owner of commercially or industrially zoned property within the local district.

The members shall serve without pay, but the local governing body shall provide the advisory board with facilities for holding meetings, and the commission shall appropriate funds needed to defray the reasonable expenses and fees of the advisory board, which shall not exceed $20,000 annually, including without limitation expenses and fees arising out of the preparation of the annual report. Such appropriations shall be based on an annual budget submitted by the board, and approved by the commission, sufficient to carry out its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The board shall fix the time for holding regular meetings, but it shall meet at least once every year. Special meetings of the board shall be called by the chairman or by two members of the board upon written request to the secretary of the board. A majority of the members shall constitute a quorum.

The advisory board shall present an annual report to the commission on the transportation needs of the district and on the activities of the board, and the advisory board shall present special reports on transportation matters as requested by the commission or the local governing body of the locality concerning taxes to be levied pursuant to § 15.2-4706.

1997, c. 587.

**§ 15.2-4705. Powers and duties of commission.**

The commission shall have the following powers and duties:

1. To construct, reconstruct, alter, improve, and expand any public mass transit system or highway located within the district that is located in the county that comprises the district and that was not financed under the authority provided by the Commonwealth of Virginia Transportation Facilities Bond Act of 1979.

2. To acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any public mass transit system or highway transportation improvements in the district and to sell, lease as lessor, transfer, or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing regarding such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least 10 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. To negotiate and contract with any person, authority, transportation district, or state or federal agency or instrumentality with regard to any matter necessary and proper to provide any public mass transit system or highway transportation facility, including the financing, acquisition, construction, reconstruction, alteration, improvement, expansion, or maintenance of any transportation improvements in the district. No such contract shall extend for a period that exceeds 30 years.

4. To enter into a continuing service contract for a purpose authorized by this chapter and to make payments of the proceeds received from the special taxes levied pursuant to § 15.2-4706, together with any other revenues, for the payment of installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to make the installment payments due under that contract, subject to the limitation imposed by § 15.2-4706, but payments for any such service contract shall be conditioned upon the receipt of services pursuant to the contract. Such a contract may not obligate a locality to make payments for services of the district.

5. To accept the allocations, contributions, or funds of, or to reimburse from, any available source, including any person, authority, transportation district, or state or federal agency or instrumentality, for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion of any transportation improvements in the district.

6. To contract for the extension and use of any transportation improvements into territory outside of the local district on such terms and conditions as the commission determines.

7. To employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation improvements in the district.

8. To have prepared an annual audit of the district's financial obligations and revenues and, upon review of such audit, to request a tax rate adequate to provide tax revenues that, together with all other revenues, are required by the district to fulfill its annual obligations.

1997, c. 587.

**§ 15.2-4706. Annual special improvement tax; use of revenues.**

Upon the written request of the district commission made to the local governing body pursuant to subdivision 8 of § 15.2-4705, the local governing body may levy and collect an annual special improvements tax on taxable real property zoned for commercial or industrial use or used for such purposes and leasehold interests in that portion of the improvement district within its jurisdiction. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, the tax shall be levied upon the assessed fair market value of the taxable real property. The rate of the special improvements tax shall not be more than $0.20 per $100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203; however, if all the owners in any district so request, this limitation on rate shall not apply. Such special improvements taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account. All revenues received by the locality pursuant to such taxes shall be paid over to the district commission for its use pursuant to § 15.2-4705.

1997, c. 587.

**§ 15.2-4707. Jurisdiction of localities and officers, etc., not affected.**

Neither the creation of a district nor any other provision in this chapter shall affect the power, jurisdiction, or duties of the local governing body, sheriff, treasurer, commissioner of the revenue, circuit, district, or other courts, clerks of any court, magistrates, or any other local or state officer in regard to the area embraced in any district or restrict or prevent the locality or town, or the governing body of the locality or town, from imposing and collecting taxes or assessments for public improvements as permitted by law. Notwithstanding any contrary provisions of law, any locality that creates a district pursuant to this section may obligate itself with respect to the zoning ordinances, zoning ordinance text, and regulations relating thereto for all commercial and industrial classifications within the district as provided in subsection C of § 15.2-4702 for a term not to exceed 20 years from the date on which such a district is created.

1997, c. 587.

**§ 15.2-4708. Allocation of funds to local transportation districts.**

The governing body that created a district pursuant to § 15.2-4702 may advance funds, or provide matching funds, from moneys not otherwise specifically allocated or obligated, from whatever source received or generated, including without limitation general revenues, special fees and assessments, state allocations, and contributions from private sources, to a local district to assist the local district to undertake the project for which it was created. The Commonwealth Transportation Board may allocate funds to a district only from the construction district or districts in which such transportation district is located pursuant to the highway allocation formula to assist the district with an approved project as provided by law.

1997, c. 587.

**§ 15.2-4709. Reimbursement for advances to local transportation district.**

Notwithstanding the provisions of any other law, the commission shall direct the district treasurer to reimburse the locality or town from any funds of the district not otherwise specifically allocated or obligated, to the extent that a locality or town has made advances.

1997, c. 587.

### § 15.2-4710. Cooperation between districts and other political subdivisions.

Any local district created under the provisions of this chapter may enter into agreements with localities and other political subdivisions within the Commonwealth for joint or cooperative action in accordance with the authority contained in § 15.2-1305.

1997, c. 587.

### § 15.2-4711. Tort liability.

No pecuniary liability of any kind shall be imposed upon the Commonwealth or the locality, town, or landowner therein because of any act, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of a district or its agents, servants, or employees.

1997, c. 587.

### § 15.2-4712. Approval by Commonwealth Transportation Board.

The district may not construct or improve a transportation improvement without the approval of the Commonwealth Transportation Board and without the approval of the locality in which the transportation improvement will be located. At the request of the commission, the Commonwealth Transportation Commissioner may exercise his powers of condemnation pursuant to Chapter 2 (§ 25.1-200 et seq.) or 3 (§ 25.1-300 et seq.) of Title 25.1 or § 33.2-705 for the purpose of acquiring property for transportation improvements within the district. Upon completion of the construction or improvement, the Commonwealth Transportation Board shall take the public highway into the secondary, primary, or Interstate system of state highways for purposes of maintenance and subsequent improvement as necessary. Upon acceptance by the Commonwealth of the highway into the primary system of highways, all rights, title, and interest in the right-of-way and improvements of such public mass transit system or highway shall vest in the Commonwealth. Upon completion of such construction or improvement of a mass transit system, all rights, title, and interest in the right-of-way and improvements of the mass transit system shall vest in the Northern Virginia Transportation Commission or other agency or instrumentality of the Commonwealth.

1997, c. 587.

## Article 2 - Boundary Changes for Local Districts

### § 15.2-4713. Enlargement of local districts.

A. The district shall be enlarged by a resolution of the governing body of the locality upon the joint petition of the commission and the owners of at least 51 percent of either the land area or assessed value of land of the district within the locality and of at least 51 percent of either the land area or assessed value of land located within the territory sought to be added to the district; however, any such territory

shall be contiguous to the existing district. The joint petition shall present the information required by subsection A of § 15.2-4702. Upon receipt of such a petition, the locality shall use the standards and procedures provided in subsections B and C of § 15.2-4702; however, the residents and owners of both the existing district and the area proposed for the enlargement shall have the right to appear and show cause why any property should not be included in the proposed district.

B. If the governing body finds the enlargement of the district would be in accordance with the applicable comprehensive plan for the development of the area, in the best interests of the residents and owners of the property within the proposed district, and in furtherance of the public health, safety, and general welfare, and if the governing body finds that enlargement of the district does not limit or adversely affect the rights and interests of any party that has contracted with the district, the governing body of the locality may, at its option, pass a resolution providing for the enlargement of the district.

1997, c. 587.

**§ 15.2-4714. Abolition of local transportation districts.**

A. Any district created under this chapter may be abolished by a resolution passed by the local governing body upon the joint petition of the commission and the owners of at least 51 percent of either the land area or assessed value of land located within the district in the locality. The joint petition:

1. May state whether the purposes for which the district was formed substantially have been achieved;

2. May state that all obligations theretofore incurred by the district have been fully paid;

3. May describe the benefits which call be expected from the abolition of the district; and

4. Shall request the local governing body to abolish the district.

B. Upon receipt of such a petition, the governing body shall use the standards and procedures described in subsections B and C of § 15.2-4702, mutatis mutandis; however, all interested persons who either reside on or who own real property within the boundaries of the district shall have the right to appear and show cause why the district should not be abolished.

C. If the governing body finds that the abolition of the district would be (i) in accordance with the applicable comprehensive plan for the development of the area, (ii) in the best interests of the residents and owners of the property within the district, and (iii) in furtherance of the public health, safety, and general welfare and that all debts of the district have been paid and the purposes of the district either have been fulfilled or should not be fulfilled by the district, or that the governing body, with the approval of the voters of the locality, has agreed to assume the debts of the district, then the local governing body shall pass a resolution abolishing the district and the district advisory board. Upon abolition of the district, the title to all funds and properties owned by the district at the time of such dissolution shall vest in the locality.

1997, c. 587.

## Article 3 - Construction of Chapter

### § 15.2-4715. Chapter to constitute complete district for acts authorized; liberal construction.

This chapter shall constitute full and complete authority for the district, without regard to the provisions of any other law, for the doing of the acts and things herein authorized. This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof. Any court test concerning the validity of any bonds which may be issued for transportation improvements made pursuant to this chapter may be determined pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26.

1997, c. 587; 2015, c. 709.

### § 15.2-4716. Validation of districts.

All proceedings held in the creation of any district or districts pursuant to § 15.2-4702 prior to January 1, 1992, are hereby ratified, validated, and confirmed, and any such districts so created pursuant to Article 1 (§ 15.2-4700 et seq.) are declared hereby to have been validly created, notwithstanding any defects or irregularities in the creation of any such district or in the selection or appointment of the commission or the advisory board of any such district.

1997, c. 587.

## Chapter 48 - Virginia Transportation Service District Act

## Article 1 - General Provisions

### § 15.2-4800. Short title; application.

This chapter shall be known as the "Virginia Transportation Service District Act." No district shall be created under this chapter after June 30, 1993.

1997, c. 587.

### § 15.2-4801. Definitions.

As used in this chapter, unless the context indicates another meaning or intent:

"Board of supervisors" means the governing body of a county empowered to act under the provisions of this chapter.

"Commission" means the governing body of the district created under § 15.2-4802.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, enlargement, conservation, remodeling, or equipping of a transportation facility or portion thereof, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration, or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the governing

body, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications, and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary or incident to the creation of the district (which shall not exceed $150,000), construction of the project, and the provision of equipment therefor, and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicality of such construction, the cost of financing such construction, additions, or expansion, and placing the project and such additions or expansion in operation.

"County" means Arlington, Fairfax, James City, Loudoun, Prince William, Pulaski, and Smyth Counties.

"District" means any transportation service district created under the provisions of § 15.2-4802.

"District advisory board" means the board appointed by the board of supervisors in accordance with § 15.2-4804.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Owner" or "landowner" means the person or entity that has the usufruct, control, or occupation of the real property as determined annually by the county.

"Public highways" includes any public highways, roads, or streets, whether maintained by the Commonwealth or otherwise.

"Revenues" means any or all fees, tolls, rents, notes, receipts, assessments, taxes, moneys, and income derived by the district and includes any cash contributions or payments made to the district by the Commonwealth, any political subdivision thereof, or any other source.

"Town" means any town having a population of more than 1,000, as determined by the 1980 census.

"Transportation facilities" means any real or personal property acquired, constructed or improved, or utilized in constructing or improving any public highway or portion thereof or any publicly owned mass transit systems situated or operated within the district created pursuant to appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

1997, c. 587; 2019, c. 632.

### § 15.2-4802. Creation of district.

A. A district shall be created under this chapter only by a resolution of the board of supervisors upon the petition of the owners of at least 51 percent of either the assessed value of land or land area of the real property of the county that is within the boundaries of the proposed district and that (i) is

unimproved, regardless of zoning, or (ii) has been zoned for commercial or industrial use or is used for such purposes. Any proposed district may include land within a town located in such county. Such petition shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation facilities proposed within the district;

3. Describe a proposed plan for providing such transportation facilities within the district and describe specific terms and conditions with respect to all zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation facilities within the district; and

5. Request the board of supervisors to establish the proposed district for the purposes set forth in the petition.

B. Upon the filing of such a petition, the board of supervisors shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or who own real property within the boundaries of the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property located within a town is included in the proposed district, the board of supervisors shall deliver a copy of the petition and notice of the public hearing thereon to the town council at least 30 days prior to the public hearing, and the town council may, by resolution duly passed, determine if it wishes such property located within the town to be included within the proposed district and shall deliver a copy of any such resolution to the board of supervisors with respect to the inclusion or exclusion of such properties within the proposed district; however, the petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the county as designated by the board of supervisors. At least 10 days shall intervene between the completion of the publication and the date set for the hearing. The publication shall be considered complete on the twenty-first day after the first publication.

C. If the board of supervisors finds the creation of the proposed district would be in accordance with the comprehensive plan for the development of the area, in the best interests of the residents and owners of the property within the proposed district, and in furtherance of the public health, safety, and general welfare, it shall pass a resolution creating the district, which resolution shall be reasonably consistent with the petition. The resolution shall provide (i) a description with specific terms and conditions of all zoning classifications that shall be in force in the district upon its creation, together with any related criteria, and a term of years, not to exceed 20 years, as to which each zoning classification and each related criteria set forth therein shall not be eliminated, reduced, or restricted, except upon

the written request or approval of the owner of any property affected by a change, or as specifically required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or the regulations adopted pursuant thereto, or other state law, and (ii) that the district shall terminate no later than 35 years from the date of the resolution.

After the public hearing, the board of supervisors shall deliver a true copy of its proposed resolution creating the district to the petitioning landowners or their attorney-in-fact. Any petitioning landowner may then withdraw its signature on the petition in writing at any time prior to the vote of the board of supervisors. If any signatures on the petition are withdrawn as provided herein, the board of supervisors may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A with respect to minimum acreage or assessed value, as the case may be.

D. A district that proposes to construct or improve any portion of a two-lane primary highway that traverses an international airport at a county jurisdiction line shall be created in concert with the creation of a district in the adjoining county.

E. Where unimproved property, regardless of zoning, is included in the resolution creating the district, the board of supervisors, upon approving the resolution, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the judicial circuit in which that county is located, for each parcel of unimproved real property included in the district. For purposes of this section, "parcel" means tax map parcel.

1997, c. 587.

**§ 15.2-4803. Commission established.**

A. The power of the district created under § 15.2-4802 shall be exercised by a commission composed of five members of the board of supervisors. The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of any commission created pursuant to this article, ex officio.

B. The members of the commission shall elect one of their number as chairman. The chairman of the commission may or may not be the chairman or presiding officer of the board of supervisors. In addition, with the advice of the district advisory board, the members of the commission shall elect a secretary and treasurer, who may or may not be members or employees of the board of supervisors or any other governmental body represented on the commission. The offices of secretary and treasurer may be combined. A majority of the members of the commission shall constitute a quorum, and the vote of a majority of the members of the commission shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a majority of the members to form a quorum or to exercise all of its rights, powers, and duties.

1997, c. 587.

**§ 15.2-4804. Creation of district advisory board.**

Within 30 days after passage of the resolution creating a district in accordance with the procedures provided in § 15.2-4802, the board of supervisors shall appoint a district advisory board of six members composed as follows: three members selected by the board of supervisors, each of whom either resides on or owns land within the district, and three members who own land within the district who are nominated by the landowners who were co-petitioners to the board of supervisors in the establishment of the district, voting on a basis weighted by either acreage or assessed value of real property owned therein, as the case may be. Such elections shall be conducted by the commission by mail ballot of owners of land within the district. One member from each group of three as so selected or nominated shall be appointed for a term of four years, one for three years, and one for two years. Beginning two years after the creation of the district, elections shall be held annually on the anniversary of the creation of the district in the same manner described in the preceding provisions of this section. Members may be reelected or reappointed, provided that they, or the corporation or partnership they represent, own land zoned for commercial or industrial use within the district at the time of their reelection or reappointment. Whenever a vacancy occurs with respect to a member initially nominated by landowners who were petitioners to the board of supervisors, or any successor of such a member, then the board of supervisors shall appoint a new board member who is a landowner within the district and who is among a list of nominees made by those remaining board members who were initially nominated by those petitioning landowners or their successors.

The members shall serve without pay, but the commission shall provide the advisory board with facilities for holding meetings, and the commission shall appropriate funds needed to defray the reasonable expenses and fees of the board, which shall not exceed $20,000 annually, including without limitation expenses and fees arising out of the preparation of the annual report. Such appropriations shall be based on an annual budget submitted by the board, and approved by the commission, sufficient to carry out its responsibilities under this article. The board shall fix the time for holding regular meetings, but it shall meet at least once every year. Special meetings of the board shall be called by the chairman or by two members of the board upon written request to the secretary of the board. A majority of the members shall constitute a quorum, but no action of the board shall be valid unless authorized by at least five of the six members appointed to the board.

The board shall present an annual report to the commission on the transportation needs of the district and on the activities of the board, and the board shall present to the commission special reports on transportation matters that it deems necessary concerning any contract or other matters mentioned in § 15.2-4805.

1997, c. 587.

**§ 15.2-4805. Powers and duties of commission.**

The commission shall have the following powers and duties with respect to the district:

1. To construct, reconstruct, alter, improve, expand, provide financial assistance to (including making loans), and operate transportation facilities in the district for the use and benefit of the public in the district.

2. To acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any transportation facilities in the district and to sell, lease as lessor, transfer, or dispose of any part of any transportation facilities in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least 10 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. To negotiate and contract with any person, authority, transportation district, or state or federal agency or instrumentality with regard to any matter necessary and proper to provide any transportation facility, including the financing, acquisition, construction, reconstruction, alteration, improvement, or expansion of any transportation facility in the district.

4. To accept the allocations, contributions, or funds of, or to reimburse from, any available source, including any person, corporation, authority, transportation district, or state or federal agency or instrumentality, for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion, and operation or maintenance of any transportation facilities in the district.

5. To enforce the collection of any delinquent rates, fees, costs, or other charges for the use of transportation facilities against any person, corporation, authority, or federal agency using the facilities. The charges made for the use of any such facility shall be collectible by distress, levy, garnishment, attachment, or as otherwise permitted by law.

6. To enter into a continuing service contract for a purpose authorized by this article and to make payments of the proceeds received from the special taxes levied pursuant to this article, together with any other revenues, for the payment of installments due under that service contract. The district may apply such payments annually during the term of that service contract, subject to the limitation imposed by § 15.2-4806, but payments for any such service contract shall be conditioned upon the receipt of services pursuant to the contract. Such a contract may not obligate a county to make payments for services.

7. Upon the written request of the advisory board, to contract for the extension and use of any transportation facility into territory outside of the district on such terms and conditions as the commission may determine.

8. To employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation facility.

9. To employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation facility.

1997, c. 587.

### § 15.2-4806. Annual special improvement tax; use of revenues.

Upon the written request of the district commission made to the boards of supervisors pursuant to subdivision 9 of § 15.2-4805, the board of supervisors may levy and collect an annual special improvements tax on all taxable real property that (i) is zoned for commercial or industrial use or used for such purposes or (ii) was unimproved at the time the district was created, regardless of zoning. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, the tax shall be levied upon the assessed fair market value of the taxable real property. The rate of the special improvements tax shall not be more than $0.20 per $100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. Such special improvements taxes shall be collected at the same time and in the same manner as county taxes are collected, and the proceeds shall be kept in a separate account. All revenues received by a county pursuant to such taxes shall be paid over to the district commission for its use pursuant to this article.

1997, c. 587.

### § 15.2-4807. Allocation of funds to district.

The board of supervisors of any county that has created a district pursuant to this article may advance funds, or provide matching funds, from moneys not otherwise specifically allocated or obligated, from whatever source received or generated, including without limitation, general revenues, special fees and assessments, state allocations, and contributions from private sources, to a district to assist the district to undertake the project or projects for which it was created. The Commonwealth Transportation Board may allocate funds to a district only from the construction district or districts in which such transportation district is located pursuant to the highway allocation formula to assist the district with an approved project as provided by law.

1997, c. 587.

### § 15.2-4808. Reimbursement for advances to district.

Notwithstanding the provisions of any other law, the commission shall direct the district treasurer to reimburse the county or town from any funds of the district not otherwise specifically allocated or obligated, to the extent that the county or town has made advances.

1997, c. 587.

### § 15.2-4809. Cooperation between districts and adjoining localities.

Any district created under the provisions of this chapter may enter into agreements with adjoining localities for joint or cooperative action in accordance with the authority contained in § 15.2-1300.

1997, c. 587.

### § 15.2-4810. Tort liability.

No pecuniary liability of any kind shall be imposed upon the Commonwealth or upon the county, town, or any landowner therein because of any act, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of a district or its agents, servants, or employees.

1997, c. 587.

### § 15.2-4811. Approval by Commonwealth Transportation Board.

The district may not construct or improve a public highway or public mass transit system without the approval of the Commonwealth Transportation Board and the county. At the request of the commission, the Commonwealth Transportation Board may exercise its powers of condemnation pursuant to Chapter 2 (§ 25.1-200 et seq.) or 3 (§ 25.1-300 et seq.) of Title 25.1 or § 33.2-705 for the purpose of acquiring property for transportation facilities within the district. Upon completion of such construction or improvement of a public highway, the Commonwealth Transportation Board shall take such public highway into the primary or secondary system of state highways for purposes of maintenance and subsequent improvement as necessary. Upon acceptance by the Commonwealth of the highway into the state highway system, all rights, title, and interest in the right-of-way and improvements of such highway shall vest in the Commonwealth. Upon completion of such construction or improvement of a mass transit system, all rights, title, and interest in the right-of-way and improvements of such mass transit system shall vest in the Northern Virginia Transportation Commission or other agency or instrumentality of the Commonwealth.

1997, c. 587.

## Article 2 - Boundary Changes for Local Districts

### § 15.2-4812. Enlargement of districts.

A. The district may be enlarged by resolution of the board of supervisors upon the petition of (i) the owners of at least 51 percent of either the assessed value of land or land area, as the case may be, of real property in the district that (a) is unimproved, regardless of zoning, or (b) has been zoned for commercial or industrial use or is used for such purposes in the district and (ii) the owners of at least 51 percent of either the assessed value of land or land area, as the case may be, of real property that is located within the territory sought to be added to the district and that (a) is unimproved, regardless of zoning, or (b) has been zoned for commercial or industrial use or is used for such purposes, provided that any such territory shall be contiguous to the existing district. The petitioners shall present the information required by § 15.2-4802. Upon receipt of such petitions, the county shall use the standards and procedures described in § 15.2-4802, except that residents and owners of both the existing district and the area proposed for the enlargement shall have the right to appear and show cause why any property or properties should not be included in the proposed enlargement of the district.

B. If the board of supervisors finds the enlargement of a district (i) would be in accordance with the applicable county comprehensive plan for the development of the area, (ii) would be in the best interests of the residents and owners of the real property within the proposed district, (iii) would be in

furtherance of the public health, safety, and general welfare, and (iv) would not limit or adversely affect the rights and interests of any party that has contracted with the district, the board of supervisors shall pass a resolution providing for the enlargement of the district.

C. Where unimproved property, regardless of zoning, is included in the resolution enlarging the district, the board of supervisors, upon approving the resolution, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the judicial circuit in which that county is located for each parcel of unimproved real property included in the district. For purposes of this section, "parcel" means tax map parcel.

1997, c. 587.

**§ 15.2-4813. Abolition of district.**

A. Any district created hereunder may be abolished by a resolution passed by the board of supervisors upon the petition of the owners of at least 51 percent of either the assessed value of land or land area, as the case may be, of real property in the district that (i) was unimproved on the date the district was created or (ii) was zoned for commercial and industrial use or used for such purposes located within the district at the time the petition for abolition is filed. The petition shall request the board of supervisors to abolish the district. The petition may also:

1. State whether the purposes for which the district was formed have been substantially achieved;

2. State whether all obligations theretofore incurred by the district have been fully paid; and

3. Describe the benefits that can be expected from the abolition of the district.

B. Upon receipt of such a petition, the board of supervisors shall use, mutatis mutandis, the standards and procedures described in § 15.2-4802, except that all interested persons who either reside in or who own real property within the boundaries of the district shall have the right to appear and show cause why the district should not be abolished.

C. If the board of supervisors finds that the abolition of the district would be (i) in accordance with the applicable county comprehensive plan for the development of the area, (ii) in the best interests of the residents and owners of the property within the district, and (iii) in furtherance of the public health, safety, and general welfare and that all debts of the district either have been paid and the purposes of the district have been fulfilled or should not be fulfilled by the district, or that the board of supervisors, with approval of the voters of the county, has agreed to assume the debts of the district, then the board of supervisors shall pass a resolution abolishing the district. Upon abolition of the district, the title to all funds and properties owned by the district at the time of such dissolution shall vest in the Commonwealth.

D. Where unimproved property, regardless of zoning, is included in the resolution dissolving the district, the board of supervisors, upon approving the resolution, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the judicial circuit in which that county is located,

for each parcel of unimproved real property included in the district. For purposes of this section, "parcel" means tax map parcel.

1997, c. 587.

## Article 3 - Construction of Chapter

### § 15.2-4814. Article to constitute complete authority for district for acts authorized; liberal construction.

This article shall constitute full and complete authority for the district, without regard to the provisions of any other law, for doing the acts and things herein authorized. This article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof. Any court test concerning the validity of any bonds which may be issued for transportation improvements made pursuant to this article shall be determined pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of this title.

1997, c. 587; 2015, c. 709.

### § 15.2-4815. Jurisdiction of counties, towns and officers, etc., not affected.

Neither the creation of a district nor any other provision in this article shall affect the power, jurisdiction, or duties of the respective local governing bodies, sheriffs, treasurers, commissioners of revenue, circuit, district, or other courts, clerks of any court, magistrates, or any other town, county, or state officer in regard to the area embraced in any district, nor restrict or prevent any town or county or its governing body from imposing and collecting taxes or assessments for public improvements as permitted by law. Notwithstanding any contrary provisions of law, any county that creates a district pursuant to this section may obligate itself with respect to the zoning ordinances, zoning ordinance text, and regulations relating thereto for all classifications within the district as provided in subsection C of § 15.2-4802 for a term not to exceed 20 years from the date on which such a district is created.

1997, c. 587.

## Chapter 48.1 - NORTHERN VIRGINIA TRANSPORTATION AUTHORITY [Repealed]

### §§ 15.2-4816 through 15.2-4828. Repealed.

Repealed by Acts 2002, c. 846.

## Chapter 48.2 - NORTHERN VIRGINIA TRANSPORTATION AUTHORITY [Repealed]

### §§ 15.2-4829 through 15.2-4840. Repealed.

Repealed by Acts 2014, c. 805, cl. 11, effective October 1, 2014.

## Chapter 49 - INDUSTRIAL DEVELOPMENT AND REVENUE BOND ACT

### § 15.2-4900. Short title.

This chapter shall be known and may be cited as the "Industrial Development and Revenue Bond Act."

1966, c. 651, § 15.1-1373; 1997, c. 587.

### § 15.2-4901. Purpose of chapter.

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises, and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise, or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection, and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise, and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and wel-

fare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for accredited nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of facilities of aforesaid institutions in order to provide improved educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such educational facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to facilities for a locality, the Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity.

It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for museums and historical education, demonstration, and interpretation, together with any and all buildings, structures, or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit

organizations in order to promote tourism and economic development in the Commonwealth, to promote the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural development and heritage of the Commonwealth and the United States and to promote thereby their health, welfare, convenience, and prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities devoted to the staging of equine events and activities (other than racing) for use by governmental or nonprofit, nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in order to promote the equine industry and equine-related activities (other than racing) which are integral to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to acquiring, developing, owning, and operating an industrial park and any utilities that are intended primarily to serve the park and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial park or the utilities being financed or by any other funds of the authority.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter granted in this chapter, the powers contained herein with respect to facilities used primarily for single or multi-family residences in order to promote safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare, and prosperity of the inhabitants of the Commonwealth. It is not intended hereby that any such authority shall itself be authorized to operate any such facility or exercise any powers of eminent domain set forth in § 36-27.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to public school buildings and facilities to promote the safety, health, welfare, convenience, and prosperity of the school children of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of school boards in order to provide for the modernization of public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilitating and supporting landowner access to carbon markets through aggregation of landowners to reach a size that attracts the investment of private capital. Such aggregation provides landowners of various size tracts of land enhanced opportunities to access capital and benefits that support and enhance the agriculture and

forest industries for the health, welfare, convenience and prosperity of the inhabitants of the Commonwealth.

In any instance in this chapter where an industrial development authority may issue bonds through its authority to finance, the authority may also refinance such bonds.

This chapter shall be liberally construed in conformity with these intentions.

1966, c. 651, § 15.1-1375; 1972, c. 783; 1975, c. 489; 1977, c. 619; 1978, cc. 276, 526; 1984, c. 700; 1985, c. 317, § 15.1-1392; 1986, c. 473; 1988, c. 211; 1990, c. 312; 1991, c. 6; 1997, cc. 587, 758, 763; 2002, cc. 680, 725; 2005, c. 928; 2012, c. 498; 2019, cc. 546, 818, 819.

**§ 15.2-4902. Definitions.**

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Authority facilities" or "facilities" means any or all (i) medical (including, but not limited to, office and treatment facilities), pollution control or industrial facilities; (ii) facilities for the residence or care of the aged; (iii) multi-state regional or national headquarters offices or operations centers; (iv) facilities for private, accredited and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like; (v) parking facilities, including parking structures; (vi) facilities for use as office space by nonprofit, nonreligious organizations; (vii) facilities for museums and historical education, demonstration and interpretation, together with buildings, structures or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations; (viii) facilities for use by an organization (other than an organization organized and operated exclusively for religious purposes) which is described in § 501(c) (3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501 (a) of such Internal Revenue Code; (ix) facilities for use by a locality, the Commonwealth and its agencies, or other governmental organizations, provided that any such facilities owned by a locality, the Commonwealth or its agencies or other public bodies subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not be exempt from competitive procurement requirements, under the exception granted in subsection B of § 2.2-4344; (x) facilities devoted to the staging of equine events and activities (other than racing events); however, such facilities must be owned by a governmental or nonprofit, nonreligious organization and operated by any such governmental or nonprofit, nonreligious organization; (xi) facilities for commercial enterprises that are not enterprise zone facilities (as defined in § 1394 (b) of the Internal Revenue Code of 1986, as amended) now existing or

hereafter acquired, constructed or installed by or for the authority pursuant to the terms of this chapter; however, facilities for commercial enterprise that are not enterprise zone facilities but which are taxable authority facilities shall constitute authority facilities only if the interest on any bonds issued to finance such facilities is not exempt from federal income taxation; (xii) enterprise zone facilities; and (xiii) facilities used primarily for single or multi-family residences. Clause (xiii) applies only to industrial development authorities created by one or more localities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1. Any facility may be located within or outside or partly within or outside the locality creating the authority. Any facility may consist of or include any or all buildings, improvements, additions, extensions, replacements, machinery or equipment, and may also include appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired, constructed, or installed by or on behalf of the authority. A pollution control facility shall include any facility acquired, constructed or installed or any expenditure made, including the reconstruction, modernization or modification of any existing building, improvement, addition, extension, replacement, machinery or equipment, and which is designed to further the control or abatement of land, sewer, water, air, noise or general environmental pollution derived from the operation of any industrial or medical facility. Any facility may be constructed on or installed in or upon lands, structures, rights-of-way, easements, air rights, franchises or other property rights or interests whether owned by the authority or others.

"Bonds" or "revenue bonds" embraces notes, bonds and other obligations authorized to be issued by the authority pursuant to the provisions of this chapter.

"Cost" means, as applied to authority facilities, the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all labor, materials, machinery and equipment; financing charges and interest on all bonds prior to and during construction and, if deemed advisable by the authority, for a period not exceeding one year after completion of such construction; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing the authority facilities; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements; and such other expenses as may be necessary or incident to the construction of the authority facilities, the financing of such construction and the placing of the authority facilities in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the authority facilities may be regarded as a part of the cost of the authority facilities and may be reimbursed to the Com-

monwealth or any agency thereof out of the proceeds of the bonds issued for such authority facilities as hereinafter authorized.

"Enterprise" means any industry for manufacturing, processing, assembling, storing, warehousing, distributing, or selling any products of agriculture, mining, or industry and for research and development or scientific laboratories, including, but not limited to, the practice of medicine and all other activities related thereto or for such other businesses or activities as will be in the furtherance of the public purposes of this chapter.

"Loans" means any loans made by the authority in furtherance of the purposes of this chapter from the proceeds of the issuance and sale of the authority's bonds and from any of its revenues or other moneys available to it as provided herein.

"Revenues" means any or all fees, rates, rentals and receipts collected by, payable to or otherwise derived by the authority from, and all other moneys and income of whatsoever kind or character collected by, payable to or otherwise derived by the authority in connection with the ownership, leasing or sale of the authority facilities or in connection with any loans made by the authority under this chapter.

"Taxable authority facilities" means any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard and ice skating), racquet sports facility, suntan facility, race track, or facility the primary purpose of which is one of the following: (i) retail food and beverage services (excluding grocery stores), (ii) automobile sales and service, (iii) recreation or entertainment, or (iv) banks, savings and loan institutions or mortgage loan companies. The foregoing sentence notwithstanding, no facility financed as an enterprise zone facility using tax-exempt "enterprise zone facility bonds" (as such term is used in § 1394 of the Internal Revenue Code ) shall constitute a taxable authority facility.

"Trust indenture" means any trust agreement or mortgage under which bonds authorized pursuant to this chapter may be secured.

1966, c. 651, § 15.1-1374; 1968, c. 687; 1970, c. 725; 1972, c. 783; 1973, c. 528; 1977, cc. 238, 619, 673; 1978, c. 526; 1980, c. 372; 1983, c. 514; 1984, c. 700; 1986, c. 473; 1988, c. 211; 1990, cc. 312, 469; 1991, c. 6; 1994, c. 737; 1997, cc. 587, 758, 763; 1999, c. 379; 2005, c. 928; 2006, c. 324.

**§ 15.2-4903. Creation of industrial development authorities.**

A. The governing body of any locality in the Commonwealth is hereby authorized to create by ordinance a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Any such ordinance may limit the type and number of facilities that the authority may otherwise finance under this chapter, which ordinance of limitation may, from time to time, be amended. Louisa County may, by ordinance, authorize an authority created or established under this chapter to acquire, own, operate, and regulate the use of airports, landing fields, and facilities, and other property incident thereto, including such facilities and property necessary for the servicing of air-

craft. In the absence of any such limitation, an authority shall have all powers granted under this chapter.

B. The name of the authority shall be the Industrial Development Authority of (the blank spaces to be filled in with the name of the locality which created the authority, including the proper designation thereof as a county, city or town).

C. Notwithstanding subsection B, for any authority authorized by this section, the name of the authority may be the Economic Development Authority of (the blank space to be filled in with the name of the locality that created the authority), if the governing body of such locality so chooses.

D. The authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916 may be named the Economic Development Authority of Halifax, Virginia, or such other name as the governing bodies of the Town of South Boston and Halifax County shall choose in the concurrent resolutions creating such authority.

1966, c. 651, § 15.1-1376; 1975, c. 254; 1997, c. 587; 1999, c. 157; 2000, c. 398; 2001, cc. 5, 6, 730; 2002, cc. 169, 680, 725; 2003, cc. 159, 343, 345, 350, 357; 2004, cc. 292, 782, 933; 2016, cc. 164, 312; 2017, c. 560.

**§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as

agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow $2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has

previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed $200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

1966, c. 651, § 15.1-1377; 1979, c. 35; 1980, c. 304; 1982, c. 463; 1983, c. 514; 1984, c. 750; 1987, c. 368; 1990, c. 87; 1993, c. 896; 1996, cc. 589, 599; 1997, c. 587; 1999, cc. 337, 408, 414; 2000, c. 963; 2001, c. 121; 2003, cc. 347, 357; 2006, c. 687; 2007, cc. 283, 338; 2008, c. 619; 2009, cc. 199, 200, 460, 597; 2012, cc. 337, 352; 2013, c. 482; 2014, cc. 381, 382; 2016, c. 414; 2017, cc. 541, 557, 560; 2018, c. 310; 2019, c. 363.

**§ 15.2-4905. Powers of authority.**

The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To enter into contracts; however, any written contract of the authority shall contain provisions addressing the issue of whether attorney's fees shall be recoverable by the prevailing party in the event the contract is subject to litigation;

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more authority facilities including all real and personal properties which the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

7. To issue its bonds for the purpose of carrying out any of its powers including specifically, but without intending to limit any power conferred by this section or this chapter, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from an authority to undertake financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of such facility other than financings pursuant to this chapter or any similar law;

8. As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof or from any loans made by the authority;

9. To employ and pay compensation to such employees and agents, including attorneys, and real estate brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

10. To exercise all powers expressly given the authority by the governing body of the locality which established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the authority's affairs;

11. To appoint an industrial advisory committee or similar committee or committees to advise the authority, consisting of such number of persons as it may deem advisable. Such persons may be compensated such amount per regular, special, or committee meeting as may be approved by the appointing authority, not to exceed $50 per meeting day, and may be reimbursed for necessary traveling and other expenses incurred while on the business of the authority;

12. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the authority facilities, for the payment of principal of any bond of the authority, interest thereon, or other cost incident thereto, or in order to make loans in furtherance of the purposes of this chapter of such money, contributions, grants, and other financial assistance, and to this end the authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed; and

13. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter including for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the authority which have not been pledged or assigned for the payment of any of the authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefor. An authority may also be permitted to forgive loans or other obligations if it is deemed to further economic development. The word "revenues" as used in this subdivision includes contributions, grants and other financial assistance, as set out in subdivision 12.

The authority shall not have power to operate any facility as a business other than as lessor and shall not have the power to operate any single or multi-family housing facilities. However, the authority shall have the power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the provisions of Chapter 14 (§ 62.1-159 et seq.) of Title 62.1. Any meeting held by the board of directors at which formal action is taken shall be open to the public.

If a locality has created an industrial development authority pursuant to this chapter or any other provision of law, no other such authority, not created by such locality, shall finance facilities, except pollution control facilities, within the boundaries of such locality, unless the governing body of such locality in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the authority, and shows such concurrence in a duly adopted resolution. Notwithstanding the foregoing, nothing contained herein shall be deemed to invalidate or otherwise

impair any existing financing by an authority or the financing of any facilities for which application has been made to an authority prior to July 1, 1981.

Notwithstanding the provisions of this section, and notwithstanding the provisions of any other law, general or special, nothing herein shall be deemed to impair the authority of the town council of the Town of Front Royal from creating its own independent industrial development authority, separate and apart for all purposes from any currently existing or future industrial development authority. A Town of Front Royal independent industrial development authority, created solely by the town, shall have all powers granted industrial development authorities generally as set forth in this chapter. Such industrial development authority may also include Warren County in any of its economic development projects for a period of five years ending July 1, 2025.

1966, c. 651, § 15.1-1378; 1970, c. 598; 1972, c. 783; 1973, c. 528; 1981, c. 3; 1991, c. 6; 1993, c. 896; 1994, c. 317; 1997, cc. 587, 758, 763; 1998, c. 728; 2005, c. 575; 2020, c. 1001.

**§ 15.2-4906. Public hearing and approval.**

A. Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on industrial development bonds, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be in accordance with this section.

B. For a public hearing by the authority, notice of the hearing shall be published once a week for two successive weeks in a newspaper having general circulation in the locality in which the facility to be financed is to be located of intention to provide financing for a named individual or business entity. The applicant shall pay the cost of publication. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than six days nor more than twenty-one days after the second notice shall appear in such newspaper.

The notice shall contain: (i) the name and address of the authority; (ii) the name and address (principal place of business, if any) of the party seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

If after the hearing has been held the authority approves the financing, a reasonably detailed summary of the comments expressed at the hearing shall be conveyed promptly to the locality's governing body together with the recommendation of the authority.

C. For public approval, the governing body of the locality on behalf of which the bonds of the authority are issued shall within sixty calendar days from the public hearing held by the authority either approve or disapprove financing of any facility recommended by the authority.

Action of the governing body shall be by a majority of a quorum set out in a resolution. Such vote shall be recorded and disclose how each member voted.

In case of a joint authority the approval required by the governing body of the locality shall be that governing body of the area where the facility will be located, if permitted by federal law or regulation.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

1983, c. 514, § 15.1-1378.1; 1997, c. 587.

**§ 15.2-4907. Fiscal impact statement.**

Every request for industrial development (facility) financing when submitted to the governing body of the locality for approval shall be accompanied by a statement in the following form:

_____

Date

_____

(Name of Applicant)

_____

(Facility)

| | | |
|---|---|---|
| a | 1. Maximum amount of financing sought | $____ |
| b | 2. Estimated taxable value of the facility's real property to be constructed in the locality | $____ |
| c | 3. Estimated real property tax per year using present tax rates | $____ |
| d | 4. Estimated personal property tax per year using present tax rates | $____ |
| e | 5. Estimated merchants' capital tax per year using present tax rates | $____ |
| f | 6. a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality | $____ |
| g | b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality | $____ |
| h | c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality | $____ |
| i | d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality | $____ |
| j | 7. Estimated number of regular employees on year round basis | $____ |
| k | 8. Average annual salary per employee | $____ |

Signature

_____

Authority Chairman

_____

Name of Authority

If one or more of the above questions do not apply to the facility indicate by writing N/A (not applicable) on the appropriate line.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

1983, c. 514, § 15.1-1378.2; 1997, c. 587; 1998, c. 728.

**§ 15.2-4908. Issuance of bonds, notes and other obligations of authority.**

A. Subject to the limitations of Chapter 50 (§ 15.2-5000 et seq.) of this title, the authority may issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of authority facilities and including the payment or retirement of bonds previously issued by it. All bonds issued by the authority shall be payable solely from the revenues and receipts derived from the leasing or sale by the authority of its facilities or any part thereof or from payments received by the authority in connection with its loans, and the authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds payable, both as to principal and interest: (i) from its revenues and receipts generally; (ii) exclusively from the revenues and receipts of a particular facility or loan; or (iii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the bonds, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or outside the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be determined by the board of directors. If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof, at such price or prices and after such notice or notices and on such terms and conditions as may be determined by the board of directors and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the authority any right or option to redeem any

bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the authority to be most advantageous, and the authority may pay all costs, premiums and commissions which its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the authority at any time outstanding may from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether the bonds proposed to be refunded are payable on the same date or on different dates or are due serially or otherwise. The determination of the form, denominations, maturities, redemption provisions, places of payment, interest rate or rates, payment installations, dates and all other terms and provisions of bonds as authorized in this section may be made by the board of directors in such manner as the board may provide, including the determination by reference to indices and formulas or by agents designated by the board of directors under guidelines established by it.

B. All bonds shall be signed by the chairman or vice-chairman of the authority or shall bear his facsimile signature, and the corporate seal of the authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of the chairman. In case any officer whose signature or a facsimile signature appears on any bonds or coupons ceases to be an officer before delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds shall be authenticated by a corporate trustee or other authenticating agent approved by the authority.

C. If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, are less than the cost of the authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the

proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements or enlargements of the authority facilities for which such bonds shall have been issued.

D. Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which are mutilated, destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter; however, nothing contained in this chapter shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

E. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

F. In addition to all other powers granted to the authority by this chapter, the authority may issue, from time to time, notes or other obligations of the authority for any of its authorized purposes. The provisions of this chapter which relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

1966, c. 651, § 15.1-1379; 1968, c. 687; 1983, c. 514; 1991, c. 6; 1997, c. 587; 2003, cc. 353, 683.

**§ 15.2-4909. Liability of Commonwealth, political subdivisions, directors and officers.**

A. Bonds issued pursuant to this chapter shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth, or any political subdivision thereof, including the locality which created the authority issuing such bonds, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the authority shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

B. Neither the directors of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

C. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the authority and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall be available to the authority.

D. Bonds issued pursuant to the provisions of this chapter shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

1966, c. 651, § 15.1-1380; 1997, c. 587.

### § 15.2-4910. Security for payment of bonds; default.

The principal of and interest on any bonds issued by the authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on such bonds have been fully paid. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, such payment or agreements may be enforced by writ of mandamus, or by a suit, action or proceeding at law or in equity to compel the authority and the directors, officers, agents or employees thereof to perform the terms, provisions, and covenants contained in any trust indenture of the authority, by the appointment of a receiver in equity or by foreclosure of any such trust indenture or any one or more of said remedies.

1966, c. 651, § 15.1-1381; 1997, c. 587.

### § 15.2-4911. Rents, fees and other charges.

The authority shall fix and revise from time to time the rents, fees and other charges to be paid to it in connection with the lease or sale of various authority facilities and for any other services furnished or provided by the authority. Such rents, fees and charges shall provide at least sufficient funds to pay the cost of maintaining, repairing and operating such projects and the principal and interest of any bonds issued by the authority or other debts contracted as the bonds become due and payable. The authority and the political subdivision in which all or any part of a particular authority facility is located may agree on payment by the authority on account of governmental services to be rendered by the political subdivision in such amounts as the authority may find to be consistent with the purposes of this chapter. A reserve may be accumulated and maintained out of the revenues and receipts of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing the authority's bonds.

Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations hereunder, the authority shall have exclusive control of the revenues and receipts derived from the lease or sale of any authority facility and the right to use the revenues and receipts in the exercise of its powers and duties set forth in this chapter.

1966, c. 651, § 15.1-1382; 1968, c. 687; 1973, c. 528; 1997, c. 587.

### § 15.2-4912. Exemption from taxation.

The authority is hereby declared to be performing a public function in behalf of the locality with respect to which the authority is created and to be a public instrumentality of such locality. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the authority, shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof.

1966, c. 651, § 15.1-1383; 1997, c. 587.

### § 15.2-4913. Authority to be nonprofit; excess earnings.

The authority shall be nonprofit and no part of its net earnings remaining after payment of its expenses shall enure to the benefit of any individual, firm or corporation, except that if the board of directors of the authority determines that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority then any net earnings of the authority thereafter accruing shall be paid to the locality with respect to which the authority was created. However, nothing herein contained shall prevent the board of directors from transferring all or any part of its facilities or properties in accordance with the terms of any contract entered into by the authority.

1966, c. 651, § 15.1-1384; 1973, c. 528; 1997, c. 587.

### § 15.2-4914. Dissolution of authority; disposition of property.

Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the board of directors of the authority shall thereupon execute and file for record with the governing body of the locality which created the authority, a resolution declaring such facts. If the governing body of the locality which created the authority is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality.

1966, c. 651, § 15.1-1385; 1997, c. 587.

### § 15.2-4915. Bonds as legal investments and lawful security.

The bonds issued pursuant to this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians and for all public funds of the Commonwealth or

other political corporations or subdivisions of the Commonwealth. Such bonds shall be eligible to secure the deposit of public funds of the Commonwealth, localities, school districts or other political corporations or subdivisions of the Commonwealth, and shall be security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

1966, c. 651, § 15.1-1386; 1997, c. 587.

**§ 15.2-4916. Authorities acting jointly.**

The powers herein conferred upon authorities created under this chapter may be exercised by two or more authorities acting jointly. Two or more localities may jointly create an authority, in which case each of the directors of such authority shall be appointed by the governing body of the respective locality which the director represents.

1966, c. 651, § 15.1-1387; 1982, c. 463; 1997, c. 587.

**§ 15.2-4917. Facility sites.**

Any locality may acquire, pursuant to § 15.2-1800, but not by condemnation, a facility site and may likewise transfer any facility site to an authority. Such transfer may be authorized by a resolution of the governing body of the locality without submission of the question to the voters and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law. Such facility sites may be located within or outside or partially within or outside the locality creating the authority. If a real estate broker licensed under § 54.1-2100 represents a party in a transaction through which a facility site is acquired, the locality may pay a reasonable brokerage fee to such real estate broker.

1966, c. 651, § 15.1-1388; 1997, c. 587; 1998, c. 728.

**§ 15.2-4918. Provisions of chapter cumulative; construction.**

This chapter neither limits nor restricts any powers which the authority might otherwise have under any laws of this Commonwealth. No proceedings, notice or approval shall be required for the organization of the authority or the issuance of any bonds or any instrument as security therefor, except as herein provided. However, nothing herein shall be construed to deprive the Commonwealth and its political subdivisions of their respective police powers over properties of the authority or to impair any power thereover of any official or agency of the Commonwealth and its political subdivisions which may be otherwise provided by law. Nothing contained in this chapter shall be deemed to authorize the authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof.

1966, c. 651, § 15.1-1389; 1997, c. 587.

**§ 15.2-4919. Provisions of chapter controlling over other statutes and charters.**

Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

1966, c. 651, § 15.1-1390; 1997, c. 587; 2015, c. 709.

### § 15.2-4920. Validation of creation of authorities, appointment of directors and proceedings; curative resolutions.

All proceedings heretofore taken with respect to the creation of authorities by any locality pursuant to this chapter are hereby validated and confirmed and all such authorities are declared to be legally created. All incumbent directors of authorities are declared to be and are lawfully appointed directors of authorities, notwithstanding any failure to conform to the requirements of this chapter, and all such appointments are hereby ratified, validated and confirmed. However, all terms of incumbent directors shall conform to § 15.2-4904. The governing body of any locality is hereby authorized to adopt such corrective resolutions as may be necessary to carry out the requirements of the immediately preceding sentence. All proceedings heretofore taken to provide for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any authority are hereby validated, ratified, approved and confirmed, and any such bonds so issued shall be valid, legal, binding and enforceable obligations of such authority.

1980, c. 304, § 15.1-1391; 1997, c. 587.

## Chapter 50 - PRIVATE ACTIVITY BONDS

### § 15.2-5000. Definitions.

As used in this chapter:

"Exempt project" for the purposes of the industrial development portion of the state ceiling means the following facilities:

1. Sewage, solid waste and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;

2. Certain facilities for the furnishing of water (including irrigation systems);

3. Mass commuting facilities;

4. Local district heating and cooling facilities.

"Industrial development bond" means those obligations issued by the Commonwealth and its issuing authorities which constitute manufacturing and exempt facility private activity bonds and the private use portion of governmental projects over the fifteen million-dollar threshold amount.

"Issuing authority" means any political subdivision, governmental unit, authority, or other entity of the Commonwealth which is empowered to issue private activity bonds.

"Local housing authority" means any issuer of multifamily housing bonds or single family housing bonds, created and existing under the laws of the Commonwealth, excluding the Virginia Housing Development Authority.

"Manufacturing facility" means (i) any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change of condition of such property,

(ii) any facility which is used in the creation or production of intangible property as described in § 197 (d)(1)(C)(iii) of the Internal Revenue Code of 1986, as amended, to be any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item, or (iii) any facility which is functionally related and subordinate to a manufacturing facility if such facility is located on the same site as the manufacturing facility. This definition is for bonding purposes under this chapter only and shall not apply to local taxation under Title 58.1.

"Multifamily housing bond" means any obligation which constitutes an exempt facility bond under federal law for the financing of a qualified residential rental project within the meaning of § 142 of the Internal Revenue Code of 1986, as amended.

"Private activity bond" means a part or all of any bond (or other instrument) required to obtain an allocation from the state's volume cap pursuant to § 146 of the Internal Revenue Code of 1986, as amended, in order to be tax exempt, including but not limited to the following:

1. Exempt project bonds,

2. Manufacturing facility bonds,

3. Industrial development bonds,

4. Multifamily housing bonds,

5. Single family housing bonds,

6. Any other bond eligible for a tax exemption as a private activity bond pursuant to § 141 of the Internal Revenue Code of 1986, as amended.

"Single family housing bonds" means any obligation described as a qualified mortgage bond under § 143 of the Internal Revenue Code of 1986, as amended.

"State ceiling" means the maximum amount of private activity bonds that the Commonwealth of Virginia may issue in a calendar year as limited by federal law under the Internal Revenue Code of 1986, as amended.

1987, c. 306, § 15.1-1399.10; 1990, c. 299; 1997, c. 587; 2008, c. 445; 2010, cc. 122, 360.

**§ 15.2-5001. Purpose of chapter.**

It is the intent of the legislature by the passage of this chapter to allocate Virginia's total private activity bond issuing authority to those issuing authorities empowered to issue private activity bonds.

The Tax Reform Act of 1986 imposes restrictions on the issuance of bonds designated in the Act as "private activity bonds." These restrictions include limitations on the aggregate amount of private activity bonds that may be issued in each state in any calendar year that may be regarded as exempt from federal income taxation. Section 146 (e) of the Tax Reform Act of 1986 provides the authority for each state to establish a system for the allocation of the state ceiling on private activity bonds.

It is the intent of the legislature to provide for the allocation of the state ceiling among issuers of such bonds in a manner which will promote the public purposes and maximize the public benefits created by the issuance of such bonds.

1987, c. 306, § 15.1-1399.11; 1997, c. 587; 2008, c. 445.

**§ 15.2-5002. Allocation of state ceiling for 2008 and beyond.**

This section shall apply to all private activity bonds issued by issuing authorities during 2008 and in years subsequent to 2008. The state ceiling for these calendar years shall be allocated as follows:

1. "Housing." For calendar years 2008 and beyond, an amount equal to 57 percent of the Virginia state ceiling on private activity bonds shall be set aside for single family and multifamily housing bonds. The housing portion of the state ceiling shall be divided between local housing authorities and the Virginia Housing Development Authority. The bond authority allocated to these issuers shall be distributed as follows:

| Issuer | Portion of State Ceiling |
|---|---|
| Local Housing Authorities | 14% |
| Virginia Housing Development Authority | 43% |
| Total Housing Allocation | 57% |

2. "Industrial Development." For calendar years 2008 and beyond, an amount equal to 25 percent of the Virginia state ceiling on private activity bonds shall be set aside for the issuance of industrial development bonds for manufacturing and exempt facilities; provided, however, that in the event that on July 1, 2008, the amount of private activity bonds allocated since January 1, 2008, for manufacturing and exempt facilities pursuant to the guidelines established under § 15.2-5003 shall have exceeded such 25 percent amount, the amount set aside for the Virginia Housing Development Authority under this section for calendar year 2008 shall be reduced by the amount of such excess, but in no event shall the amount of private activity bonds so allocated exceed 41 percent of the Virginia state ceiling on private activity bonds for calendar year 2008.

3. "State allocation." For calendar years 2008 and beyond, an amount equal to eighteen percent of the Virginia state ceiling on private activity bonds shall be set aside for state issuing authorities for allocations to housing and to exempt projects and manufacturing facilities of state and regional interests as determined by the Governor.

1987, c. 306, § 15.1-1399.14; 1990, c. 299; 1995, cc. 359, 384; 1997, c. 587; 1998, cc. 39, 784; 2008, c. 445.

**§ 15.2-5003. Administration.**

The Board of Housing and Community Development shall establish guidelines in accordance with this chapter that shall detail (i) the specific administrative policies, criteria, and procedures for the allocation to local housing authorities set forth in subdivision 1 of § 15.2-5002 and (ii) the administrative procedures for the state allocation set forth in subdivision 3 of § 15.2-5002. The Virginia Housing

Development Authority shall administer its allocation set forth in subdivision 1 of § 15.2-5002 and shall use such allocation to finance loans for single family and multi-family housing in accordance with the policies, criteria, and procedures in its rules and regulations applicable to such loans, provided, however, that notwithstanding any other provision of this chapter, the Virginia Housing Development Authority may use any or all of its allocation of bond authority under § 15.2-5002 and any unused bond authority reallocated or continued to be allocated to the Virginia Housing Development Authority under § 15.2-5004 to issue mortgage credit certificates in accordance with (a) the provisions of § 25 of the United States Internal Revenue Code of 1986, as amended, and any successor provisions and (b) the policies, criteria, and procedures in its rules and regulations applicable to such certificates. The Virginia Small Business Financing Authority shall establish guidelines in accordance with this chapter which detail the specific administrative policies, criteria, and procedures for the use of the allocation for industrial development set forth in subdivision 2 of § 15.2-5002. Specific application, allocation, and reporting requirements shall be provided by the guidelines. The guidelines of the Board of Housing and Community Development and the Virginia Small Business Financing Authority shall be in accordance with the limitations and restrictions contained in federal law.

1987, c. 306, § 15.1-1399.15; 1995, c. 128; 1997, c. 587; 2008, c. 445; 2012, c. 239.

**§ 15.2-5004. Reallocation of bond authority.**

The allocation formulas prescribed in this chapter are established to utilize the entire state ceiling on private activity bonds by providing issuing authority to housing and industrial development projects. The allocation to local housing authorities and the allocation for industrial development provided in § 15.2-5002 shall be effective for such period in each calendar year as is set forth in the guidelines established pursuant to § 15.2-5003.

Any unused bond authority remaining in any category after the effective period of the allocation set forth in such guidelines shall be reallocated to the Virginia Housing Development Authority (and any unused bond authority allocated to the Virginia Housing Development Authority shall continue to be allocated to the Virginia Housing Development Authority) in the amount requested by the Virginia Housing Development Authority, subject to the receipt by the Director of the Department of Housing and Community Development of assurances from the Virginia Housing Development Authority of anticipated usage of such amount of unused bond authority within the time period permitted by federal law, and any remaining amount that is not so reallocated (or continued to be allocated) to the Virginia Housing Development Authority shall be reallocated according to the guidelines established by the Board of the Department of Housing and Community Development and the Virginia Small Business Financing Authority. The guidelines shall also provide a priority system for the reallocation of any such remaining unused bond authority not reallocated (or continued to be allocated) to the Virginia Housing Development Authority at year-end to projects that are eligible to carry forward issuing authority to later years. The provisions of this section shall not apply to the amount of the state ceiling set aside for the state allocation during any calendar year.

1987, c. 306, § 15.1-1399.16; 1989, c. 35; 1990, c. 299; 1995, c. 128; 1997, c. 587; 2008, c. 445.

### § 15.2-5005. Changes by the federal government.

If federal laws or regulations controlling private activity bonds are revised so that the provisions of this chapter are affected or the tax exempt status of certain private activity bonds expires or is extended, the Governor may establish measures through executive order to allocate Virginia's total bond issuing authority in accordance with the limitations and restrictions contained in the revised federal law.

1987, c. 306, § 15.1-1399.17; 1990, c. 299; 1997, c. 587.

## Chapter 51 - VIRGINIA WATER AND WASTE AUTHORITIES ACT

## Article 1 - GENERAL PROVISIONS

### § 15.2-5100. Title of chapter.

This chapter shall be known and may be cited as the "Virginia Water and Waste Authorities Act." This chapter shall constitute full and complete authority, without regard to the provisions of any other law for the doing of the acts herein authorized, and shall be liberally construed to effect the purposes of the chapter.

Code 1950, § 15-764.1; 1950, p. 1312; 1962, c. 623, § 15.1-1239; 1997, c. 587.

### § 15.2-5101. Definitions.

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

"Authority" means an authority created under the provisions of § 15.2-5102 or Article 6 (§ 15.2-5152 et seq.) of this chapter or, if any such authority has been abolished, the entity succeeding to the principal functions thereof.

"Bonds" and "revenue bonds" include notes, bonds, bond anticipation notes, and other obligations of an authority for the payment of money.

"Cost," as applied to a system, includes the purchase price of the system or the cost of acquiring all of the capital stock of the corporation owning such system and the amount to be paid to discharge all of its obligations in order to vest title to the system or any part thereof in the authority; the cost of improvements; the cost of all land, properties, rights, easements, franchises and permits acquired; the cost of all labor, machinery and equipment; financing and credit enhancement charges; interest prior to and during construction and for one year after completion of construction; any deposit to any bond interest and principal reserve account, start-up costs and reserves and expenditures for operating capital; cost of engineering and legal services, plans, specifications, surveys, estimates of costs and revenues; other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, improvement, or construction; administrative expenses and such other expenses as may be necessary or incident to the financing authorized in this chapter and to the acquisition, improvement, or construction of any such system and the placing of the system in operation by the authority. Any obligation or expense incurred by an authority in connection with any of the foregoing items of cost and any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions of this chapter for engineering studies, for estimates of cost and revenues, and for

other technical or professional services which may be utilized in the acquisition, improvement or construction of such system is a part of the cost of such system.

"Cost of improvements" means the cost of constructing improvements and includes the cost of all labor and material; the cost of all land, property, rights, easements, franchises, and permits acquired which are deemed necessary for such construction; interest during any period of disuse during such construction; the cost of all machinery and equipment; financing charges; cost of engineering and legal expenses, plans, specifications; and such other expenses as may be necessary or incident to such construction.

"Federal agency" means the United States of America or any department, agency, instrumentality, or bureau thereof.

"Green roof" means a roof or partially covered roof consisting of plants, soil, or another lightweight growing medium that is installed on top of a waterproof membrane and designed in accordance with the Virginia Stormwater Management Program's standards and specifications for green roofs, as set forth in the Virginia BMP Clearinghouse.

"Improvements" means such repairs, replacements, additions, extensions and betterments of and to a system as an authority deems necessary to place or maintain the system in proper condition for the safe, efficient and economical operation thereof or to provide service in areas not currently receiving such service.

"Owner" includes persons, federal agencies, and units of the Commonwealth having any title or interest in any system, or the services or facilities to be rendered thereby.

"Political subdivision" means a locality or any institution or commission of the Commonwealth of Virginia.

"Refuse" means solid waste, including sludge and other discarded material, such as solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations or from community activities or residences. "Refuse" does not include (i) solid and dissolved materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), as amended.

"Refuse collection and disposal system" means a system, plant or facility designed to collect, manage, dispose of, or recover and use energy from refuse and the land, structures, vehicles and equipment for use in connection therewith.

"Sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public buildings, together with such surface or ground water and household and industrial wastes as may be present.

"Sewage disposal system" means any system, plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfills, or other works, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

"Sewer system" or "sewage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial wastes or other wastes to a plant of ultimate disposal.

"Stormwater control system" means a structural system of any type that is designed to manage the runoff from land development projects or natural systems designated for such purposes, including, without limitation, retention basins, ponds, wetlands, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system.

"System" means any sewage disposal system, sewer system, stormwater control system, water or waste system, and for authorities created under Article 6 (§ 15.2-5152 et seq.) of this chapter, such facilities as may be provided by the authority under § 15.2-5158.

"Unit" means any department, institution or commission of the Commonwealth; any public corporate instrumentality thereof; any district; or any locality.

"Water or waste system" means any water system, sewer system, sewage disposal system, or refuse collection and disposal system, or any combination of such systems. "Water system" means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water, or facilities incident thereto, and any integral part thereof, including water supply systems, water distribution systems, dams and facilities for the generation or transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances, and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof but not including dams or facilities for the generation or transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water.

Code 1950, § 15-764.2; 1950, p. 1312; 1952, c. 430; 1962, c. 623, § 15.1-1240; 1970, c. 617; 1979, c. 280; 1982, c. 469; 1997, cc. 527, 573, 587; 2006, c. 219; 2009, cc. 402, 473.

## Article 2 - CREATION AND DISSOLUTION OF AUTHORITIES

### § 15.2-5102. One or more localities may create authority.

A. The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, a stormwater control authority, a refuse collection and

disposal authority, or any combination or parts thereof. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate and a political subdivision of the Commonwealth. The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum if one has been ordered pursuant to this chapter.

B. Any authority, or any subsidiary thereof, organized pursuant to this section to operate a refuse collection and disposal system that, pursuant to statute, is specifically authorized to include in the system (i) facilities for processing solid waste as a fuel and (ii) facilities for generating steam and electricity for sale, shall not be subject to regulation under the Utilities Facilities Act (§ 56-265.1 et seq.), provided that sales of electricity generated at such facilities are made only to a federal agency whose primary responsibility is national defense and the energy is delivered directly from the generator to the customer's facilities or to a public utility.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, cc. 527, 573, 587; 1999, cc. 896, 925; 2011, c. 199.

**§ 15.2-5102.1. (Contingent expiration date, see Editor's note) Hampton Roads area refuse collection and disposal system authority.**

Any authority, or any subsidiary thereof, organized pursuant to § 15.2-5102 to operate a refuse collection and disposal system that has among its members the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, and Franklin, and the Counties of Isle of Wight, Southampton, and Suffolk, shall, notwithstanding any other law to the contrary, comply with the following requirements:

1. Each locality that is a member of the authority shall be entitled to nominate individuals to fill one position on the Board of Directors (the Board) by submitting a list of three potential directors, each of whom shall possess general business knowledge and shall not be an elected official, to the Governor. The Governor shall then select and appoint one director from each of the lists of nominees prepared by the member localities. In addition, each member locality shall be authorized to directly appoint, upon a majority vote of the governing body of the member locality, one ex officio member of the Board who shall be an employee of the member locality. The members of the Board shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. No member shall serve for more than two consecutive four-year terms, except that (i) any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms and (ii) a member directly appointed by the governing body of a member locality shall not be subject to a term limit.

2. The authority shall develop and maintain an overall strategic plan that shall cover a period of at least five years forward from the year in which it is submitted and approved by the Board. The plans shall be reviewed annually to determine whether amendments are needed. Any such amendments shall be submitted to the board of directors for approval.

3. The authority's core purpose shall be defined as "management of the safe and environmentally sound disposal of regional waste." The authority shall devote its time and effort to activities associated with its core purpose. A vote of a majority of the Board shall be required prior to undertaking any activities not associated with the authority's core purpose.

4. The authority shall develop and maintain a strategic operating plan identifying all elements of its core business units and core purpose, how each business and administrative unit will support the overall strategic plan, and how the authority will achieve its stated mission and core purpose. The strategic operating plan shall be subject to review and approval of the Board on an annual basis.

5. The authority shall consider outsourcing any or all functions that may result in reduced costs to the authority, and the authority shall annually issue requests for proposals that potentially reduce the costs of any of its programs. In addition, the authority shall accept and review any proposals under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) that potentially reduce the costs of any of the authority's programs.

6. The authority shall evaluate its landfill capacity annually, taking into consideration and projecting future changes in the quantity of waste disposed of in its landfill, or landfills reasonably situated or contractually obligated to accept its waste.

7. The authority shall keep records of its costs, revenue, debts, and capital expenses by fiscal year for each program. The authority shall also keep records of costs for each individual capital project.

8. The authority shall maintain a detailed financing plan that shall include a plan for the retirement of all debt and a plan for the funding of all planned capital projects. The plan for the funding of all planned capital projects shall specify the amount of debt the authority will issue in furtherance of the projects and the debt repayment plan for any new debt created by the capital projects, including the revenue source that will be used to repay the debt. The detailed financing plan shall be updated and approved annually by the Board and reviewed and certified annually by an external certified public accountant.

9. Prior to issuance of new debt, the Board shall perform a due diligence investigation of the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt. Such analysis shall be certified by an external certified public accountant, reviewed by the Board, and approved by a vote of a minimum of 75 percent of the Board. The issuance of new debt shall require a vote of a minimum of 75 percent of the Board of Directors of the authority. The authority shall not issue long-term bond indebtedness to fund operational expenses. The provisions of this subdivision shall not apply to the issuance of new debt issued for the purpose of refunding or refinancing debt incurred by the authority prior to September 30, 2009.

10. In the interest of open and transparent government, the authority shall adhere strictly to the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.).

11. The executive director of the authority shall not be permitted to execute or commit the authority to any contract, memorandum of agreement or memorandum of understanding without an informed vote of approval by the Board. This subdivision shall not apply in the case of (i) contracts for the purchase of goods and services for an aggregate sum of less than $30,000, which are subject to the Virginia Procurement Act (Va. Code § 2.2-4300 et seq.) but exempted from competitive negotiation or competitive sealed bidding by a duly adopted policy of the Board and (ii) sole source and emergency procurements made pursuant to subsections E and F of § 2.2-4303.

2009, c. 742; 2018, c. 547.

**§ 15.2-5103. Ordinance, agreement or resolution creating authority to include articles of incorporation.**

A. The ordinance, agreement or resolution creating an authority shall include articles of incorporation which shall set forth:

1. The name of the authority and address of its principal office.

2. The name of each participating locality and the names, addresses and terms of office of the first members of the board of the authority.

3. The purposes for which the authority is being created and, to the extent that the governing body of the locality determines to be practicable, preliminary estimates of capital costs, proposals for any specific projects to be undertaken by the authority, and preliminary estimates of initial rates for services of such projects as certified by responsible engineers.

4. If there is more than one participating locality, the number of board members who shall exercise the powers of the authority and the number from each participating locality.

B. Any such ordinance, agreement or resolution that does not set forth the information required in subdivision 3 of subsection A regarding capital cost estimates, project proposals and project service rate estimates shall set forth a finding by the governing body that inclusion of such information is impracticable.

C. Any ordinance, agreement or resolution adopted pursuant to §§ 15.2-5152 through 15.2-5157 shall provide that any bonds issued by the community development authority shall be a debt of the authority, not the local government. Unless otherwise provided in the ordinance which establishes the authority, the local government shall not retire any part of the bonds or pay any debt service of an authority out of revenues or funds derived from sources other than those set out in § 15.2-5158, except that, where the authority finances improvements not contemplated by the original ordinance, the local government may, by ordinance or resolution, make such provisions for repayment as are otherwise permitted under general law. This subsection shall have no effect upon authorities formed pursuant to § 15.2-5102.

Code 1950, § 15-764.4; 1950, p. 1315; 1962, c. 623, § 15.1-1242; 1972, cc. 370, 544; 1984, c. 239; 1997, cc. 363, 587.

### § 15.2-5104. Advertisement of ordinance, agreement or resolution and notice of hearing.

The governing body of each participating locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the ordinance, agreement or resolution creating an authority, or a descriptive summary of the ordinance, agreement or resolution and a reference to the place within the locality where a copy of the ordinance, agreement or resolution can be obtained, and notice of the day, not less than thirty days after publication of the advertisement, on which a public hearing will be held on the ordinance, agreement or resolution.

Code 1950, § 15-764.5; 1950, p. 1315; 1962, c. 623, § 15.1-1243; 1972, c. 370; 1983, c. 80; 1997, c. 587.

### § 15.2-5105. Hearing; referendum.

If at the hearing, in the judgment of the governing body of the participating locality, substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordinance, agreement or resolution. The provisions of § 24.2-684 shall govern the order for a referendum. When two or more localities are participating in the formation of such authority, the referendum, if ordered, shall be held on the same date in all participating localities. If ten percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality as provided in this section.

Code 1950, § 15-764.6; 1950, p. 1315; 1962, c. 623, § 15.1-1244; 1970, c. 617; 1972, c. 370; 1973, c. 478; 1975, c. 517; 1997, c. 587.

### § 15.2-5106. Voters' petition requesting agreement and referendum.

The qualified voters of any locality whose governing body has not acted to create an authority under § 15.2-5102 may file with the governing body of such locality a petition asking the governing body to effect an agreement in accordance with § 15.2-5102 with the localities named in the petition. Such petition shall be signed by at least ten percent of the number of the locality's voters who voted in the last presidential election and in no case be signed by fewer than fifty voters. The petition shall ask the governing body to petition the circuit court for a referendum on the question of the creation of the authority.

If the governing body is unable, or for any reason fails, to perfect such agreement within three months of the day the petition was filed with such governing body, then the circuit court for the locality shall appoint a committee of five representative citizens of the locality to act for and in lieu of the governing body in perfecting the agreement and in petitioning for a referendum. The agreement shall not take effect unless approved in the referendum by a majority of the voters voting in the referendum.

1972, c. 370, § 15.1-1244.1; 1975, c. 517; 1997, c. 587.

### § 15.2-5107. Filing articles of incorporation.

After adoption or approval of an ordinance, resolution or agreement creating an authority, the governing bodies of the participating localities shall file with the State Corporation Commission the authority's articles of incorporation.

Code 1950, § 15-764.7; 1950, p. 1316; 1962, c. 623, § 15.1-1245; 1973, c. 478; 1997, c. 587.

**§ 15.2-5108. Issuance of certificate or charter.**

The State Corporation Commission shall issue a certificate of incorporation or charter to the authority if it finds that:

1. The articles of incorporation conform to law; and

2. The estimated costs and rates for services of the proposed projects are fair and equitable, and have been advertised under § 15.2-5104 or subsection A of § 15.2-5156, as applicable.

Upon the issuance of the certificate or charter such authority shall be conclusively deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter.

Code 1950, § 15-764.8; 1950, p. 1316; 1962, c. 623, § 15.1-1246; 1973, c. 478; 1983, c. 80; 1984, c. 239; 1997, c. 587; 2009, c. 473.

**§ 15.2-5109. Dissolution and termination of authority.**

Whenever the board of an authority determines that the purposes for which it was created have been completed or are impractical or impossible or that its functions have been taken over by one or more political subdivisions and that all its obligations have been paid or have been assumed by one or more of such political subdivisions or any authority created thereby or that cash or United States government securities have been deposited for their payment, it shall adopt and file with the governing body of each political subdivision which is a member of the authority a resolution declaring such facts. If all the governing bodies adopt resolutions concurring in such declaration and finding that the authority should be dissolved, they shall file appropriate articles of dissolution with the State Corporation Commission. When the affairs of the authority have been wound up and all of its assets have been distributed, the governing bodies shall file appropriate articles of termination of corporate existence with the State Corporation Commission.

If any of the governing bodies refuse to adopt resolutions concurring in such declaration, then the authority may petition the circuit court for any locality which is a member of the authority to order one or more of such governing bodies to create a new authority. The circuit court may order the governing body of the political subdivision requesting dissolution of the existing authority to adopt an ordinance establishing a new authority to which the provisions of §§ 15.2-5102 through 15.2-5106 shall not apply. Thereafter, the court may order that the assets be divided among the authorities and, subject to the approval of any debt holder, require the assumption of a proportionate share of the obligations of the existing authority by the new authority.

Notwithstanding the provisions of subdivision 1 of § 15.2-5114, an authority shall continue in existence and shall not be dissolved because the term for which it was created, including any extensions thereof, has expired, unless all of such authority's functions have been taken over and its obligations have been paid or have been assumed by one or more political subdivisions or by an authority created thereby, or cash or United States government securities have been deposited for their payment.

1970, c. 617, § 15.1-1269.1; 1982, c. 662; 1997, c. 587; 2009, c. 216.

## Article 3 - FUNCTIONS OF AUTHORITIES

### § 15.2-5110. Amendment of articles of incorporation.

The articles of incorporation of any authority created under the provisions of this chapter may be amended with respect to the name or powers of such authority or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

### § 15.2-5111. Specification of projects.

If they have specified the initial purpose or purposes of the authority and insofar as practicable, any project or projects to be undertaken by the authority, the governing bodies of any of the localities organizing an authority may, at any time by ordinance or resolution, after a public hearing, and with or without a referendum, specify further projects to be undertaken by the authority. No other projects shall be undertaken by the authority than those so specified. If the governing bodies of the localities organizing the authority fail to specify any project or projects to be undertaken, then the authority shall be deemed to have all the powers granted by this chapter.

Code 1950, § 15-764.9; 1950, p. 1316; 1962, c. 623, § 15.1-1247; 1984, c. 239; 1997, c. 587.

### § 15.2-5112. Joinder of another locality or authority; withdrawal from authority.

A. Any locality may become a member of any existing authority, and any locality which is a member of an existing authority may withdraw therefrom upon unanimous consent of the remaining members of the authority in accordance with this section. However, no locality may withdraw from any authority that has outstanding bonds without the unanimous consent of all the holders of such bonds unless all such bonds have been paid or cashed or United States government obligations have been deposited for their payment.

B. The governing body of any locality wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance.

C. The governing body of any locality wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such locality. The resolutions, ordinances or agreement creating the expanded authority shall specify the number and terms of office of members of the board of the expanded authority which are to be appointed by each of the participating political subdivisions, and the names, addresses and terms of office of initial appointments to board membership. Upon the date of issuance of the certificate by the State Corporation Commission as provided in this section, the terms of office of the board members of the existing authority shall ter-

minate and the appointments made in the resolutions, ordinances or agreement creating the expanded authority shall become effective.

D. If the authority by resolution expresses its consent to withdrawal or joinder of a locality, the governing body of such locality and the governing bodies of the political subdivisions then members of the authority shall advertise the ordinance, resolution or agreement and hold a public hearing in accordance with § 15.2-5104.

Upon adoption or approval of the ordinance, resolution or agreement, the governing body seeking to withdraw or join the authority shall file either an application to withdraw from or an application to become a member of the authority, whichever applies, with the State Corporation Commission. A joinder application shall set forth all of the information required in the case of original incorporation and shall be accompanied by certified copies of the resolutions, ordinances or agreement described in subsection B. Joinder and withdrawal applications shall be executed by the proper officers of the withdrawing or incoming locality under its official seal, and shall be joined in by the proper officers of the governing board of the authority, and in the case of a locality seeking to become a member of the authority also by the proper officers of each of the political subdivisions that are then members of the authority, pursuant to resolutions by the governing bodies of such political subdivisions.

E. If the State Corporation Commission finds that the application conforms to law it shall approve the application. When all proper fees and charges have been paid, it shall file the approved application and issue to the applicant a certificate of withdrawal or a certificate of joinder, whichever applies, attached to a copy of the approved application. The withdrawal or joinder shall become effective upon the issuing of such certificate.

F. Any authority may join an existing authority if the joinder is approved by concurrent ordinances or resolutions of the localities which created the joining authority, notwithstanding any contrary provisions of § 15.2-5150. However, if the localities, at the time of the creation of an authority, state that the authority is created with the intention of joining an existing authority, such concurrent ordinances or resolutions shall not be necessary. The provisions of this section pertaining to a locality becoming a member or withdrawing from an authority shall also apply, mutatis mutandis, to an authority becoming a member or withdrawing.

Code 1950, § 15-764.10; 1950, p. 1316; 1960, c. 313; 1962, c. 623, § 15.1-1248; 1968, c. 355; 1973, c. 478; 1993, cc. 670, 690; 1995, cc. 414, 415, 634; 1997, c. 587.

**§ 15.2-5113. Members of authority board; chief administrative or executive officer.**

A. 1. The powers of each authority created by the governing body of a single locality shall be exercised by an authority board of five members, or at the option of the board of supervisors of a county, a number of board members equal to the number of members of the board of supervisors. The powers of each authority created by the governing bodies of two or more localities shall be exercised by the number of authority board members specified in its articles of incorporation, which shall be not less than one member from each participating locality and not less than a total of five members. The board

members of an authority shall be selected in the manner and for the terms provided by the agreement or ordinance or resolution or concurrent ordinances or resolutions creating the authority. One or more members of the governing body or one or more directors of an industrial or economic development authority of a locality may be appointed board members of the authority, the provisions of any other law to the contrary notwithstanding. No board member shall be appointed for a term of more than four years. When one or more additional political subdivisions join an existing authority, each of such joining political subdivisions shall have at least one member on the board. Board members shall hold office until their successors have been appointed and may succeed themselves. The board members of the authority shall elect one of their number chairman, and shall elect a secretary and treasurer who need not be members. The offices of secretary and treasurer may be combined.

2. Notwithstanding the provisions of subdivision A 1, if the City of Virginia Beach forms a community development authority pursuant to the provisions of Article 6 (§ 15.2-5152 et seq.) for the purpose of developing the sports and entertainment district, as defined in § 15.2-5928, the board of such authority may consist of a number of members equal to the number of members of the governing body of the City of Virginia Beach.

B. A majority of board members shall constitute a quorum and the vote of a majority of board members shall be necessary for any action taken by the authority. An authority may, by bylaw, provide a method to resolve tie votes or deadlocked issues.

C. No vacancy in the board membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs by reason of the death, disqualification or resignation of a board member, the governing body of the political subdivision which appointed the authority board member shall appoint a successor to fill the unexpired term. Whenever a political subdivision withdraws its membership from an authority, the term of any board member appointed to the board of the authority from such political subdivision shall immediately terminate. Board members shall receive such compensation as fixed by resolution of the governing body or bodies which are members of the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. Alternate board members may also be selected. Such alternates shall be selected in the same manner and shall have the same qualifications as the board members except that an alternate for an elected board member need not be an elected official. The term of each alternate shall be the same as the term of the board member for whom each serves as an alternate; however, the alternate's term shall not expire because of the board member's death, disqualification, resignation, or termination of employment with the member's political subdivision. If a board member is not present at a meeting of the authority, the alternate for that board member shall have all the voting and other rights of a board member and shall be counted for purposes of determining a quorum.

E. The board members may appoint a chief administrative or executive officer who shall serve at the pleasure of the board members. He shall execute and enforce the orders and resolutions adopted by the board members and perform such duties as may be delegated to him by the board members.

Code 1950, § 15-764.11; 1950, p. 1317; 1962, c. 623, § 15.1-1249; 1968, c. 355; 1972, c. 544; 1973, cc. 135, 521; 1974, c. 276; 1979, cc. 273, 280; 1980, c. 67; 1995, c. 285; 1997, c. 587; 2009, c. 655; 2020, c. 467.

**§ 15.2-5114. Powers of authority.**

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions which are members of the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any system or any combination of systems within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any political subdivision shall be acquired by an authority by the exercise of the power of eminent domain without the consent of the governing body of such political subdivision. Except as otherwise provided in this section, each authority is hereby vested with the same authority to exercise the power of eminent domain as is set out in Chapter 2 (§ 25.1-200 et seq.) or Chapter 3 (§ 25.1-300 et seq.) of Title 25.1. In acquiring personal property or any interest, right, or estate therein by purchase, lease as

lessee, or installment purchase contract, an authority may grant security interests in such personal property or any interest, right, or estate therein;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a system;

8. Combine any systems as a single system for the purpose of operation and financing;

9. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. Any political subdivision that is a member of an authority may lend, advance or give money to such authority;

10. Fix, charge and collect rates, fees and charges for the use of, or for the services furnished by, or for the benefit derived from, any facilities or systems owned, operated or financed by the authority. Such rates, fees, rents and charges shall be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for any such services and/or (ii) the owners or tenants who own, use or occupy any real estate or improvements that are served by, or benefit from, any such facilities or systems, and, if authorized by the authority, customers of facilities within a community development authority district. Water and sewer connection fees established by any authority shall be fair and reasonable, and each authority may establish and offer rate incentives designed to encourage the use of green roofs. If established, the incentives shall be based on the percentage of stormwater runoff reduction the green roof provides. Such fees and incentives shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions;

11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may provide for or relate to the furnishing of services and facilities of any system of the authority or in connection with the services and facilities rendered by any like system owned or controlled by the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of any one or more of them. In the implementation of any such contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of systems, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions;

12. Contract with the federal government, the Commonwealth, the District of Columbia, any adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the authority

deems proper, for the construction, operation or use of any project which is located partly or wholly outside the Commonwealth;

13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in connection with the acquisition, construction or improvement, maintenance or operation of a system, or streetlight system in King George County, subject, however, to such reasonable local police regulation as may be established by the governing body of any unit having jurisdiction;

14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for rates, fees, rents or charges imposed by any such authority;

15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that such pipe or conduit and the rights-of-way in which they are contained are made available on a nondiscriminatory, first-come, first-served basis to retail providers of broadband and other telecommunications services unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities; and

16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights, including any patent, trademark, or copyright, relating to the business of the authority.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 12, 527, 573, 587; 2001, c. 120; 2002, c. 446; 2003, c. 940; 2004, c. 545; 2005, c. 666; 2007, c. 813; 2008, c. 542; 2009, cc. 402, 473; 2011, c. 653.

**§ 15.2-5115. Same; contracts relating to use of systems.**

An authority may make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted by this chapter, including contracts with any federal agency, the Commonwealth, the District of Columbia or any adjoining state or any unit thereof, on such terms and conditions as the authority may approve, relating to (i) the use of any system, or streetlight system in King George County acquired or constructed by the authority under this chapter, or the services therefrom or the facilities thereof, or (ii) the use by the authority of the services or facilities of any system, or streetlight system in King George County owned or operated by an owner other than the authority.

The contract shall be subject to such provisions, limitations or conditions as may be contained in the resolution of the authority authorizing revenue bonds of the authority or the provisions of any trust agreement securing such bonds. Such contract may provide for the collecting of fees, rates or charges for the services and facilities rendered to a unit or to the inhabitants thereof, by such unit or by its agents or by the agents of the authority, and for the enforcement of delinquent charges for such services and facilities. The provisions of the contract and of any ordinance or resolution of the governing body of a unit enacted pursuant thereto shall not be repealed so long as any of the revenue bonds

issued under the authority of this chapter are outstanding and unpaid. The provisions of the contract, and of any ordinance or resolution enacted pursuant thereto, shall be for the benefit of the bondholders. The aggregate of any fees, rates or charges which are required to be collected pursuant to any such contract, ordinance or resolution shall be sufficient to pay all obligations which may be assumed by the other contracting party.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 527, 573, 587; 2007, c. 813; 2009, c. 473.

**§ 15.2-5116. Same; effect of annexation.**

In the event of any annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, an authority may continue to do business and exercise its jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

**§ 15.2-5117. Same; insurance for employees.**

An authority may establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as localities are permitted under §§ 51.1-801 and 51.1-802.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

**§ 15.2-5118. Powers of Authority; streetlights in King George County.**

Notwithstanding any contrary provision of law in this chapter, an authority may lease as lessee or otherwise contract for the provision of, operate, and maintain streetlights in King George County. The lessor or other contractual provider of such streetlights shall be a public service corporation that holds a certificate of public convenience and necessity to provide retail electric service in the territory in which such streetlights are located. King George County may contribute funds to the authority by act of its governing body for use by the authority in carrying out the authority's powers listed in this section. In addition, the authority may fix, charge, and collect fees, rates, and charges for the use of the service described in this section or for such service furnished by the authority. Such fees, rates, and charges shall be charged to and collected from any person contracting for the service, or lessee, or tenant, or any other person who uses or occupies any real estate served by or benefiting from the service.

1997, c. 587; 2019, c. 632.

**§ 15.2-5119. Power to provide and operate electric energy systems.**

Notwithstanding any contrary provision of law in this chapter, an authority operating a water supply impoundment facility may, in connection with such facility, generate, produce, transmit, deliver, exchange, purchase or sell electric power and energy at wholesale and enter into contracts for such purposes.

1982, c. 469, § 15.1-1250.2; 1997, c. 587.

**§ 15.2-5120. Powers of authority in certain counties and cities.**

An authority or authorities created pursuant to the provisions of this chapter by Arlington County and the City of Alexandria, singularly or jointly, may enter into contracts relating to the furnishing of services and facilities for refuse collection and disposal and conversion of same to energy (system) with any person or partnership or corporation (entity). The contract shall not have a term in excess of 30 years from the date on which service is first provided. It may make provisions for:

1. The use by the authority of all or a portion of the disposal capacity of such system for the authority's present or future requirements;

2. The delivery by or for the account of the authority of specified quantities of refuse, whether or not the authority collects such refuse;

3. The making of payments in respect of such quantities of refuse, whether or not the refuse is delivered, including payments in respect of revenues lost if such refuse is not delivered;

4. Adjustments to payments to be made by the authority because of inflation, changes in energy prices or residue disposal costs, taxes imposed upon the system, or other events beyond the control of the entity or in respect of the actual costs of maintaining, repairing, or operating the system, including debt service or capital lease payments, capital costs, or other financing charges relating to the system; and

5. The collection by the entity of fees, rates, or charges from persons using disposal capacity for which the authority has contracted.

The authority may fix, charge, and collect fees, rates, and charges for services furnished or made available by the entity operating the system to provide sufficient funds at all times during the term of the contract, together with other funds available to the authority for such purposes, to pay all amounts due from time to time under such contract and to provide a margin of safety for such payment. The authority may covenant with the entity to establish and maintain fees, rates, and charges at such levels during the term of the contract for such purposes.

Such fees, rates, and charges shall not apply to refuse generated, purchased, or utilized by any enterprise located in the service area and engaged in the business of manufacturing, mining, processing, refining, or conversion that is not disposed at or through such system.

The fees, rates, and charges may be imposed upon the owners, tenants, or occupants of each occupied lot or parcel of land that the authority determines (with the concurrence at the time of such determination of the local government in which such parcel is located) is in the service area, or portion

thereof, of the system for which the authority has contracted, whether or not refuse generated from such parcel is actually delivered to such system.

The fees, rates, and charges shall be fixed in accordance with the procedures set forth in subsection D of § 15.2-5136. Such fees, rates, and charges may be allocated among the owners, tenants, or occupants of each lot or parcel of land that the authority determines is in the service area, or portion thereof, of the system for which the authority has contracted. Such allocation may be based upon:

1. Waste generation estimates, the average number of persons residing, working in, or otherwise connected with such premises, the type and character of such premises, or upon any combination of the foregoing factors;

2. The amount of refuse delivered to such system;

3. The assessed value of such parcels; or

4. A combination of the foregoing.

There shall be a lien on real estate for the amount of such fees, rates, and charges as provided in § 15.2-5139. The authority is empowered by resolution or other lawful action to enforce the payment of the lien by means of the actions described in § 15.2-5138.

The power to establish such fees, rates, and charges shall be in addition to any other powers granted hereunder, and such fees, rates, and charges shall not be subject to the jurisdiction of any commission, authority, or other unit of government. The entity contracting with the authority, except to the extent that rights herein given may be restricted by the contract, either at law or in equity, by suit, mandamus, or other proceedings, may protect and enforce any and all rights granted under such contract and may face and compel the performance of all duties required by this chapter or by such contract to be performed by the authority or by any officer thereof, including without limitation the fixing, charging, and collecting of fees, rates, and charges in accordance with this chapter and such contract.

Such contract, with the irrevocable consent of the entity, may be made directly with the trustee for indebtedness issued to finance such system and provide for payment directly to such trustee. The authority may pledge fees, rates, and charges made in respect of the contract with the entity, and such pledge shall be valid and binding from the time it is made. Fees, rates, and charges so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind, in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. Neither the contract nor any assignment thereof need be filed or recorded except in the records of the authority.

The requirements and restrictions of § 15.2-5121 shall not apply to any contract of the authority with respect to the system if the entity for such system will not collect refuse from the generators of the same and there are no such facilities located in the area served by the authority.

1997, c. 587; 2019, c. 632.

## § 15.2-5121. Operation of refuse collection systems; displacement of private companies.

A. No authority shall operate or contract for the operation of a refuse collection and disposal system for any political subdivision, or collect service charges therefor, unless the authority, and subsequently the locality's governing body find: (i) that privately owned and operated refuse collection and disposal services are not available on a voluntary basis by contract or otherwise, (ii) that the use of such privately owned services has substantially endangered the public health or has resulted in substantial public nuisance, (iii) that the privately owned refuse collection and disposal service is not able to perform the service in a reasonable and cost-efficient manner, or (iv) that operation by such authority or the contract for such operation, in spite of any potential anti-competitive effect, is important in order to provide for the development and/or operation of a regional system of refuse collection and disposal for two or more units.

B. Notwithstanding the provisions of subsection A, an authority formed under this chapter shall not operate or contract for the operation of a refuse collection and disposal system which displaces a private company engaged in the provision of refuse collection and disposal unless it provides the company with five years' notice of its decision to operate such a system. As an alternative to delaying displacement five years, the governing body or authority may pay a displaced company an amount equal to the company's preceding twelve months' gross receipts for the displaced service in the displacement area. Such five-year period shall lapse as to any private company being displaced when such company ceases to provide service within the displacement area.

C. For purposes of this section, "displace" or "displacement" means an authority's provision of a system which prohibits a private company from providing the same service and which it is providing at the time the decision that will result in the displacement is made. Displace or displacement does not mean: (i) competition between the public sector and private companies for individual contracts; (ii) situations in which an authority, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company or, following a competitive process conducted in accordance with the Virginia Public Procurement Act, decides for any reason to provide such service itself; (iii) situations in which action is taken against a private company because the company has acted in a manner threatening to the public health and safety or resulting in a substantial public nuisance; (iv) situations in which action is taken against a private company because the company has materially breached its contract with the political subdivision; (v) entering into a contract with a private company to provide refuse collection and disposal so long as such contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing refuse collection and disposal; or (vi) situations in which a private company refuses to continue operations under the terms and conditions of its existing agreement during the five-year notice period.

D. An authority shall not make the findings required by subsection A or proceed to seek to operate a refuse collection and disposal system for any political subdivision that would displace a private company pursuant to subsection B until it has provided (i) public notice; (ii) a public hearing; and (iii) no

less than forty-five days prior to the public hearing, written notice mailed first class to all private companies providing a refuse collection and disposal system in the political subdivision that can be identified through the political subdivision's records.

E. The requirements and restrictions of this section shall not apply in any political subdivision wherein refuse collection and disposal services are being operated or contracted for by any sanitary district located therein, as of July 1, 1983.

F. Notwithstanding the provisions of this section, a political subdivision need not comply with the requirements of this section if:

1. The authority proposes to contract with the private sector for services or systems involving discarded or waste materials removed from the nonhazardous solid waste stream for recycling; or

2. The authority proposes to contract with the private sector for services or systems involving collection and disposal of nonhazardous solid waste and (i) the collected waste will be disposed of in a state-permitted waste management facility; (ii) the authority has a contract for services which shall be paid for through a supporting financial agreement approved by the participating locality's governing body; and (iii) such action will not displace a private company engaged in refuse collection and disposal. For purposes of this section, "recycling" means the process of separating a particular nonhazardous waste material from the waste stream and processing it so that it may be used again as a new material.

1983, c. 155, § 15.1-1250.01; 1992, c. 247; 1993, c. 497; 1994, c. 190; 1995, c. 660; 1997, c. 587.

**§ 15.2-5122. Approval for certain water supply impoundment facilities.**

No locality or authority shall construct, provide or operate outside its boundaries any water supply impoundment system without first obtaining the consent of the governing body of the locality in which such system is to be located; however, no consent shall be required for the operation of any such water supply impoundment system in existence on July 1, 1976, or in the process of construction or for which the site has been purchased or for the orderly expansion of such water supply system.

In any case in which the approval by such governing body is withheld, the party seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

1975, c. 573, § 15.1-1250.1; 1976, c. 69; 1997, c. 587.

**§ 15.2-5123. Sewage treatment plants to include certain capability.**

Whenever an authority is constructing a new sewage treatment plant, the facility shall be designed and constructed so that it has the capability to treat the sewage from all onsite sewage disposal systems which are not served by another approved disposal site located within the area of the locality or localities which created the authority to be served by such plant.

1986, c. 329, § 15.1-1239.1; 1997, c. 587.

**§ 15.2-5124. Repealed.**

Repealed by Acts 2015, cc. 263 and 284, cl. 1.

## Article 4 - FINANCING

### § 15.2-5125. Issuance of revenue bonds.

An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any system. A community development authority created under Article 6 (§ 15.2-5152 et seq.) of this chapter may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of such facilities which may be provided by the authority under § 15.2-5158. The principal of and the interest on the bonds shall be payable solely from the funds provided for in this chapter for such payment. The full faith and credit of a political subdivision shall not be pledged to support the bonds. The bonds of each issue may be dated, may mature at any time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the authority or in such manner as the authority may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the authority or in such manner as the authority may provide, including the determination by reference to indices or formulas or by agents designated by the authority under guidelines established by it. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. All revenue bonds issued under the provisions of this chapter shall have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon, bearer, registered or book entry form, or any combination of such forms, as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the authority may sell such bonds in such manner, either at a public or a private sale, and for such price, as it may determine to be for the best interest of the authority and the political subdivisions to be served thereby.

Code 1950, § 15-764.14; 1950, p. 1321; 1958, c. 484; 1962, c. 623, § 15.1-1252; 1970, c. 617; 1993, c. 850; 1997, cc. 527, 573, 587; 2009, c. 473.

### § 15.2-5126. Time for contesting validity of proposed bond issue; when bonds presumed valid.

For a period of thirty days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions which are members of the authority a certified copy of the initial resolution of

the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, the rates, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, any water or waste system or, for authorities created under Article 6 (§ 15.2-5152 et seq.) of this chapter, such other facilities which may be provided by the authority under § 15.2-5158, the pledge of the revenues of any water or waste system, or any combination of any thereof or, for authorities created under Article 6 of this chapter, such other facilities which may be provided by the authority under § 15.2-5158, any provisions which may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not given within the thirty-day period, the authority to issue the bonds, the validity of the pledge of revenues necessary to pay the bonds, the validity of any other provision contained in the resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

1997, c. 587.

### § 15.2-5127. Proceeds of bonds.

The proceeds of bonds issued pursuant to § 15.2-5125 shall be used solely for the payment of the cost of the system or systems for which they were issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the authorizing resolution or in any trust agreement. If the proceeds of the bonds, by error of estimates or otherwise, are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the authorizing resolution or in the trust agreement securing them, shall be deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue exceed the amount required for the purpose for which such bonds were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Code 1950, § 15-764.15; 1950, p. 1322; 1962, c. 623, § 15.1-1253; 1997, c. 587.

### § 15.2-5128. Interim receipts and temporary bonds; bonds mutilated, lost or destroyed.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

If any bond issued under this chapter is mutilated, lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered upon the cancellation in exchange or substitution for a mutilated bond and its interest coupons, or in lieu of and in substitution for a lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond has (i) paid the reasonable expense and charges in connection therewith and, in the case of a lost or destroyed bond, has filed with the authority and its treasurer evidence satisfactory to such authority and its treasurer that such bond was lost or destroyed and that the holder was the owner and (ii) furnished indemnity satisfactory to the treasurer of the authority.

Code 1950, § 15-764.16; 1950, p. 1322; 1962, cc. 206, 623, § 15.1-1254; 1997, c. 587.

**§ 15.2-5129. Provisions of chapter only requirements for issue.**

Bonds may be issued under the provisions of this chapter without obtaining the approval or consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter.

Code 1950, § 15-764.17; 1950, p. 1322; 1962, c. 623, § 15.1-1255; 1997, c. 587.

**§ 15.2-5130. Limitations in bond resolution or trust agreement.**

The resolution providing for the issuance of revenue bonds of the authority, and any trust agreement securing such bonds, may contain such limitations upon the issuance of additional revenue bonds as the authority deems proper. Such additional revenue bonds shall be issued under such limitations.

Code 1950, § 15-764.18; 1950, p. 1323; 1962, c. 623, § 15.1-1256; 1997, c. 587.

**§ 15.2-5131. Bonds not debts of Commonwealth or participating political subdivision.**

A. Revenue bonds issued under the provisions of this chapter shall not constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision. All bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any political subdivision are pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth or any political subdivision to levy any taxes or to make any appropriation for their payment except from the funds pledged under the provisions of this chapter.

B. Unless otherwise provided in the ordinance which forms the authority or in a subsequent ordinance or resolution authorizing additional improvements, neither the Commonwealth nor any locality shall pay any part of the principal or interest of any bonds issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157, nor shall any locality carry any part of such bonds on its financial statements as a contingent obligation; except that if a community development authority fails to pay such bonds, to the extent that a locality has imposed a real property tax surcharge

or a special assessment at the request of a community development authority pursuant to subdivisions A 3 or A 5 of § 15.2-5158, funds collected from such sources may be paid against such debt.

C. Debt issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157 shall not be considered in determining the debt limit of any locality.

Code 1950, § 15-764.19; 1950, p. 1323; 1962, c. 623, § 15.1-1257; 1997, cc. 363, 587.

**§ 15.2-5132. Exemption from taxation.**

No authority shall be required to pay any taxes or assessments upon any system acquired or constructed by it under the provisions of this chapter or upon the income therefrom. The bonds issued under the provisions of this chapter, their transfer and the income therefor, including any profit made on their sale, shall be free from taxation within the Commonwealth.

Code 1950, § 15-764.20; 1950, p. 1323; 1962, c. 623, § 15.1-1258; 1997, cc. 527, 573, 587; 2009, c. 473.

**§ 15.2-5133. Trust agreement; bond resolution.**

In the discretion of the authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign the revenues to be received. The resolution or trust agreement shall not convey or mortgage any stormwater control system or water or waste system or any part thereof, or any improvement financed pursuant to § 15.2-5158 which is, or will be, dedicated to a public entity other than the authority financing such improvement. However, a bond issued by a community development authority pursuant to subdivision A 2 of § 15.2-5158 may pledge or assign a mortgage in other real property or improvements not otherwise proscribed hereunder and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants setting forth the duties of the authority in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the system or systems for which such bonds are issued and provisions for the custody, safeguarding and application of all moneys and for the employment of consulting engineers in connection with such construction, reconstruction, or operation. The resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may also contain such other provisions as the authority deems reasonable and proper for the security of the bondholders. Except as otherwise provided in this chapter, the authority may provide for the payment of the proceeds of the sale of the bonds and its revenues to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of operation.

Code 1950, § 15-764.21; 1950, p. 1323; 1962, c. 623, § 15.1-1259; 1993, c. 850; 1997, cc. 527, 573, 587; 2009, c. 473.

### § 15.2-5134. Disposition of unclaimed funds due on matured bonds or coupons.

Any authority having bonds outstanding on which principal, premium or interest has matured for a period of more than five years may pay any money being held to pay the matured principal, premium or interest into the general fund of the authority. Thereafter, the owners of the matured bonds may look only to the authority for payment. The authority shall maintain a record of the bonds for which the funds were held.

1997, c. 587.

### § 15.2-5135. Contracts concerning interest rates, currency, cash flow and other basis.

A. Any authority may enter into any contract which the authority determines to be necessary or appropriate to place the obligation or investment of the authority, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the authority. Such contracts may include without limitation contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. Such contracts or arrangements may be entered into by the authority in connection with, or incidental to, entering into or maintaining any (i) agreement which secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency.

B. Any money set aside and pledged to secure payments of bonds or any contracts entered into pursuant to this section, may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section, and any other criteria as may be appropriate.

1997, c. 587.

### § 15.2-5136. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished by any system, or streetlight system in King George County, or refuse collection and disposal system or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of

and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;

2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;

3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;

4. Any other factor affecting the use of the facilities furnished; or

5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. Water and sewer rates, fees and charges established by any authority shall be fair and reasonable. An authority may charge fair and reasonable rates, fees, and charges to create reserves for expansion of its water and sewer or sewage disposal systems. Such rates, fees, and charges shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. However, any authority may charge and collect rates, fees, and charges to create a reserve fund for reasonable expansion of its water, sewer, or sewage disposal system. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;

2. The number and size of premises benefiting therefrom;

3. The number or average number of persons residing or working in or otherwise connected with such premises;

4. The type or character of such premises;

5. Any other factor affecting the use of the facilities furnished; or

6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. No rates, fees or charges shall be fixed under subsections A through F of this section or under subdivision 10 of § 15.2-5114 until after a public hearing at which all of the users of the systems or facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems or facilities, with the second notice being published at least 14 days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or facilities or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or

charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G.

I. No rates, fees or charges established, fixed, changed or revised before January 1, 2013, by any authority pursuant to this section or to subdivision 10 of § 15.2-5114 shall be invalidated because of any defect in or failure to publish or provide any notice required under this section or any predecessor provision.

Code 1950, § 15-764.22; 1950, p. 1324; 1962, c. 623, § 15.1-1260; 1978, cc. 298, 407; 1982, c. 469; 1988, c. 169; 1994, c. 477; 1997, cc. 12, 527, 573, 587; 1998, c. 869; 2001, c. 400; 2007, c. 813; 2009, c. 473; 2013, c. 51.

**§ 15.2-5137. Water and sewer connections; exceptions.**

A. Upon or after the acquisition or construction of any water system or sewer system under the provisions of this chapter, the owner, tenant, or occupant of each lot or parcel of land (i) which abuts a street or other public right of way which contains, or is adjacent to an easement containing, a water main or a water system, or a sanitary sewer which is a part of or which is or may be served by such sewer system and (ii) upon which a building has been constructed for residential, commercial or industrial use, shall, if so required by the rules and regulations or a resolution of the authority, with concurrence of the locality in which the land is located, connect the building with the water main or sanitary sewer, and shall cease to use any other source of water supply for domestic use or any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations adopted by the authority, which may provide for a reasonable charge for making such a connection. A private water company which purchases water from a regional authority for sale or delivery to or within a municipality may impose a charge for connection to the water company's system in the same manner, and subject to the same restrictions, as an authority may impose for connection to its water system, subject to the approval of the State Corporation Commission.

B. Notwithstanding any other provision of this chapter, those persons having a domestic supply or source of potable water shall not be required to discontinue the use of such water. However, persons not served by a water supply system, as defined in § 15.2-2149, producing potable water meeting the standards established by the Virginia Department of Health may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges. In York County and James City County, the monthly nonuser fee may be as provided by general law or not more than 85 percent of the minimum monthly user charge imposed by the authority, whichever is greater.

C. Notwithstanding any other provision of this chapter, those persons having a private septic system or domestic sewage system meeting applicable standards established by the Virginia Department of Health shall not be required under this chapter to discontinue the use of such system. However, such

persons may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges.

D. Persons who have obtained exemption from or deferral of taxation pursuant to an ordinance authorized by § 58.1-3210 may be exempted or deferred by the authority from paying any charges and fees authorized by subsection C, to the same extent as the exemption from or deferral of taxation pursuant to such ordinance.

E. Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

Code 1950, § 15-764.23; 1950, p. 1326; 1962, c. 623, § 15.1-1261; 1970, c. 617; 1980, c. 603; 1982, cc. 562, 567; 1984, c. 552; 1987, c. 75; 1997, cc. 12, 587; 2011, c. 642.

**§ 15.2-5138. Enforcement of charges.**

Any resolution or trust agreement providing for the issuance of revenue bonds under the provisions of this chapter may include any of the following provisions, and may require the authority to adopt such resolutions or to take such other lawful action as is necessary to effectuate such provisions. The authority may adopt such resolutions and take such other actions as follows:

1. Require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay rates, fees or charges for the use of or for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter to make a reasonable deposit with the authority in advance to insure the payment of such rates, fees or charges and to be subject to application to the payment thereof if delinquent.

2. If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter are not paid within thirty days after due, the authority may at the expiration of such thirty-day period disconnect the premises from the water or sewer system, or otherwise suspend services and proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

3. If any rates, fees or charges for the use and services of any sewer system acquired or constructed by the authority under the provisions of this chapter are not paid within thirty days after they become due, require that the owner, tenant or occupant of such premises cease disposing of sewage or industrial wastes originating from or on such premises by discharge directly or indirectly into the sewer system until such rates, fees or charges, with interest, are paid. If such owner, tenant or occupant does not cease such disposal at the expiration of the thirty-day period, the authority may require any political subdivision, district, private corporation, board, body or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for use on such premises within

five days after the receipt of notice of such delinquency from the authority. If such political subdivision, district, private corporation, board, body or person does not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the authority may shut off the supply of water to such premises.

The water supply to or for any person, or for use on real estate of any person, shall not be shut off or stopped under this section if the State Health Commissioner, upon application of the local board of health or health officer of the locality in which such water is supplied or such real estate is located, has found and certifies to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person and the health of others in the locality.

Code 1950, § 15-764.24; 1950, p. 1326; 1962, c. 623, § 15.1-1262; 1997, c. 587.

**§ 15.2-5138.1. Enforcement of certain charges when authority does not provide water services.**
A. This section shall apply only to an authority operating in Planning District 1 or Planning District 2.

B. If any rates, fees or charges for the use and services of any sewer system acquired or constructed by the authority under the provisions of this chapter are not paid within 60 days after they become due, the authority may require that the owner, tenant or occupant of such premises cease disposing of sewage or industrial wastes originating from or on such premises by discharge directly or indirectly into the sewer system until such rates, fees or charges, with interest, are paid. If such owner, tenant or occupant does not cease such disposal at the expiration of the 60-day period, the authority may require any political subdivision, district, private corporation, board, body or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for use on such premises within five days after the receipt of notice of such delinquency from the authority. If such political subdivision, district, private corporation, board, body or person does not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the authority may shut off the supply of water to such premises.

C. The water supply to or for any person, or for use on real estate of any person, shall not be shut off or stopped under this section if the State Health Commissioner, upon application of the local board of health or health officer of the locality in which such water is supplied or such real estate is located, has found and certifies to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person and the health of others in the locality.

2008, c. 452.

**§ 15.2-5139. Lien for charges.**
An authority may place a lien upon the real property of an owner only in the same manner provided by § 15.2-2119, and such lien may only be processed, recorded, and released in accordance therewith. An authority may only provide services to lessees or tenants of property owners in accordance with § 15.2-2119.4.

An authority may contract with a locality to collect amounts due on properly recorded utility liens in the same manner as unpaid real estate taxes due the locality.

Code 1950, § 15-764.25; 1950, p. 1327; 1958, c. 97; 1962, c. 623, § 15.1-1263; 1976, c. 243; 1983, c. 422; 1987, c. 307; 1993, c. 383; 1994, cc. 599, 602; 1997, c. 587; 2009, c. 420; 2011, cc. 529, 580; 2012, c. 766; 2017, c. 736.

### § 15.2-5140. Trust funds.

All moneys received pursuant to this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution or trust agreement providing for the issuance of revenue bonds of the authority shall provide that any officer to whom, or any bank, trust company or other fiscal agent to which, such moneys are paid shall act as trustee of such moneys and shall hold and apply the same for the purposes provided in this chapter, subject to such regulations as such resolution or trust agreement may provide.

Code 1950, § 15-764.26; 1950, p. 1328; 1962, c. 623, § 15.1-1264; 1997, c. 587.

### § 15.2-5141. Bondholder's remedies.

Any holder of revenue bonds issued by an authority under this chapter, or of any of the coupons appertaining thereto, except to the extent the rights given by this chapter may be restricted by the resolution or trust agreement providing for the issuance of such bonds, may, either at law or in equity, by suit, mandamus or other proceeding, enforce all rights under the laws of Virginia or granted by this chapter or under such resolution or trust agreement. Such holder may also compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services furnished by any system.

Code 1950, § 15-764.27; 1950, p. 1328; 1962, c. 623, § 15.1-1265; 1997, c. 587; 2009, c. 473.

### § 15.2-5142. Refunding bonds.

An authority may provide by resolution for the issuance of revenue refunding bonds of the authority to refund any revenue bonds outstanding and issued under this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Proceeds of such revenue refunding bonds may be used to discharge the revenue bonds, or such revenue refunding bonds may be exchanged for the revenue bonds. Each such authority may provide by resolution for the issuance of a single issue of revenue bonds of the authority for the combined purposes of (i) paying the cost of any system, or any combination thereof, or the improvement, extension, addition or reconstruction thereof, and (ii) refunding revenue bonds of the authority which have been issued under the provisions of this chapter which are outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the bondholders, and the rights, powers, privileges, duties and obligations of the authority with respect to such bonds, shall be governed by the foregoing provisions of this chapter to the extent that they are applicable.

Code 1950, § 15-764.28; 1950, p. 1328; 1962, c. 623, § 15.1-1266; 1974, c. 226; 1997, c. 587; 2009, c. 473.

### § 15.2-5143. Purchase in open market or otherwise.

Provision may be made in the proceedings authorizing refunding revenue bonds for the purchase of the refunded revenue bonds in the open market or pursuant to tenders made from time to time when there is available in the escrow or sinking fund for the payment of the refunded revenue bonds a surplus in an amount or amounts to be fixed in such proceedings.

1997, c. 587.

### § 15.2-5144. Investment in bonds.

Any bonds issued pursuant to this chapter are hereby made securities in which all public officers, bodies and political subdivisions of the Commonwealth; all insurance companies and associations; and all savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth, may properly and legally invest funds in their control.

Code 1950, § 15-764.29; 1950, p. 1329; 1962, c. 623, § 15.1-1267; 1997, c. 587.

### § 15.2-5145. Financial report; authority budget; audit.

Any locality may, by resolution, require an authority to:

1. Submit to it an annual financial statement in a form prescribed by the Auditor of Public Accounts; or

2. Have an audit conducted for any fiscal year according to generally accepted auditing and accounting standards or according to the audit specifications and audit program prescribed by the Auditor of Public Accounts.

1978, c. 617, § 15.1-1269.2; 1997, c. 587.

## Article 5 - MISCELLANEOUS

### § 15.2-5146. Use of state land.

A. The Commonwealth hereby consents to the use of all lands above or under water and owned or controlled by it which are necessary for the construction, improvement, operation or maintenance of any stormwater control system or water or waste system; except that the use of any portion between the right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the approval of the Commissioner of Highways.

B. In addition to the provisions of subsection A, the Governor is authorized, at the request of an authority created pursuant to § 15.2-5102 and in a form approved by the Attorney General, to disclaim any and all rights, title, and interest of the Commonwealth in and to lands used pursuant to subsection A if he finds (i) there is no greater public need or purpose than such use or (ii) that public use and necessity have been established pursuant to subsection B of § 15.2-1903. Such disclaimer shall be filed

with the appropriate court and shall have the legal force and effect of disclaiming, releasing, and renouncing all of the right, title, and interest of the Commonwealth in and to such lands.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587; 2009, c. 861.

**§ 15.2-5147. Powers of localities, etc., to make grants and conveyances to and contracts with authority.**

Each political subdivision may:

1. Convey or lease to any authority, with or without consideration, any system or portion thereof, or any right or interest in such facilities or any property appertaining thereto, upon such terms and conditions as the governing body determines to be in the best interest of such political subdivision;

2. Contract, jointly or severally, with any authority for the collection, treatment or disposal of sewage, industrial waste or refuse; and grant to such authority the right to receive, use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of such unit; and in implementation of such contract or grant, exercise the powers set forth in §§ 15.2-927 and 15.2-928; and

3. Contract with any authority for shutting off the supply of water furnished by any water system owned or operated by such political subdivision or under its jurisdiction or control to any premises connected with any sewer system of the authority if the owner, tenant or occupant of such premises fails to pay any rates, fees or charges for the use of or for the services furnished by such sewer system within the time or times specified in such contract.

Code 1950, § 15-764.31; 1950, p. 1330; 1962, c. 623, § 15.1-1269; 1979, c. 280; 1997, c. 587; 2009, c. 473.

**§ 15.2-5148. Units may convey property.**

Any unit, notwithstanding any contrary provision of law, may transfer jurisdiction over or lease, lend, grant or convey to an authority, upon the request of the authority and upon such terms and conditions to which the governing body and authority may agree, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a system by the authority, including public roads and other property already devoted to public use.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 527, 573, 587; 2009, c. 473.

**§ 15.2-5149. Interference with railroad structures.**

Whenever any railroad tracks, pipes, poles, wires, conduits or other structures or facilities which are located in, along, across, over or under any public road, street, highway, alley or other public right-of-

way become an obstruction to, interfere with or are endangered by the construction, operation or maintenance of any system of the authority, the unit having ownership, control or jurisdiction over such public road, street, highway, alley or other public right-of-way may, as the exercise of an essential governmental function, order the safeguarding, maintaining, relocating, rebuilding, removing or replacing of such railroad tracks, pipes, poles, wires, conduits or other structures or facilities by the owner thereof at the expense of the authority, subject to the provisions of § 25.1-102.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

**§ 15.2-5150. Creating or joining more than one authority.**

No governing body that is a member of an authority, shall create or join with any other governing body in the creation of another authority or join another authority if the latter authority would duplicate the services being performed in any part of the areas being served by the authority of which the governing body is a member.

Code 1950, § 15-764.13; 1950, p. 1321; 1958, c. 402; 1962, c. 623, § 15.1-1251; 1968, c. 355; 1997, c. 587.

**§ 15.2-5151. Water utilities may act as billing agents.**

Any public utility supplying water to the owners, lessees or tenants of real estate which is or will be served by any sewer or sewage disposal system of an authority may act as the billing and collecting agent of the authority for any rates, fees, rents or charges imposed by the authority for the service rendered by such sewer or sewage disposal system. Such water utility shall furnish to the authority copies of its regular periodic meter reading and water consumption records and other pertinent data as may be required for the authority to act as its own billing and collecting agent. The authority shall pay to the water utility the reasonable additional cost of clerical services and other expenses incurred by the water utility in rendering such services to the authority. Upon the inability of the authority and the water utility to agree upon the terms and conditions under which the water utility will act as the billing and collecting agent of the authority, either or both may petition the State Corporation Commission for a determination of the terms and conditions under which the water company shall act as the billing and collecting agent of the authority. If the water utility acts as the billing and collecting agent of an authority it shall set forth separately on its bills the rates, fees or charges imposed by the authority. However, both the water and sewage disposal charges shall be payable to and collected by the water utility, and payment of either shall be refused unless both are paid. The authority shall pay to the water utility the cost of shutting off any water service on account of nonpayment of the sewage disposal charge. In the event of such discontinuance of water service the water service shall not be reestablished until the sewage disposal charge has been paid.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

## Article 6 - COMMUNITY DEVELOPMENT AUTHORITIES

### § 15.2-5152. Localities may consider petitions for creation of authority.

A. Any city may consider petitions for the creation of community development authorities in accordance with this article.

B. Any town may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

C. Any county may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

D. Notwithstanding any other provision of law, community development authorities shall be created pursuant to this Article and the provisions of §§ 15.2-5103 and 15.2-5107 through 15.2-5111.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2005, c. 547; 2009, c. 473.

### § 15.2-5153. Landowners may petition localities.

The owner or owners of at least 51 percent of the land area or assessed value of land in any tract or tracts of land in any locality or localities may petition the locality or localities in which the tract or tracts are located for the creation of a community development authority, provided that before the creation of a community development authority in any town or county, the town or county has elected to consider petitions to create community development authorities pursuant to the applicable provisions of § 15.2-5152. Any petition for the creation of a community development authority in multiple tracts which are not contiguous shall be signed by the owner or owners of at least 51 percent of the land area or assessed value of land in each such non-contiguous tract.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 443; 2005, c. 547; 2009, c. 473.

### § 15.2-5154. Contents of petition.

A petition for the creation of a community development authority shall:

1. Set forth the name and describe the boundaries of the proposed district, including any provisions for adjusting the community development authority district boundaries pursuant to subsection A of § 15.2-5155;

2. Describe the services and facilities proposed to be undertaken by the community development authority within the district;

3. Describe a proposed plan for providing and financing such services and facilities within the district;

4. Describe the benefits which can be expected from the provision of such services and facilities by the community development authority;

5. Provide that the board members of the community development authority shall be selected under the applicable provisions of § 15.2-5113; and

6. Request the local governing body to establish the proposed community development authority for the purposes set forth in the petition.

Such petition may provide that the board members of the community development authority appointed pursuant to § 15.2-5113 shall consist of a majority of the petitioning landowners or their designees or nominees.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2009, c. 473.

**§ 15.2-5155. Ordinance or resolution creating authority.**

A. Any locality authorized to consider petitions under this article may, by ordinance or resolution not inconsistent with the petition proposing the creation of the authority, create a community development authority, a public body politic and corporate and political subdivision of the Commonwealth. Community development authorities proposed for districts that are within any two or more localities may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the authority. If the boundaries of the proposed community development authority district are located wholly in a town, the owner or owners shall petition the town and need not petition the county and the town may create the authority without action by the county. If the petition for the creation of a community development authority so provides, the ordinance or resolution creating the community development authority may provide for the locality at any time after the creation of the community development authority to adjust the boundaries of the community development authority district to exclude certain land as long as the owners of at least 51 percent of the land area or assessed value of land remaining in the community development authority district after the adjustment petitioned for the creation of the community development authority.

B. An ordinance or resolution creating a community development authority shall not permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority already in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the existing authority's operational or financial condition. Such certification shall not be unreasonably withheld by the existing authority.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2009, c. 473.

**§ 15.2-5156. Hearing; notice.**

A. An ordinance or resolution creating a community development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be published once a week for three successive weeks in a

newspaper of general circulation within the locality. The petitioning landowners shall bear the expense of publishing the notice. The hearing shall not be held sooner than ten days after completion of publication of the notice.

B. After the public hearing and before adoption of the ordinance or resolution, the local governing body shall mail a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Unless waived in writing, any petitioning landowner shall have thirty days from mailing of the proposed ordinance or resolution in which to withdraw his signature from the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are so withdrawn, the local governing body may pass the proposed ordinance or resolution only upon certification by the petitioners that the petition continues to meet the requirements of § 15.2-5152. If all petitioning landowners waive the right to withdraw their signatures from the petition, the local governing body may adopt the ordinance or resolution upon compliance with the provisions of subsection A and any other applicable provisions of law.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 1998, c. 188.

**§ 15.2-5157. Recording in land records.**

The local governing body, upon approving the resolution or ordinance creating the district, shall direct that a copy of the resolution or ordinance be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this section, "parcel" is defined as tax map parcel.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587.

**§ 15.2-5158. Additional powers of community development authorities.**

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary or desirable for development or redevelopment within or affecting the district or to meet the increased demands placed upon the locality as a result of development or redevelopment within or affecting the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; entrance areas; security facilities; fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, including but not limited to refunding bonds, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. Request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. Unless requested by every property owner within the proposed district, the rate of the special tax shall not be more than $.25 per $100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. The proceeds of the special taxes collected shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body.

4. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra security personnel and equipment, recreational management and supervision, and grounds keeping.

5. Finance the services and facilities it provides to abutting property within the district by special assessment thereon imposed by the local governing body. All assessments pursuant to this section

shall be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24; provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district and the planning, designing, operating and financing of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use under this chapter, subject to annual appropriation, and may be used for no other purposes.

6. Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the services and/or facilities provided, owned, operated, or financed by the authority benefiting property within the district. Such rates, fees, and charges may be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for the services or using the facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the authority in connection with the provision of such services or facilities.

7. Purchase development rights that will be dedicated as easements for conservation, open space or other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this subdivision, "development rights" means the level and quantity of development permitted by the zoning ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An authority shall not use the power of condemnation to acquire development rights.

8. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance and fund the acquisition of land within the district. All financing authority and methods provided by subsections 2, 3, 4, 5, 6, and 7 shall be permitted for the acquisition of land as provided herein.

9. Any special tax levied pursuant to subdivision 3 and any special assessment imposed pursuant to subdivision 5, whether previously or hereafter levied or imposed, constitute a lien on real estate ranking on parity with real estate taxes, and any such delinquent special tax or delinquent special

assessment may be collected in accordance with the procedures set forth in Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, provided that the enforcement of the lien for any special assessment under subdivision 5 made subject to installment payments shall be limited to the installment payments due or past due at the time the lien is enforced through sale in accordance with Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, and any sale to enforce payment of any delinquent taxes, assessments, or other levies shall not extinguish installment payments that are not yet due.

B. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.

1993, c. 850, § 15.1-1250.03; 1995, c. 402; 1997, cc. 363, 587; 2000, cc. 724, 747; 2004, c. 637; 2005, c. 547; 2009, c. 473; 2015, c. 39.

### § 15.2-5159. Validation of creation of authorities; bonds issued.

All proceedings heretofore taken with respect to the creation of a community development authority by any locality pursuant to this chapter are hereby presumed to be valid and all such authorities are presumed to be legally created. All proceedings heretofore taken by any community development authority with respect to the authorization, issuance, sale, execution, delivery, and repayment of bonds by any community development authority are presumed to be valid, and any such bonds so issued are presumed valid and legal obligations of such community development authority, enforceable in accordance with law.

2009, c. 473.

## Chapter 52 - HOSPITAL OR HEALTH CENTER COMMISSIONS

### § 15.2-5200. Creation of commission.

In each locality, and in each group of two or more of such political subdivisions whose governing bodies declare by resolution that the locality needs a hospital or health center, a hospital or health center commission shall be created as a public body corporate, with such public and corporate powers as are set forth in this chapter. Such commission shall not transact any business or exercise its powers until the governing body of the subdivision, or the governing bodies of the subdivisions, declares the need for the hospital or health center commission to function therein.

Code 1950, § 32-276; 1950, p. 243; 1979, c. 719, § 15.1-1514; 1997, c. 587.

### § 15.2-5201. Definitions.

As used in this chapter:

"Bond" includes any interest-bearing obligation, including promissory notes.

"Hospital or health center" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing,

landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

Code 1950, § 32-276.1; 1975, c. 295, § 15.1-1515; 1979, c. 719; 1997, c. 587; 2000, c. 468; 2006, c. 658.

**§ 15.2-5202. When governing bodies may declare need for commission.**

Governing bodies may adopt resolutions declaring the need for hospital or health center commissions in political subdivisions, if they find that the public health and welfare, including the health and welfare of persons of low income in such subdivisions and surrounding areas require the acquisition, construction, financing, or operation of a hospital or health center.

Code 1950, § 32-277; 1979, c. 719, § 15.1-1516; 1997, c. 587; 2006, c. 658.

**§ 15.2-5203. Effect of adoption of resolution.**

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the hospital or health center commission, such commission shall be conclusively deemed to have become created as a body politic and corporate, and to have become established and authorized to transact business and exercise its powers, upon proof of the adoption of a resolution by the governing body of each locality for which the commission is created declaring the need for such commission, and, if more than one political subdivision is involved, that it unites with the other political subdivisions in declaring such needs. A copy of the resolution, certified by the clerk of the locality by which it is adopted, shall be admissible in evidence in any suit, action or proceeding.

Code 1950, § 32-278; 1950, p. 243; 1979, c. 719, § 15.1-1517; 1997, c. 587.

**§ 15.2-5204. Members of commission; quorum; compensation; expenses; removal and vacancies.**

A. A hospital or health center commission shall consist of the following number of members based upon the number of political subdivisions participating: for one political subdivision, five members; for two, six members; for three, six members; for four, eight members; and for more than four, one member for each of the participating subdivisions. The respective members shall be appointed by the governing bodies of the subdivisions they represent, may be members of such governing bodies, may be residents of such subdivisions, and shall be appointed for such terms as the appointing body

designates. A member shall hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. The powers of the commission conferred by this chapter shall be vested in and exercised by the members in office. A majority of the members then in office shall constitute a quorum. The commission shall elect its own chairman and shall adopt rules and regulations for its own procedure and government. The commission members may receive up to $50 for attendance at each commission meeting, not to exceed $1,200 per year, and shall be paid their actual expenses incurred in the performance of their duties. Any commission member may be removed at any time by the governing body appointing him, and vacancies on the commission shall be filled for the unexpired terms.

B. In Chesterfield County, the number of commission members shall be seven and their terms may be staggered as the appointing body designates. Such members shall not be removable at any time by the County's governing body except for malfeasance or at the end of the member's term.

Code 1950, § 32-279; 1978, c. 83, § 15.1-1518; 1979, c. 719; 1980, c. 86; 1993, c. 266; 1997, c. 587; 2006, c. 658; 2007, cc. 472, 813; 2014, c. 735.

**§ 15.2-5205. Powers of commission.**

Any hospital or health center commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this chapter, including the power to:

1. Sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. Employ such technical experts and such other officers, agents and employees as it may require, to fix their qualifications, duties and compensation and to remove such employees at pleasure.

3. Acquire within the territorial limits of the political subdivisions for which it is formed, by purchase, lease, gift or otherwise, whatever lands, buildings and structures as may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining and operating one or more hospitals or health centers.

4. Sell, lease, exchange, transfer, or assign any of its real or personal property, or any portion thereof or interest therein, to any person, firm, or corporation, whenever the commission finds such action to be in furtherance of the purposes for which the commission was created.

5. Acquire, establish, construct, enlarge, improve, maintain, equip and operate any hospital or health center, and any other facilities and services for the care and treatment of sick persons.

6. Make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.

7. Accept gifts and grants, including real or personal property, from the Commonwealth or any political subdivision thereof and from the United States and any of its agencies; and to accept donations of money, personal property or real estate, and take title thereto from any person.

8. Make rules and regulations governing the admission, care and treatment of patients in such hospital or health center, to classify patients as to charges to be paid by them, if any, and to determine the nature and extent of the service to be rendered patients.

9. Comply with the provisions of the laws of the United States and the Commonwealth, and any rules and regulations made thereunder, for the expenditures of federal or state money in connection with hospitals or health centers and to accept, receive and receipt for federal and state money granted the commission, or granted any of the political subdivisions for which it is formed, for hospital or health center purposes.

10. Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness issued for the purpose only of acquiring, constructing, improving, furnishing or equipping buildings or structures for use as a hospital or health center, and to secure the same by pledges of its revenues and property as hereafter provided. This power shall include the power to refinance all or any portion of such debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date.

11. Execute all instruments necessary or convenient in connection with the borrowing of money and issuing bonds as herein authorized.

12. Enter into leases and agreements with persons for the construction or operation or both of a hospital or health center by such persons on land of the commission.

13. Contract for the management and operation of any hospital or health center subject to the control of the commission; however, the commission may charge such rates for service as will enable it to make reasonable compensation for such management and operation.

14. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by a hospital or health center commission that is an "institution," as such term is defined in § 64.2-1100 shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

15. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other

supporting organizations or other entities for providing medical care or related services or other activities that the hospital or health center commission may undertake to the extent that such undertakings assist the hospital or health center commission in carrying out the purposes and intent of this chapter.

16. Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the hospital or health center commission with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.

17. Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

18. Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the hospital or health center commission in carrying out the purposes and intent of this chapter.

19. Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the hospital or health center commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the hospital or health center commission or its members, officers, directors, employees, or agents are otherwise entitled.

20. Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826.

Code 1950, § 32-280; 1975, c. 295, § 15.1-1519; 1979, c. 719; 1994, c. 759; 1996, c. 464; 1997, c. 587; 2006, c. 658; 2008, c. 184.

**§ 15.2-5206. Appropriations to commission.**

Any political subdivision for which the commission is created is authorized to make appropriations to the commission from available funds, or from funds provided for the purpose by bond issues, for the acquisition of land or improvements to land, and/or the construction, improvement, maintenance and operation of any hospital or health center operated or controlled or proposed to be operated or controlled by the commission. The political subdivision may also transfer to the commission, with or without consideration, real or personal property for any or all of such purposes.

Code 1950, § 32-281; 1975, c. 295, § 15.1-1520; 1979, c. 719; 1997, c. 587.

**§ 15.2-5207. Issuance of bonds by political subdivisions and validation thereof.**

Any political subdivision for which the commission is created may issue its general obligation bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) in furtherance of the

establishment, construction and enlargement of a hospital or health center. All such bonds issued prior to June 1, 1975, for such purposes by any political subdivision are hereby ratified, validated and confirmed, and all proceedings taken prior to such date to authorize the issuance of bonds for such purposes by any political subdivision are hereby ratified, validated and confirmed, and all such bonds may be issued pursuant to the Public Finance Act.

Code 1950, § 32-281.1; 1975, c. 295, § 15.1-1521; 1979, c. 719; 1997, c. 587.

**§ 15.2-5208. Issuance and sale of bonds.**

Any bonds issued by a hospital or health center commission may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as the commission by resolution may prescribe. Such bonds may be sold at public or private sale for such price or prices as the commission determines.

Code 1950, § 32-282; 1979, c. 719, § 15.1-1522; 1997, c. 587.

**§ 15.2-5209. Provisions to secure payment of bonds.**

Any commission resolution authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, (i) pledging any or all revenues of the hospital or health center to secure the payment of the interest on such bonds and to create a sinking fund to retire the principal thereof at maturity; (ii) providing for the granting of a lien on, or the creation of a security interest in, any property, real or personal, of the commission as security for the payment of the principal of, and interest on, such bonds and the due and punctual performance of any agreements made in connection therewith; (iii) providing for such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service until such bonds are retired; and (iv) prescribing the rights, obligations, powers and duties of the commission, the trustee under any trust indenture under which the bonds are issued, and the bondholders, in connection with or pertaining to such bonds.

Code 1950, § 32-283; 1979, c. 719, § 15.1-1523; 1994, c. 759; 1997, c. 587.

**§ 15.2-5210. Bonds made legal investments.**

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

Code 1950, § 32-284; 1979, c. 719, § 15.1-1524; 1997, c. 587.

**§ 15.2-5211. Bonds payable from revenues of hospital or health centers.**

Any bonds issued under this chapter shall be payable only from the revenues and receipts of the hospital or health center for the acquisition, establishment or construction of which the bonds were issued

and from any property the commission has made subject to a lien to secure such bonds. The bonds and other obligations of the commission shall not be a debt of any locality or of the Commonwealth, and neither the commission members nor any person executing the bonds or other obligations shall be liable personally thereon by reason of the issuance thereof.

Code 1950, § 32-285; 1950, p. 244; 1979, c. 719, § 15.1-1525; 1994, c. 759; 1997, c. 587.

**§ 15.2-5212. Property of commission exempt from foreclosure or execution sale and judgment lien.**
No interest of the commission in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument, either through judicial proceedings or the exercise of a power of sale contained in the instrument. All commission property shall be exempt from levy and sale by virtue of an execution, and no execution or judicial process shall issue against the commission. No judgment against the commission shall be a charge or lien upon its property, real or personal.

Nothing contained in this section shall prohibit the owner of a leasehold interest granted by the commission from granting a lien or other security interest in his leasehold which would be subject to sale or foreclosure as provided in any instrument creating the lien or other security interest. Nothing contained in this section shall prohibit the commission from granting a lien on, or creating a security interest in, commission property, real or personal, to secure any bonds issued under this chapter, any of which property will be subject to sale or foreclosure as provided in the instrument granting such lien or creating such security interest.

Code 1950, § 32-286; 1975, c. 295, § 15.1-1526; 1979, c. 719; 1994, c. 759; 1997, c. 587.

**§ 15.2-5213. Receiver.**
The commission may, by its trust indenture given to secure bond issues or other obligations, provide for the appointment of a receiver of the hospital or health center or that part thereof acquired or constructed from funds received from a sale of bonds secured by the pledge of its revenues. If a receiver is appointed, he may enter, take possession of, operate and maintain such hospital or health center or part thereof; collect and receive all fees, rents, revenues or other charges arising therefrom in the same manner as the commission might do; keep such moneys in a separate account or accounts; and apply the moneys in accordance with the obligations of the commission as the court directs.

Code 1950, § 32-287; 1979, c. 719, § 15.1-1527; 1997, c. 587.

**§ 15.2-5214. Eminent domain.**
The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The commission may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.

Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, religious corporation, unincorporated church or charitable corporation may be acquired without its consent.

Code 1950, § 32-288; 1950, p. 244; 1979, c. 719, § 15.1-1528; 1997, c. 587; 2005, c. 928; 2006, c. 673.

**§ 15.2-5215. Records and reports.**

The commission shall keep and preserve complete records of its operations and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually and at such other times as they may require.

Code 1950, § 32-289; 1979, c. 719, § 15.1-1529; 1997, c. 587.

**§ 15.2-5216. When court may enter order declaring need for commission no longer exists.**

Whenever it appears to commission members that the need, as stated in § 15.2-5202, for such commission no longer exists, the members may, after ten days' notice to the governing body of the locality establishing a commission pursuant to §§ 15.2-5200 and 15.2-5202, file a petition with the circuit court for such political subdivision or for any of such political subdivisions. Upon the production of satisfactory evidence in support of the petition, the court may, in its discretion, enter an order declaring that the need for such commission in the locality or combination thereof no longer exists and approving a plan for completing the business of the commission, the payment or assumption of its obligations, and the transfer of its assets.

Code 1950, § 32-290.1; 1970, c. 150, § 15.1-1530; 1979, c. 719; 1997, c. 587.

**§ 15.2-5217. Finality of order; effect.**

If the court enters an order as provided in § 15.2-5216 that the need for the commission no longer exists, such order shall be final and, except for completing its affairs in accordance with the plan approved by the court, its authorities, powers and duties to transact business or to function shall cease to exist as of the date set forth in the court order.

Code 1950, § 32-290.2; 1970, c. 150, § 15.1-1531; 1979, c. 719; 1997, c. 587.

**§ 15.2-5218. Appeal from order; supersedeas.**

Any party aggrieved by such order may apply for an appeal to the Supreme Court of Virginia and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases.

Code 1950, § 32-290.3; 1970, c. 150, § 15.1-1532; 1979, c. 719; 1997, c. 587.

**§ 15.2-5219. Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required.**

The provisions of this chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds

under the provisions of this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any commission, board, bureau, or agency of any of the foregoing.

2006, c. 658.

## Chapter 53 - HOSPITAL AUTHORITIES

## Article 1 - IN GENERAL

### § 15.2-5300. Finding and declaration of necessity.

It is declared that conditions resulting from the concentration of population of various cities of the Commonwealth require the construction, maintenance and operation of adequate hospital facilities for the care of the public health, for the control and treatment of epidemics, for the care of the indigent and for the public welfare. In various cities of the Commonwealth, adequate hospital facilities are not available to the inhabitants, and, consequently, many persons, including persons of low income, are forced to do without adequate medical and hospital care and accommodations. These conditions cause an increase in and the spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the Commonwealth and impair economic values. The aforesaid conditions also exist in certain areas surrounding such cities, and these conditions cannot be remedied by the ordinary operations of private enterprises. The providing of adequate hospital and medical care are public uses and purposes for which public money may be spent and private property acquired. It is in the public interest that adequate hospital and medical facilities and care be provided in such concentrated centers of population in order to care for and protect the health and public welfare. The provisions hereinafter enacted are declared as a matter of legislative determination necessary in the public interest.

Code 1950, § 32-213; 1979, c. 719, § 15.1-1533; 1997, c. 587.

### § 15.2-5301. Definitions.

As used or referred to in this chapter unless a different meaning clearly appears from the context:

"Authority" or "hospital authority" means a body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set forth.

"Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this chapter.

"City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to also include the equivalent county term.

"Commissioner" means one of the members of an authority appointed in accordance with the provisions of this chapter.

"Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any

assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

Code 1950, § 32-214; 1973, c. 462, § 15.1-1534; 1979, c. 719; 1997, c. 587; 2006, c. 658; 2014, c. 502.

**§ 15.2-5302. Creation of hospital authorities.**

In each city there shall be a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter, to be known as the "hospital authority" of the city.

Code 1950, § 32-215; 1979, c. 719, § 15.1-1535; 1997, c. 587.

**§ 15.2-5303. Not to function until council declares need.**

No authority shall transact any business or exercise its powers until or unless the council of the city by resolution declares at any time hereafter that there is need for an authority to function in the city.

Code 1950, § 32-216; 1979, c. 719, § 15.1-1536; 1997, c. 587.

**§ 15.2-5304. How need determined.**

The determination as to whether there is a need for an authority to function may be made by the governing body on its own motion or upon the filing of a petition, signed by 100 registered voters of the city, asserting that there is need for an authority to function in the city and requesting that the governing body so declare.

Code 1950, § 32-217; 1979, c. 719, § 15.1-1537; 1997, c. 587.

**§ 15.2-5305. What constitutes need.**

The council may adopt a resolution declaring that there is need for a hospital authority in the city if it finds (i) that there are inadequate hospital facilities and medical accommodations from the operations of private enterprises in the city and the surrounding area, or (ii) that the public health and welfare, including the health and welfare of persons of low income in the city and the surrounding area, require the construction, maintenance or operation of public hospital facilities for such inhabitants.

Code 1950, § 32-218; 1979, c. 719, § 15.1-1538; 1997, c. 587.

**§ 15.2-5306. Effect and sufficiency of resolution declaring need.**

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution of the governing body declaring the need for the authority. Such resolution shall be deemed sufficient if it

declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the conditions enumerated in § 15.2-5305 exist in the city. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

Code 1950, § 32-219; 1979, c. 719, § 15.1-1539; 1997, c. 587.

**§ 15.2-5307. Appointment, qualifications, tenure and compensation of commissioners.**

An authority shall consist of not more than 15 commissioners appointed by the mayor, and he shall designate the first chairman. No more than three commissioners shall be practicing physicians. No officer or employee of the city, with the exception of the director of a local health department, shall be eligible for appointment; however, no director of a local health department shall serve as chairman of the authority. No local health director who serves as a hospital authority commissioner shall serve as a member of the regional health planning agency board simultaneously. No practicing physician shall be appointed to such authority in the City of Hopewell.

One-third of the commissioners who are first appointed shall be designated by the mayor to serve for terms of two years, one-third to serve for terms of four years, and one-third to serve for terms of six years, respectively, from the date of their appointment. Thereafter, the term of office shall be six years. No person shall be appointed to succeed himself following four successive terms in office; no term of less than six years shall be deemed a term in office for the purposes of this sentence.

A commissioner shall hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. In the event of a vacancy in the office of commissioner by expiration of term of office or otherwise, the remaining commissioners shall submit to the mayor nominations for appointments. The mayor may successively require additional nominations and shall have power to appoint any person so nominated. All such vacancies shall be filled from such nominations. A majority of the commissioners currently in office shall constitute a quorum. The mayor may file with the city clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

Code 1950, § 32-220; 1960, c. 305; 1968, c. 783, § 15.1-1540; 1977, c. 158; 1979, c. 719; 1986, c. 240; 1997, c. 587; 2005, c. 630; 2006, c. 658; 2007, c. 813.

**§ 15.2-5308. Officers and agents.**

When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its members a vice-chairman, and it may employ a secretary, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and com-

pensation. An authority may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

Code 1950, § 32-221; 1979, c. 719, § 15.1-1541; 1997, c. 587.

### § 15.2-5309. Effect of inclusion of existing hospital.

If the authority and the trustees, directors or managers of any nonprofit or charitable hospital in a city should agree upon and consummate a transaction whereby the nonprofit or charitable hospital should thereafter be included within the hospital project or projects of the authority, the number of commissioners of such authority shall be increased to not exceeding fifteen. The additional commissioners shall be appointed by the mayor from nominations of the commissioners then in office, and the terms of the additional commissioners shall be arranged by the mayor in making such appointments as follows:

The terms of one-third of the commissioners shall expire in two years or less, one-third in four years or less, and one-third in six years or less, concurrently with the expiration of the terms of the commissioners then in office.

Code 1950, § 32-222; 1960, c. 305; 1979, c. 719, § 15.1-1542; 1997, c. 587.

### § 15.2-5310. Authority and commissioners must comply with law and contracts.

The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this chapter and the laws of the Commonwealth and, in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

Code 1950, § 32-223; 1979, c. 719, § 15.1-1543; 1997, c. 587.

### § 15.2-5311. Removal of commissioner on charges of mayor.

The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner has been given a copy of the charges against him, which may be made by the mayor, at least ten days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel.

Code 1950, § 32-225; 1979, c. 719, § 15.1-1544; 1997, c. 587.

### § 15.2-5312. Removal of commissioner on charges of obligee.

Any obligee of the authority may file with the mayor written charges that the authority is willfully violating any law of the Commonwealth or any term, provision or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of such charges at least ten days prior to the hearing thereon and an opportunity to be heard in person or by counsel and shall within fifteen days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such willful violation.

Code 1950, § 32-226; 1979, c. 719, § 15.1-1545; 1997, c. 587.

### § 15.2-5313. Service on commissioner by mail.

If, after due and diligent search, a commissioner to whom charges are required to be delivered hereunder cannot be found within the city where the authority is located, such charges shall be deemed served upon the commissioner if mailed to him at his last known address as it appears upon the records of the authority.

Code 1950, § 32-227; 1979, c. 719, § 15.1-1546; 1997, c. 587.

**§ 15.2-5314. When commissioner deemed to have acquiesced in violation.**

A commissioner shall be deemed to have acquiesced in a willful violation by the authority of a law of this Commonwealth or of any term, provision or covenant contained in a contract to which the authority is a party if, before a hearing is held on charges against him, he has not filed a written statement with the authority of his objections to, or lack of participation in, such violation.

Code 1950, § 32-228; 1979, c. 719, § 15.1-1547; 1997, c. 587.

**§ 15.2-5315. Record of removal proceedings.**

In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk a record of the proceedings together with the charges made against the commissioner and the findings thereon.

Code 1950, § 32-229; 1979, c. 719, § 15.1-1548; 1997, c. 587.

**§ 15.2-5316. Removed commissioner may appeal.**

Any commissioner thus removed may, within ten days after the mayor's action, appeal to the circuit court of the city, and the decision of such court shall be final.

Code 1950, § 32-230; 1979, c. 719, § 15.1-1549; 1997, c. 587.

**§ 15.2-5317. Planning and zoning laws.**

All hospital projects of an authority shall be subject to the planning and zoning laws, ordinances and regulations applicable to the locality in which the hospital project is situated.

Code 1950, § 32-231; 1979, c. 719, § 15.1-1550; 1997, c. 587.

**§ 15.2-5318. Reports.**

The authority shall at least once a year file with the mayor of the city an audit report by a certified public accountant of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this chapter.

Code 1950, § 32-232; 1979, c. 719, § 15.1-1551; 1997, c. 587.

**§ 15.2-5319. Appropriations by city.**

The governing body of any city in which the authority is located may make appropriations for the improvement, maintenance or operation of any public hospital or hospital project constructed, maintained, or operated by or to be constructed, maintained or operated by an authority.

Code 1950, § 32-233; 1979, c. 719, § 15.1-1552; 1997, c. 587.

### § 15.2-5320. Conveyance, lease or transfers of property by city to authority.

In order to provide for the construction, reconstruction, improvement, repair or management of any hospital or hospital project or in order to accomplish any of the purposes of this chapter, any city may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to an authority, within such city, any real, personal or mixed property including, but not limited to, any existing hospital or hospital project as a going concern or otherwise, and including the assignment and transfer of any part of or all money, choses in action and other assets used or held for the use of such hospital or hospital project. In connection with any such transaction the authority involved may accept such lease, transfer, assignment and conveyance and bind itself to the performance and observance of any agreements and conditions attached thereto.

Code 1950, § 32-234; 1979, c. 719, § 15.1-1553; 1997, c. 587.

### § 15.2-5321. Chapter controlling.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling. Nothing in this chapter shall prevent any city from establishing, equipping, and operating a hospital or hospitals or improving or extending existing hospitals and hospital facilities under the provisions of its charter or any general law other than this chapter.

Code 1950, § 32-235; 1979, c. 719, § 15.1-1554; 1997, c. 587.

## Article 2 - POWERS

### § 15.2-5322. In general.

An authority shall constitute a body politic and corporate with perpetual succession, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. It may sue and be sued and have a seal with power to alter same at pleasure.

Code 1950, § 32-236; 1979, c. 719, § 15.1-1555; 1997, c. 587.

### § 15.2-5323. Study and investigation concerning plan.

An authority shall have power to investigate hospital, medical and health conditions and the means and methods of improving such conditions; to determine where inadequate hospital and medical facilities exist; to study and make recommendations concerning the plan of any city in relation to the problem of providing adequate hospital, medical and nursing facilities; and to provide adequate hospital, medical and nursing facilities for the inhabitants of such city and surrounding area, including persons of low income in such city and area.

Code 1950, § 32-237; 1979, c. 719, § 15.1-1556; 1997, c. 587.

### § 15.2-5324. Preparation and operation of hospital projects; facilities relating to health care; additional powers.

An authority shall have power to prepare, carry out and operate hospital projects and to establish facilities to provide goods and services relating to health care.

The powers granted to an authority pursuant to the provisions of this chapter may be exercised in cities or counties other than the city or county in which the authority has been organized. However, an authority shall not commence the exercise of any of these powers in any city in which another authority already has been organized.

Code 1950, §§ 32-238, 32-238.1; 1977, c. 159, § 15.1-1558; 1979, c. 719, § 15.1-1557; 1987, c. 432; 1997, c. 587.

### § 15.2-5325. Clinics and instruction programs.

An authority shall have power to provide and operate outpatient departments, maternity clinics and any other clinics customarily operated in hospitals in metropolitan centers and to provide teaching and instruction programs and schools for medical students, interns, physicians and nurses.

Code 1950, § 32-239; 1979, c. 719, § 15.1-1559; 1997, c. 587.

### § 15.2-5326. Physicians and employees.

An authority shall have power to provide and maintain continuous resident physician and intern medical services; to appoint an administrator or superintendent and necessary assistants, and any and all other employees deemed necessary or advisable and fix their compensation; and to remove such appointees.

Code 1950, § 32-240; 1979, c. 719, § 15.1-1560; 1997, c. 587.

### § 15.2-5327. Powers of nonstock corporations.

An authority shall have all powers granted to corporations under the provisions of § 13.1-826, including, without limitation, the power to own or control stock and nonstock subsidiaries.

Code 1950, § 32-240.1; 1970, c. 554, § 15.1-1561; 1979, c. 719; 1986, c. 347; 1997, c. 587.

### § 15.2-5328. Bylaws and rules and regulations.

An authority shall have power to adopt bylaws for the conduct of its business and to adopt necessary rules and regulations for the government of the authority and its employees.

Code 1950, § 32-241; 1979, c. 719, § 15.1-1562; 1997, c. 587.

### § 15.2-5329. Committees.

An authority shall have power to appoint such committees or subcommittees as it deems advisable and fix their duties and responsibilities.

Code 1950, § 32-242; 1979, c. 719, § 15.1-1563; 1997, c. 587.

### § 15.2-5330. Construction, repair and management.

An authority shall have power to do all things necessary in connection with the construction, improvement, alteration, repair, reconstruction, management, supervision, control and operation of its business, including but not limited to the hospitals and all departments thereof.

Code 1950, § 32-243; 1979, c. 719, § 15.1-1564; 1997, c. 587.

### § 15.2-5331. Donations.

An authority shall have power to accept donations of money, personal property or real estate for the benefit of the authority and take title thereto from any person desiring to make such donations.

Code 1950, § 32-244; 1979, c. 719, § 15.1-1565; 1997, c. 587.

### § 15.2-5332. Regulating practice and nursing in hospital.

An authority shall have power to determine and regulate the conditions under which the privilege of practicing within any hospital operated by the authority may be available to physicians, to promulgate reasonable rules governing the conduct of physicians and nurses while on duty in such hospital, and to establish and maintain a training school for nurses.

Code 1950, § 32-245; 1979, c. 719, § 15.1-1566; 1997, c. 587.

### § 15.2-5333. Rules as to patients.

An authority shall have power to make rules governing the admission of patients to, and the care, conduct, and treatment of patients in, any hospital operated by the authority; to determine whether patients presented to the hospital for treatment are subjects for charity, to fix the compensation to be paid by patients other than those unable to assist themselves; and to maintain and operate isolation wards for the care and treatment of mental, contagious or other similar diseases.

Code 1950, § 32-246; 1979, c. 719, § 15.1-1567; 1997, c. 587.

### § 15.2-5334. Purchases or leases of hospital projects.

An authority shall have power to take over by purchase, lease or otherwise any hospital project located within its boundaries undertaken by any government or by any city.

Code 1950, § 32-247; 1979, c. 719, § 15.1-1568; 1997, c. 587.

### § 15.2-5335. Acting with federal government.

An authority shall have power to act as agent for the federal government in connection with the acquisition, construction, operation and management of a hospital project or any part thereof.

Code 1950, § 32-248; 1979, c. 719, § 15.1-1569; 1997, c. 587.

### § 15.2-5336. Cooperation with subdivision of Commonwealth.

An authority shall have power:

1. To arrange with any city or with a government for the (i) furnishing, planning, replanning, installing, opening or closing of streets, roads, roadways, alleys, sidewalks, or other places or facilities, (ii) acquisition by such city or government of property, options or property rights, and (iii) furnishing of property or services in connection with a project;

2. To arrange with the Commonwealth, its subdivisions and agencies, and any locality of the Commonwealth, to the extent that it is within the scope of each of their respective functions, (i) to cause the services customarily provided by each of them to be rendered for the benefit of such hospital authority, (ii) to provide and maintain parks and sewerage, water and other facilities adjacent to or in connection with hospital projects, and (iii) to lease or rent any of the dwellings or other accommodations or any of

the lands, buildings, structures or facilities embraced in any hospital project and to establish and revise the rents or charges therefor.

Code 1950, § 32-249; 1979, c. 719, § 15.1-1570; 1997, c. 587.

### § 15.2-5337. Purchase or lease of property; sale of property.

An authority shall have power to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any property real or personal or any interest therein from any person, locality or government.

An authority shall have power to sell, exchange, transfer, or assign any of its property real or personal or any interest therein to any person, locality or government.

Code 1950, §§ 32-250, 32-251; 1979, c. 719, §§ 15.1-1571, 15.1-1572; 1997, c. 587.

### § 15.2-5338. Owning property.

An authority shall have power to own, hold, clear and improve property and to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable.

Code 1950, § 32-252; 1979, c. 719, § 15.1-1573; 1997, c. 587.

### § 15.2-5339. Borrowing money.

An authority shall have power to borrow money upon its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenues in the manner and to the extent hereinafter provided and, in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this chapter. This power shall include the power to refinance all or any portion of such debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date.

Code 1950, § 32-253; 1979, c. 719, § 15.1-1574; 1997, c. 587; 2006, c. 658.

### § 15.2-5340. Contracts.

An authority shall have power to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

Code 1950, § 32-255; 1979, c. 719, § 15.1-1575; 1997, c. 587.

### § 15.2-5340.1. Joint ventures; subsidiaries; investments.

An authority shall have the power to:

1. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint

ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by a hospital authority that is an "institution," as such term is defined in § 64.2-1100 shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

2. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter.

3. Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.

4. Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

5. Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the authority in carrying out the purposes and intent of this chapter.

2006, c. 658; 2008, c. 184.

### § 15.2-5340.2. Insurance.

An authority shall have the power to procure such insurance, participate in such insurance plans or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by an authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the authority or its commissioners, members, officers, directors, employees, or agents are otherwise entitled.

2006, c. 658.

### § 15.2-5341. Rules and regulations not to be inconsistent.

An authority shall have power to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

Code 1950, § 32-256; 1979, c. 719, § 15.1-1576; 1997, c. 587.

### § 15.2-5342. Incidental powers.

An authority shall have power, in addition to all of the other powers herein conferred upon it, to do all things necessary and convenient to carry out the powers expressly given in this chapter.

Code 1950, § 32-257; 1979, c. 719, § 15.1-1577; 1997, c. 587.

### § 15.2-5343. Eminent domain.

The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this chapter after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and any applicable statutory provisions in force or hereafter enacted for the exercise of the power of eminent domain by cities.

Property already devoted to a public use may be acquired. No property belonging to any locality, government, religious corporation, unincorporated church or charitable corporation may be acquired without its consent.

Code 1950, § 32-258; 1979, c. 719, § 15.1-1578; 1997, c. 587; 2003, c. 940; 2005, c. 928; 2006, c. 673.

### § 15.2-5344. Contracts with federal government.

The authority is empowered to borrow money and accept grants from the federal government for or in aid of the construction of any hospital project which such authority is authorized by this chapter to undertake, to take over any land acquired by the federal government for the construction of a hospital project, to take over or lease or manage any hospital project constructed or owned by the federal government, and to these ends, to enter into such contracts, trust indentures, leases, or other agreements that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such hospital project. Pursuant to this chapter an authority may do any and all things necessary to secure the financial aid and the cooperation of the federal government in the construction, maintenance and operation of any hospital project of the authority.

Code 1950, § 32-259; 1979, c. 719, § 15.1-1579; 1997, c. 587.

### § 15.2-5345. Security for funds deposited by authorities; deposit in certain savings accounts, etc., authorized.

The authority may by resolution provide that all moneys deposited by it shall be secured:

1. By obligations of the United States or of the Commonwealth of a market value equal at all times to the amount of such deposits;

2. By any securities in which trustees, guardians, executors, administrators and others acting in a fiduciary capacity may legally invest funds within their control; or

3. By an undertaking with such sureties as shall be approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon.

All banks and trust companies are authorized to give any such security for such deposits.

Deposit of such funds in savings accounts and certificates of savings institutions which are under state supervision and of federal associations organized under the laws of the United States and under federal supervision, is hereby authorized, provided that such institution's deposits are insured by the Federal Deposit Insurance Corporation or other federal insurance agency.

Code 1950, § 32-260; 1976, c. 281, § 15.1-1580; 1979, c. 719; 1990, c. 3; 1997, c. 587.

## Article 3 - BONDS

### § 15.2-5346. Authority to issue.

The authority shall have power and is hereby authorized from time to time in its discretion to issue bonds for any of its purposes, including the payment of all or any part of the cost of any hospital project and the refunding of any bonds previously issued by it. Bonds may be issued under this chapter notwithstanding any debt or other limitation prescribed in any statute and without obtaining the consent of any locality, government or any commission, board, bureau or agency of any of the foregoing; and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Code 1950, § 32-261; 1973, c. 462, § 15.1-1581; 1979, c. 719; 1997, c. 587.

### § 15.2-5347. How payable.

The principal and interest on such bonds shall be payable from such sources as the authority may determine, including (without limiting the generality of the foregoing) (i) its revenues generally, (ii) exclusively from the revenues and receipts of a particular hospital project, or (iii) exclusively from the revenues and receipts of certain designated hospital projects, whether they are financed in whole or in part from the proceeds of such bonds. The bonds may be additionally secured by a pledge of any grant or contribution from any locality or from any government or governmental authority.

Code 1950, § 32-262; 1973, c. 462, § 15.1-1582; 1979, c. 719; 1997, c. 587.

### § 15.2-5348. Commissioners not liable.

Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

Code 1950, § 32-263; 1979, c. 719, § 15.1-1583; 1997, c. 587.

### § 15.2-5349. Bond indebtedness.

The bonds and other obligations of the authority, and such bonds and obligations shall so state on their face, shall not be a debt of any city in which the authority is located or of the Commonwealth, and neither the Commonwealth nor any such city shall be liable thereon. In no event shall they be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an

indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of the Commonwealth.

Code 1950, § 32-264; 1979, c. 719, § 15.1-1584; 1997, c. 587.

### § 15.2-5350. Form.

The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from their respective dates, bear interest at such rate or rates payable at such time or times, be in such denominations (which may be made interchangeable), be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture may provide.

Code 1950, § 32-265; 1973, c. 462, § 15.1-1585; 1979, c. 719; 1997, c. 587.

### § 15.2-5351. Sale.

The bonds may be sold at public or private sale at such price or prices as the authority determines.

Code 1950, § 32-266; 1973, c. 462, § 15.1-1586; 1979, c. 719; 1997, c. 587.

### § 15.2-5352. Interim certificates.

Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations, to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements, relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution or trust indenture determine.

Code 1950, § 32-267; 1979, c. 719, § 15.1-1587; 1997, c. 587.

### § 15.2-5353. Signature of former officers.

If any of the officers whose signatures appear on any bonds or coupons cease to be such officers before the delivery of the bonds, their signatures shall be valid and sufficient for all purposes as if they had remained in office until such delivery.

Code 1950, § 32-268; 1979, c. 719, § 15.1-1588; 1997, c. 587.

### § 15.2-5354. Purchase by authority.

The authority shall have the power out of any funds available therefor to purchase any bonds issued by it. Bonds payable exclusively from the revenues of a designated project or projects shall only be purchased with the revenues available therefor. All bonds so purchased shall be canceled. This section shall not apply to the redemption of bonds.

Code 1950, § 32-269; 1973, c. 462, § 15.1-1589; 1979, c. 719; 1997, c. 587.

### § 15.2-5355. Negotiability.

Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this chapter shall be fully negotiable.

Code 1950, § 32-270; 1979, c. 719, § 15.1-1590; 1997, c. 587.

**§ 15.2-5356. Provisions of bonds and trust indentures.**

In connection with the issuance of bonds or the incurring of any obligations and in order to secure the payment of such bonds or obligations, the authority shall have power:

1. To pledge by resolution, trust indenture, or other contract, all or any part of its rents, fees, or revenues.

2. To covenant to impose and maintain such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service.

3. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any hospital project or other property of the authority or any part thereof or with respect to limitations on its right to undertake additional hospital projects.

4. To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

5. To provide for the release of rents, fees, and revenues from any pledge and reserve rights and powers in, or the right to dispose of, property, the rents, fees and revenues from which are subject to a pledge.

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

7. To covenant as to what other, or additional, debt may be incurred by it.

8. To provide for the terms, form, registration, exchange, execution and authentication of bonds.

9. To provide for the replacement of lost, destroyed, or mutilated bonds.

10. To covenant as to the use of any or all of its property, real or personal.

11. To create or authorize the creation of special funds in which there shall be segregated: (i) the proceeds of any loan or grant; (ii) all of the rents, fees and revenues of any hospital project or projects or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such hospital projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (v) any moneys held for any other reserve or contingency; and to covenant as to the use and disposal of the moneys held in such funds.

12. To redeem the bonds and covenant for their redemption and provide the terms and conditions thereof.

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

15. To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

16. To vest in an obligee of the authority the right, in the event of the failure of the authority, to observe or perform any covenant on its part to be kept or performed, cure any such default and advance any moneys necessary for such purpose. The moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the authority with reference thereto.

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

18. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

19. To covenant to surrender possession of all or any part of any hospital project or other property of the authority, the revenues from which have been pledged, upon the happening of any event of default (as defined in the contract) and to vest in an obligee the right without judicial proceeding to take possession; to use, operate, manage and control such hospital project or other property or any part thereof; to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do; and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government or any purchaser of the bonds of the authority may reasonably require.

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein. It is the intention hereof to give the authority power to do all things in the issuance of bonds and in the provisions for their security that are not inconsistent with the Constitution of Virginia.

Code 1950, § 32-271; 1973, c. 462, § 15.1-1591; 1979, c. 719; 1997, c. 587.

**§ 15.2-5357. Further provisions as to trust indenture or bond resolution; security required of depository of proceeds of bonds.**

In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust indenture by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the Commonwealth. Such trust indenture or the resolution authorizing the issuance of such bonds may pledge or assign the fees, rents and other charges to be received or proceeds of or rights under any contract or contracts pledged. Such trust indenture or resolution may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly the appointment of a receiver for any hospital project or other property of the authority from which the revenues have been pledged and such other provisions as have hereinabove been specifically authorized to be included in any trust indenture or resolution of the authority. Any bank or trust company incorporated under the laws of the Commonwealth acting as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust indenture or resolution may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict individual rights of action by bondholders. In addition to the foregoing, any such trust indenture or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or resolution may be treated as a part of the cost of the operation of a project.

Code 1950, § 32-271.1; 1973, c. 462, § 15.1-1592; 1979, c. 719; 1997, c. 587.

**§ 15.2-5358. Fees, rents and charges for use of project and facilities; sinking fund.**

The authority is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project and the facilities thereof. Such fees, rents and other charges shall be so fixed and adjusted as to provide, together with other revenues determined by the authority to be available, a fund sufficient to pay the cost of maintaining, repairing and operating the project, the principal of and interest on such bonds as they become due and payable and the amounts necessary to create and maintain reserves for such purposes and for other purposes of the authority. Such fees, rents and charges shall not be subject to supervision or regulation by any locality or by any commission, board, bureau or agency of any of the foregoing. The authority may provide in the resolution authorizing the issuance of such bonds, or in the trust indenture securing the same, for setting aside any part or all of the fees, rents and other charges received by it in a sinking or other similar fund which is hereby

pledged to, and charged with, the payment of the principal of and the interest on such bonds, as they become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor trust indenture need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of a sinking or other similar fund shall be subject to the provisions of such resolution or trust indenture. Except as may otherwise be provided in such resolution or trust indenture, the sinking or other similar fund shall be a fund for all such bonds without distinction or priority of one over another.

Code 1950, § 32-271.2; 1973, c. 462, § 15.1-1593; 1979, c. 719; 1997, c. 587.

### § 15.2-5359. Moneys received deemed trust funds.

All moneys received pursuant to the provisions of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to the provisions of this chapter and the resolution authorizing the issuance of such bonds or the trust indenture securing the same.

Code 1950, § 32-271.3; 1973, c. 462, § 15.1-1594; 1979, c. 719; 1997, c. 587.

### § 15.2-5360. Protection and enforcement of rights and duties under chapter.

Any holder of bonds issued under the provisions of this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust indenture securing the same, except to the extent the rights herein given may be restricted by such trust indenture or any resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of this Commonwealth or granted by this chapter or under such trust indenture or resolution and may enforce and compel the performance of all duties required by this chapter or by such trust indenture or resolution to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging and collection of fees, rents and other charges.

Code 1950, § 32-271.4; 1973, c. 462, § 15.1-1595; 1979, c. 719; 1997, c. 587.

### § 15.2-5361. Exemption from taxation.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience and prosperity. The operation and maintenance of any hospital project which the authority is authorized to undertake will constitute the performance of an essential governmental function; therefore, the

authority shall not be required to pay any taxes or assessments upon any hospital project acquired or constructed by it. The bonds issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and any political subdivision thereof.

Code 1950, § 32-271.5; 1973, c. 462, § 15.1-1596; 1979, c. 719; 1997, c. 587.

### § 15.2-5362. Bonds legal investments; deposit with public agencies.

Bonds issued by the authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and all its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.

Code 1950, § 32-271.6; 1973, c. 462, § 15.1-1597; 1979, c. 719; 1997, c. 587.

### § 15.2-5363. Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required.

The foregoing sections of this chapter shall be deemed to provide a complete, additional and alternative method for doing the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any commission, board, bureau or agency of any of the foregoing.

Code 1950, § 32-271.7; 1973, c. 462, § 15.1-1598; 1979, c. 719; 1997, c. 587.

### § 15.2-5364. Liberal construction.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

Code 1950, § 32-271.8; 1973, c. 462, § 15.1-1599; 1979, c. 719; 1997, c. 587; 2015, c. 709.

## Article 4 - DISSOLUTION

### § 15.2-5365. Proceedings for dissolution.

Whenever it appears to the commissioners of an authority that the need, as provided in § 15.2-5305, for such authority in the city in which it was created no longer exists, upon petition by the commissioners to the circuit court for such city, after giving to the city ten days' notice and upon the production of satisfactory evidence in support of such petition, the court may, in its discretion, enter an

order declaring that the need for such authority in the city no longer exists and approving a plan for completing the business of the authority, the payment or assumption of its obligations, and the transfer of its assets.

Code 1950, § 32-275.1; 1962, c. 395, § 15.1-1600; 1979, c. 719; 1997, c. 587.

### § 15.2-5366. When powers and duties cease to exist.

If the court enters an order, as provided in § 15.2-5365, that the need for such authority no longer exists, except for completing its affairs in accordance with the plan approved by the court, its authorities, powers and duties to transact business or to function shall cease to exist as of the date set forth in the order of the court.

Code 1950, § 32-275.2; 1962, c. 395, § 15.1-1601; 1979, c. 719; 1997, c. 587.

### § 15.2-5367. Appeal.

An appeal may be granted by the Supreme Court of Virginia, or any judge thereof, to either the authority or the city from the judgment of the court, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence. The trial court shall certify the facts in the case to the Supreme Court and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. By consent of both parties of record, the petition may be dismissed at any time before final judgment on the appeal.

Code 1950, § 32-275.3; 1962, c. 395, § 15.1-1602; 1979, c. 719; 1997, c. 587; 2003, c. 940.

## Chapter 53.1 - SOUTHWEST VIRGINIA HEALTH AUTHORITY

### § 15.2-5368. Southwest Virginia Health Authority established.

A. There is hereby established a Health Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions, the Counties of Smyth and Washington, and the City of Bristol.

B. The General Assembly recognizes that rural communities such as those served by the Authority confront unique challenges in the effort to improve health care outcomes and access to quality health care. It is important to facilitate the provision of quality, cost-efficient medical care to rural patients. The provision of care by local providers is important to enhancing, fostering, and creating opportunities that advance health status and provide health-related economic benefits. The Authority shall establish regional health goals directed at improving access to care, advancing health status, targeting regional health issues, promoting technological advancement, ensuring accountability of the cost of care, enhancing academic engagement in regional health, strengthening the workforce for health-related careers, and improving health entity collaboration and regional integration where appropriate.

C. Technological and improved scientific methods have contributed to the improvement of health care in the Commonwealth. The cost of improved technology and improved scientific methods for the provision of hospital care, particularly in rural communities, contributes substantially to the increasing cost of hospital care. Cost increases make it increasingly difficult for hospitals in rural areas of the Commonwealth, including those areas served by the Authority, to offer care. Cooperative agreements

among hospitals and between hospitals and others for the provision of health care services may foster improvements in the quality of health care, moderate increases in cost, improve access to needed services in rural areas of the Commonwealth, and enhance the likelihood that smaller hospitals in the Commonwealth will remain open in beneficial service to their communities.

2007, c. 676; 2009, c. 464; 2014, c. 236; 2015, c. 741.

**§ 15.2-5369. Definitions.**

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

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental, medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and

clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

2007, c. 676; 2013, c. 660; 2015, c. 741.

**§ 15.2-5370. Directors; qualifications; terms; vacancies.**

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. The Authority shall consist of members as follows:

The Executive Director for the Coalfield Economic Development Authority, or his designee;

The Chief Executive Officer of the Norton Community Hospital located in the City of Norton, Virginia, or his designee;

One representative from the Lonesome Pine Hospital;

The Chief Executive Officer of the Virginia Community Healthcare Association, or his designee;

The Chief Executive Officer of the Russell County Medical Center, or his designee;

The Chief Executive Officer of the Clinch Valley Medical Center, or his designee;

The District Health Director for the Cumberland Health District, or his designee;

The District Health Director for the LENOWISCO Health District, or his designee;

The Dean of the University of Virginia School of Medicine, or his designee;

The Dean of the School of Dentistry at the Medical College of Virginia of Virginia Commonwealth University, or his designee;

The Dean of the Lincoln Memorial University-DeBusk College of Osteopathic Medicine, or his designee;

The Chancellor of the University of Virginia's College at Wise, or his designee;

The President of the East Tennessee State University Quillen College of Medicine, or his designee;

The President of Frontier Health, or his designee;

The President of the University of Appalachia College of Pharmacy, or his designee;

The President of the Edward Via Virginia College of Osteopathic Medicine, or his designee;

The Chairman of the Board of the Southwest Virginia Graduate Medical Education Consortium, or his designee;

Two members of the Senate to be appointed by the Senate Committee on Rules;

Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and

One member for each participating locality, provided that each such member shall be appointed initially as follows: the representatives of Buchanan and Dickenson Counties being appointed for one-year terms; the representatives of Lee County and the City of Norton being appointed for two-year terms; the representatives of Russell and Scott Counties being appointed for three-year terms; and the representatives of Tazewell and Wise Counties being appointed for four-year terms. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies shall be for the unexpired terms. In addition, representatives may be selected from the Counties of Smyth and Washington and the City of Bristol and shall serve initial terms as determined by the board of directors. All terms of office shall be deemed to commence upon the date of the initial appointment to the Authority, and thereafter in accordance with the provisions of this paragraph. If, at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

The directors shall elect from their membership a chairman and a vice-chairman and from their membership or not, as they desire, a secretary and a treasurer or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected.

2007, c. 676; 2008, c. 803; 2010, c. 575; 2011, c. 514; 2014, c. 236; 2015, c. 741.

### § 15.2-5371. Decisions of Authority.

A majority of the Authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.

2007, c. 676; 2010, c. 575.

### § 15.2-5372. Payment to members of Authority.

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be

reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

2007, c. 676.

### § 15.2-5373. Executive director; staff.

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. No such person shall contemporaneously serve as a member of the Authority. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2007, c. 676.

### § 15.2-5374. Powers of Authority.

The Authority shall have all powers necessary or convenient to carry out the general purposes of this chapter, including the power to:

1. Sue and be sued; adopt a seal and alter the same at pleasure; have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. Employ such technical experts and such other officers, agents, and employees as it may require, to fix their qualifications, duties, and compensation, and to remove such employees at pleasure.

3. Acquire within the territorial limits of the participating localities embraced by it, by purchase, lease, gift, or otherwise, whatever lands, buildings, and structures as may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining, and operating one or more hospitals or health centers.

4. Sell, lease, exchange, transfer, or assign any of its real or personal property or any portion thereof or interest therein to any person, firm, or corporation whenever the Authority finds such action to be in furtherance of the purposes for which the Authority was created.

5. Acquire, establish, construct, enlarge, improve, maintain, equip, and operate any hospital or health center and any other facility and service for the care and treatment of sick persons.

6. Make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.

7. Accept gifts and grants, including real or personal property, from the Commonwealth or any political subdivision thereof and from the United States and any of its agencies; and accept donations of money, personal property, or real estate and take title thereto from any person.

8. Make rules and regulations governing the admission, care, and treatment of patients in such hospital or health center, classify patients as to charges to be paid by them, if any, and determine the nature and extent of the service to be rendered patients.

9. Comply with the provisions of the laws of the United States and the Commonwealth and any rules and regulations made thereunder for the expenditures of federal or state money in connection with hospitals or health centers and to accept, receive, and receipt for federal and state money granted the Authority or granted any of the participating localities embraced by it for hospital or health center purposes.

10. Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness issued for the purpose only of acquiring, constructing, improving, furnishing, or equipping buildings or structures for use as a hospital or health center, and to secure the same by pledges of its revenues and property as hereafter provided. This power shall include the power to refinance all or any portion of such debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date. This power shall include the power to borrow money upon its bonds, notes, debentures, or other evidences of indebtedness for the purpose of operations of any not-for-profit or nonprofit dental or medical facility for which the Authority or any participating locality has also provided funding pursuant to this chapter in furtherance of any lease, contract, or agreement entered into by the Authority pursuant to subdivision 12 or 13. Such power to borrow money upon its bonds, notes, debentures, or other evidences of indebtedness shall only be considered by the Authority after receipt of a prospectus, operational budget, and five-year business plan for the dental or medical facility together with identification of all revenue and funding resources required to fully meet the five-year operational budget. Upon receipt, the Authority shall make the prospectus, operational budget, and business plan available to the public and enable the public to respond in a public hearing prior to approval being taken up for consideration. In addition, the prospectus, operational budget, and business plan shall be reviewed by the State Council of Higher Education for Virginia prior to approval by the Authority. Thereafter, the Council shall review the operations of the Authority prior to the exercise of bond authority pursuant to this subdivision. The Council shall report its findings to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance.

11. Execute all instruments necessary or convenient in connection with the borrowing of money and issuing bonds as herein authorized.

12. Enter into leases and agreements with persons for the construction or operation or both of a hospital or health center by such persons on land of the Authority.

13. Contract for the management and operation of any hospital or health center subject to the control of the Authority; however, the Authority may charge such rates for service as will enable it to make reasonable compensation for such management and operation.

14. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting

organizations or other entities and to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of shares of or other interests in or obligations of any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations, joint ventures, or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation, or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 64.2-1100 shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

15. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this chapter.

16. Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.

17. Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities.

18. Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this chapter.

19. Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled.

20. Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826.

21. Receive and review applications for approval of proposed cooperative agreements submitted by two or more hospitals pursuant to § 15.2-5384.1, and provide recommendations to the Commissioner

regarding the approval of such applications. The Authority may establish a fee structure, and may assess a fee, to support its review of applications for approval of proposed cooperative agreements. The amount of the fee that the Authority is authorized to assess the parties submitting such an application shall not exceed $50,000.

2007, c. 676; 2008, c. 184; 2013, c. 660; 2015, c. 741.

**§ 15.2-5375. Appropriations to Authority.**

Any participating locality is authorized to make appropriations to the Authority from available funds or from funds provided for the purpose by bond issues for the acquisition of land or improvements to land or the construction, improvement, maintenance, and operation of any hospital or health center operated or controlled or proposed to be operated or controlled by the Authority. The participating locality may also transfer to the Authority, with or without consideration, real or personal property for any or all of such purposes.

2007, c. 676.

**§ 15.2-5376. Issuance of bonds by participating localities and validation thereof.**

Any participating locality may issue its general obligation bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) in furtherance of the establishment, construction, or enlargement of a hospital or health center. The industrial development authority of any participating locality may issue its bonds in the manner provided in the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.) in furtherance of the establishment, construction, enlargement, or operation of a nonprofit or not-for-profit hospital or health center with the concurrence of the governing body of the participating locality.

2007, c. 676; 2013, c. 660.

**§ 15.2-5377. Issuance and sale of bonds.**

Any bonds issued by the Authority may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as the Authority by resolution may prescribe. Such bonds may be sold at public or private sale for such price or prices as the Authority determines.

2007, c. 676.

**§ 15.2-5378. Provisions to secure payment of bonds.**

Any Authority resolution authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, (i) pledging any or all revenues of the hospital or health center to secure the payment of the interest on such bonds and to create a sinking fund to retire the principal thereof at maturity; (ii) providing for the granting of a lien on or the creation of a security interest in any property, real or personal, of the Authority as security for the payment of the principal of,

and interest on, such bonds and the due and punctual performance of any agreements made in connection therewith; (iii) providing for such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service until such bonds are retired; and (iv) prescribing the rights, obligations, powers, and duties of the Authority, the trustee under any trust indenture under which the bonds are issued, and the bondholders, in connection with or pertaining to such bonds.

2007, c. 676.

**§ 15.2-5379. Bonds made legal investments.**

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

2007, c. 676.

**§ 15.2-5380. Bonds payable from revenues of hospital or health centers.**

Any bonds issued under this chapter shall be payable only from the revenues and receipts of the hospital or health center for the acquisition, establishment, or construction of which the bonds were issued and from any property the Authority has made subject to a lien to secure such bonds. The bonds and other obligations of the Authority shall not be a debt of any locality or of the Commonwealth, and neither the Authority members nor any person executing the bonds or other obligations shall be liable personally thereon by reason of the issuance thereof.

2007, c. 676.

**§ 15.2-5381. Property of Authority exempt from foreclosure or execution sale and judgment lien.**

No interest of the Authority in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument, either through judicial proceedings or the exercise of a power of sale contained in the instrument. All Authority property shall be exempt from levy and sale by virtue of an execution, and no execution or judicial process shall issue against the Authority. No judgment against the Authority shall be a charge or lien upon its property, real or personal.

Nothing contained in this section shall prohibit the owner of a leasehold interest granted by the Authority from granting a lien or other security interest in his leasehold that would be subject to sale or foreclosure as provided in any instrument creating the lien or other security interest. Nothing contained in this section shall prohibit the Authority from granting a lien on or creating a security interest in Authority property, real or personal, to secure any bonds issued under this chapter, any of which property will be subject to sale or foreclosure as provided in the instrument granting such lien or creating such security interest.

2007, c. 676.

**§ 15.2-5382. Receiver.**

The Authority may, by its trust indenture given to secure bond issues or other obligations, provide for the appointment of a receiver of the hospital or health center or that part thereof acquired or constructed from funds received from a sale of bonds secured by the pledge of its revenues. If a receiver is appointed, he may enter, take possession of, operate, and maintain such hospital or health center or part thereof; collect and receive all fees, rents, revenues, or other charges arising therefrom in the same manner as the Authority might do; keep such moneys in a separate account or accounts; and apply the moneys in accordance with the obligations of the Authority as the court directs.

2007, c. 676.

### § 15.2-5383. Eminent domain.

The Authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, that it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The Authority may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provision now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.

Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent.

2007, c. 676.

### § 15.2-5384. Records and reports.

The Authority shall keep and preserve complete records of its operations and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually and at such other times as they may require.

2007, c. 676.

### § 15.2-5384.1. Review of cooperative agreements.

A. The policy of the Commonwealth related to each participating locality is to encourage cooperative, collaborative, and integrative arrangements, including mergers and acquisitions among hospitals, health centers, or health providers who might otherwise be competitors. To the extent such cooperative agreements, or the planning and negotiations that precede such cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws, the intent of the Commonwealth with respect to each participating locality is to supplant competition with a regulatory program to permit cooperative agreements that are beneficial to citizens served by the Authority, and to invest in the Commissioner the authority to approve cooperative agreements recommended by the Authority and the duty of active supervision to ensure compliance with the provisions of the cooperative agreements that have been approved. Such intent is within the public policy of the Commonwealth to facilitate the provision of quality, cost-efficient medical care to rural patients.

B. A hospital may negotiate and enter into proposed cooperative agreements with other hospitals in the Commonwealth if the likely benefits resulting from the proposed cooperative agreements outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreements. Benefits to such a cooperative agreement may include, but are not limited to, improving access to care, advancing health status, targeting regional health issues, promoting technological advancement, ensuring accountability of the cost of care, enhancing academic engagement in regional health, strengthening the workforce for health-related careers, and improving health entity collaboration and regional integration where appropriate.

C. 1. Parties located within any participating locality may submit an application for approval of a proposed cooperative agreement to the Authority. In such an application, the applicants shall state in detail the nature of the proposed arrangement between them, including without limitation the parties' goals for, and methods for achieving, population health improvement, improved access to health care services, improved quality, cost efficiencies, ensuring affordability of care, and, as applicable, supporting the Authority's goals and strategic mission. The Authority shall determine whether the application is complete. If the Authority determines that the application is not complete, the Authority shall notify the applicants in writing of the additional items required to complete the application. A copy of the complete application shall be provided to the Commissioner and the Office of the Attorney General at the same time that it is submitted to the Authority. If the applicants believe the materials submitted contain proprietary information that are required to remain confidential, such information must be clearly identified and the applicants shall submit duplicate applications, one with full information for the Authority's use and one redacted application available for release to the public.

2. The Authority, promptly upon receipt of a complete application, shall publish notification of the application in a newspaper of general circulation in the LENOWISCO and Cumberland Plateau Planning Districts and on the Authority's website. The public may submit written comments regarding the application to the Authority within 20 days after the notice is first published. The Authority shall promptly make any such comments available to the applicants. The applicants may respond in writing to the comments within 10 days after the deadline for submitting comments. Following the close of the written comment period, the Authority shall, in conjunction with the Commissioner, schedule a public hearing on the application. The hearing shall be held no later than 45 days after receipt of the application. Notice of the hearing shall be mailed to the applicants and to all persons who have submitted written comments on the proposed cooperative agreement. The Authority, no later than 15 days prior to the scheduled date of the hearing, also shall publish notice of the hearing in a newspaper of general circulation in the LENOWISCO and Cumberland Plateau Planning Districts and on the Authority's website.

D. In its review of an application submitted pursuant to subsection C, the Authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicants, any written comments submitted by any person, any written response by the applicants, and any written or oral comments submitted at the public hearing. The Authority shall review a proposed cooperative

agreement in consideration of the Commonwealth's policy to facilitate improvements in patient health care outcomes and access to quality health care, and population health improvement, in rural communities and in accordance with the standards set forth in subsection E. Any applicants to the proposed cooperative agreement under review, and their affiliates or employees, who are members of the Authority, as well as any members of the Authority that are competitors, or affiliates or employees of competitors, of the applicants proposing such cooperative agreement, shall not participate as a member of the Authority in the Authority's review of, or decision relating to, the proposed cooperative agreement; however, this prohibition on such person's participation shall not prohibit the person from providing comment on a proposed cooperative agreement to the Authority or the Commissioner. The Authority shall determine whether the proposed cooperative agreement should be recommended for approval by the Commissioner within 75 days of the date the completed application for the proposed cooperative agreement is submitted for approval. The Authority may extend the review period for a specified period of time upon 15 days' notice to the parties.

E. 1. The Authority shall recommend for approval by the Commissioner a proposed cooperative agreement if it determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.

2. In evaluating the potential benefits of a proposed cooperative agreement, the Authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

a. Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse, provided to citizens served by the Authority, resulting in improved patient satisfaction;

b. Enhancement of population health status consistent with the regional health goals established by the Authority;

c. Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

d. Gains in the cost-efficiency of services provided by the hospitals involved;

e. Improvements in the utilization of hospital resources and equipment;

f. Avoidance of duplication of hospital resources;

g. Participation in the state Medicaid program; and

h. Total cost of care.

3. The Authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

a. The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations, or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals, or other health care providers;

b. The extent of any reduction in competition among physicians, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

c. The extent of any likely adverse impact on patients in the quality, availability, and price of health care services; and

d. The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

F. 1. If the Authority deems that the proposed cooperative agreement should be recommended for approval, it shall provide such recommendation to the Commissioner.

2. Upon receipt of the Authority's recommendation, the Commissioner may request from the applicants such supplemental information as the Commissioner deems necessary to the assessment of whether to approve the proposed cooperative agreement. The Commissioner shall consult with the Attorney General regarding his assessment of whether to approve the proposed cooperative agreement. On the basis of his review of the record developed by the Authority, including the Authority's recommendation, as well as any additional information received from the applicants as well as any other data, information, or advice available to the Commissioner, the Commissioner shall approve the proposed cooperative agreement if he finds after considering the factors in subsection E that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement. The Commissioner shall issue his decision in writing within 45 days of receipt of the Authority's recommendation. However, if the Commissioner has requested additional information from the applicants, the Commissioner shall have an additional 15 days, following receipt of the supplemental information, to approve or deny the proposed cooperative agreement. The Commissioner may reasonably condition approval of the proposed cooperative agreement upon the parties' commitments to achieving the improvements in population health, access to health care services, quality, and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement. Such conditions shall be fully enforceable by the Commissioner. The Commissioner's decision to approve or deny an application shall constitute a case decision pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

G. If approved, the cooperative agreement is entrusted to the Commissioner for active and continuing supervision to ensure compliance with the provisions of the cooperative agreement. The parties to a cooperative agreement that has been approved by the Commissioner shall report annually to the

Commissioner on the extent of the benefits realized and compliance with other terms and conditions of the approval. The report shall describe the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the Commissioner as a condition for approval of the cooperative agreement, and shall include information relating to price, cost, quality, access to care, and population health improvement. The Commissioner may require the parties to a cooperative agreement to supplement such report with additional information to the extent necessary to the Commissioner's active and continuing supervision to ensure compliance with the cooperative agreement. The Commissioner shall have the authority to investigate as needed, including the authority to conduct onsite inspections, to ensure compliance with the cooperative agreement.

H. If the Commissioner has reason to believe that compliance with a cooperative agreement no longer meets the requirements of this chapter, the Commissioner shall initiate a proceeding to determine whether compliance with the cooperative agreement no longer meets the requirements of this chapter. In the course of such proceeding, the Commissioner is authorized to seek reasonable modifications to a cooperative agreement, with the consent of the parties to the agreement, in order to ensure that it continues to meet the requirements of this chapter. The Commissioner is authorized to revoke a cooperative agreement upon a finding that (i) the parties to the agreement are not complying with its terms or the conditions of approval; (ii) the agreement is not in substantial compliance with the terms of the application or the conditions of approval; (iii) the benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement; (iv) the Commissioner's approval was obtained as a result of intentional material misrepresentation to the Commissioner or as the result of coercion, threats, or intimidation toward any party to the cooperative agreement; or (v) the parties to the agreement have failed to pay any required fee. All proceedings initiated by the Commissioner under this chapter and any judicial review thereof shall be held in accordance with and governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

I. The Commissioner shall maintain on file all cooperative agreements that the Commissioner has approved, including any conditions imposed by the Commissioner. Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the Commissioner within 30 days after termination.

J. The Commissioner may contract with qualified experts and consultants that he deems necessary in his review of an application for approval of a cooperative agreement or supervision of a cooperative agreement.

K. The Commissioner shall be entitled to reimbursement from applicants seeking approval of a cooperative agreement for all reasonable and actual costs incurred by the Commissioner in his review of the application for a cooperative agreement made pursuant to this chapter, including costs of experts and consultants retained by the Commissioner. The Commissioner shall incur only those costs necessary

to adequately review the application as determined in his sole discretion. The Commissioner shall maintain detailed records of all costs incurred for which he seeks reimbursement from the applicant.

L. The Commissioner shall determine the activities needed to actively supervise the cooperative agreement and may incur only those expenses necessary for such supervision as determined in his sole discretion. The Commissioner shall be entitled to reimbursement from the parties to a cooperative agreement for all reasonable and actual costs incurred by the Commissioner in the supervision of the cooperative agreement approved pursuant to this chapter, including costs of experts and consultants retained by the Commissioner. Prior to contracting with experts or consultants, the Commissioner shall provide reasonable notice to the parties describing the proposed scope of work and anticipated costs of such experts and consultants. The parties shall be given a reasonable time period to provide to the Commissioner information related to possible alternatives to the use of such experts and consultants. The Commissioner shall consider the information submitted by the parties in determining whether to retain an expert or consultant. The Commissioner shall maintain detailed records of all costs incurred for which he seeks reimbursement from the parties. Within 30 days of the end of each quarter, the Commissioner shall provide to the parties a written quarterly report detailing all costs incurred by the Commissioner related to the supervision of the cooperative agreement for which the Commissioner seeks reimbursement. The parties shall make payment to the Department of Health within 30 days of the receipt of such request for reimbursement.

M. Reimbursement received pursuant to subsections K and L shall be paid into the Department of Health. Nongeneral funds generated by the reimbursements collected in accordance with this chapter on behalf of the Department and accounted for and deposited into a special fund by the Commissioner of the Department shall be held exclusively to cover the expenses of the Department in administrating this chapter and shall not be transferred to any other agency, except to cover expenses directly related to active supervision of the cooperative agreement.

2015, c. 741; 2018, c. 371.

**§ 15.2-5385. Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required.**

The provisions of this chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds. Activities conducted pursuant to cooperative agreements approved and supervised by the Commissioner are immunized from challenge or scrutiny under the Commonwealth's antitrust laws. It is the intention of the General Assembly that this chapter shall also immunize cooperative agreements approved and supervised by the Commissioner from challenge or scrutiny under federal antitrust law. Except as otherwise expressly provided in this chapter, none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any authority, board, bureau,

or agency of any of the foregoing. Nothing in this chapter shall affect the authority of the Attorney General to conduct appropriate reviews under Chapter 20 (§ 32.1-373 et seq.) of Title 32.1.

2007, c. 676; 2015, c. 741.

### § 15.2-5386. Limitations of the Authority.

A. No provision related to the establishment, powers, or authorities of the Southwest Virginia Health Authority, its subsidiaries, or successors, shall apply to the facilities, equipment, or appropriations of any state agency including, but not limited to, the Virginia Department of Health and the Department of Behavioral Health and Developmental Services.

B. The Authority, its subsidiaries or successors, shall not be exempt from the Certificate of Public Need law and regulations or licensure standards of the Virginia Department of Health.

C. No provision of this chapter related to the establishment, power or authority of the Authority or participating localities shall apply to or affect any hospital as defined in § 32.1-123.

2007, c. 676; 2009, cc. 464, 813, 840.

## Chapter 54 - ELECTRIC AUTHORITIES ACT

### § 15.2-5400. Short title.

This chapter shall be known and may be cited as the "Electric Authorities Act."

1979, c. 416, § 15.1-1603; 1997, c. 587.

### § 15.2-5401. Intent of General Assembly.

It is the intent of the General Assembly by the passage of this chapter to authorize the creation of electric authorities by localities of this Commonwealth, either acting jointly or separately, in order to provide facilities for the generation, transmission, and distribution of electric power and energy, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth.

It is further the intent of the General Assembly that in order to achieve the economies and efficiencies made possible by the proper planning, financing, sizing and location of facilities for the generation, transmission, and distribution of electric power and energy which are not practical for any locality or electric authority acting alone, and to insure an adequate, reliable and economical supply of electric power and energy to the inhabitants of the Commonwealth, electric authorities shall be authorized to jointly cooperate and plan, finance, develop, own and operate with other electric authorities and other public corporations and governmental entities and investor-owned electric power companies and electric power cooperative associations or corporations, within or outside the Commonwealth, electric generation, transmission, and distribution facilities in order to provide for the present and future requirements of the electric authorities and their participating localities. It is further the intent of the General Assembly that an authority that is created by the Town of Elkton and that is limited by its articles of incorporation to having the Town of Elkton as its sole member throughout its life is authorized to become an authority to distribute electric energy for retail sale. The distribution of electric energy for

retail sale by an authority that is created by the Town of Elkton and that is limited by its articles of incorporation to having the Town of Elkton as its sole member throughout its life shall be limited to the geographic area that was served as of January 1, 2006, by the Town of Elkton.

Accordingly, it is determined that the exercise of the powers granted herein will benefit the inhabitants of the Commonwealth and serve a valid public purpose in improving and otherwise promoting their health, welfare and prosperity.

This chapter shall be liberally construed in conformity with these intentions.

1979, c. 416, § 15.1-1604; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5402. Definitions.**

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means a political subdivision and a body politic and corporate created, organized and existing pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter shall be given by law.

"Bonds" or "revenue bonds" means bonds, notes and other evidences of indebtedness of an authority issued by the authority pursuant to the provisions of this chapter.

"Cost" or "cost of a project" means, but shall not be limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto, the cost of labor and materials; the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and securing the same; administrative, legal, engineering and inspection expenses; financing fees, expenses and costs; working capital; costs of fuel and of fuel supply resources and related facilities; interest on bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing authority; establishment of reserves; and all other expenditures of the issuing authority incidental, necessary or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project and the placing of the project in operation.

"Governmental unit" means any incorporated city or town in the Commonwealth owning on January 1, 1979, a system or facilities for the generation, transmission or distribution of electric power and energy for public and private uses and engaged in the generation or retail distribution of electricity; any incorporated city in the Commonwealth which on January 1, 1979, has a population of 200,000 or more; or any county or incorporated city or town in the Commonwealth which after January 1, 1979, is authorized to participate in an authority pursuant to an act of the General Assembly.

"Project" means any system of facilities for the generation, transmission, transformation, supply, or distribution of electric power and energy by any means whatsoever, including fuel and fuel supply resources and other related facilities, any interest therein and any right to output, capacity or services

thereof, but does not include facilities for the distribution of electric energy for retail sale unless the facilities are owned by an authority created by a governmental unit that is exempt from the referendum requirement of § 15.2-5403, and the distribution is limited to retail sales within the geographic area that was served as of January 1, 2006, by the governmental unit that is the sole member of such authority.

"Unit" means any governmental unit; any electric authority; any investor-owned electric power company; any electric cooperative association or corporation; the Commonwealth or any other state; or any department, institution, commission, public instrumentality or political subdivision of the Commonwealth, any other state, or the United States.

1979, c. 416, § 15.1-1605; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5403. Creation of electric authority; referendum.**

The governing body of a governmental unit may by ordinance, or the governing bodies of two or more governmental units may by concurrent ordinances or agreement authorized by ordinance of each of the respective governmental units, create an electric authority, under any appropriate name and title containing the words "electric authority." Upon compliance with the provisions of this section and §§ 15.2-5404 and 15.2-5405, the authority shall be a political subdivision of the Commonwealth and a body politic and corporate. Any such ordinance shall be adopted in accordance with applicable general or special laws or charter provisions providing for the adoption of ordinances of the particular governmental unit, and shall be published once a week for two successive weeks prior to adoption in a newspaper of general circulation within the governmental unit. The second publication shall not be sooner than one calendar week after the first publication.

No governmental unit shall participate as a member of such an authority unless and until such participation is authorized by a majority of the voters voting in a referendum held in the governmental unit on the question of whether or not the governmental unit should participate in the authority. The referendum shall be held as provided in §§ 24.2-682 and 24.2-684. The foregoing referendum requirement shall not apply to the Town of Elkton if the Town creates an authority by an ordinance that includes articles of incorporation which comply with the provisions of § 15.2-5404 and also set forth a statement that such authority shall have only the Town as its sole member throughout its life.

1979, c. 416, § 15.1-1606; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5404. Articles of incorporation.**

Each ordinance or agreement providing for the creation of an authority shall include articles of incorporation which shall set forth:

1. The name of the authority and the address of its principal office;

2. The names of the governmental units which are to be the initial members of the authority;

3. The purpose or purposes for which the authority is to be created;

4. The number of directors who shall initially serve on the board of directors which shall exercise the powers of the authority, the number of directors from each member governmental unit, and the names, addresses and terms of office of the initial directors of the authority; and

5. Any other provisions for regulating the business of the authority or the conduct of its affairs, including provisions for amendment of the articles of incorporation.

1979, c. 416, § 15.1-1607; 1997, c. 587.

**§ 15.2-5405. Certificate of incorporation or charter; addition and withdrawal of members; board of directors; indemnification of directors, officers or employees.**

A. After adoption or approval of the ordinances or agreement providing for the creation of an authority, the articles of incorporation of the authority shall be filed with the State Corporation Commission. If the State Corporation Commission finds that the articles of incorporation conform to law, and the creation of such an authority is in the public interest, a certificate of incorporation or charter shall forthwith be issued, and thereupon the authority shall constitute a political subdivision of the Commonwealth and a body politic and corporate and shall be deemed to have been lawfully and properly created, established and authorized to exercise the powers granted under this chapter.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or action of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the aforesaid certificate by the State Corporation Commission. A copy of such certificate, duly certified by the State Corporation Commission, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive evidence of the filing and contents thereof.

Notice of the issuance of such certificate by the State Corporation Commission shall be given to each of the member governmental units of the authority by the State Corporation Commission.

B. After the creation of an authority, any other governmental unit may become a member thereof upon application to such authority after the adoption of an ordinance by the governing body of the governmental unit authorizing such governmental unit to become a member of the authority, and with the unanimous consent of the members of the authority evidenced by ordinances of their respective governing bodies. Except for an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, any governmental unit may withdraw from an authority; however, all contractual rights acquired and obligations incurred while a governmental unit was a member shall remain in full force and effect.

In the case of the joining of a new member governmental unit to an authority, or in the case of the withdrawal of an existing member governmental unit from an authority, the articles of incorporation of the authority shall be amended to evidence such joinder or withdrawal, as the case may be, and such amendment shall be filed with the State Corporation Commission. Thereupon, the State Corporation Commission shall issue a certificate of joinder or withdrawal, as the case may be, to which shall be

attached a copy of the amendment to the articles of incorporation. The joining or withdrawal shall become effective upon the issuance of such certificate.

C. The powers of each authority created by the governing body of a single governmental unit shall be exercised by a board of five directors, or, at the option of the governing body of the particular governmental unit, a number of directors equal to the number of persons on the governing body of the governmental unit. The powers of each authority created by the governing bodies of two or more governmental units shall be exercised by a board of such number of directors specified in its articles of incorporation, which shall be not less than one member for each governmental unit and not less than a total of five directors. The directors of an authority shall be selected in the manner and for the terms provided by the ordinance of a single governmental unit, or the concurrent ordinances or agreement of two or more of the governmental units creating the authority. No director shall be appointed for a term of more than four years but a director may be reappointed and succeed himself or herself. Directors shall hold office until their successors have been appointed. When one or more additional governmental units join an existing authority, each of such joining governmental units shall appoint not less than one director of the authority.

The directors of the authority shall elect one of their number chairman of the authority, and shall elect a secretary and treasurer and such other officers as are deemed necessary who need not be directors of the authority. The offices of secretary and treasurer may be combined. A majority of the directors of the authority shall constitute a quorum, and the vote of a majority of the directors shall be necessary for any action taken by the authority. No vacancy in the board of directors of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs by reason of the death, disqualification or resignation of a director, the governing body of the governmental unit which appointed such director shall appoint a successor to fill his unexpired term. In the event of a vacancy in the board of directors for any reason, a successor shall be appointed within six months of the date on which such vacancy occurred.

Whenever a governmental unit withdraws from an authority, the term of any director appointed to the board of directors from such governmental unit shall immediately terminate, and, if such termination results in less than five directors of the authority, additional directors shall be selected in the manner and for the terms provided by the ordinances or agreement creating the authority so as to comply with the requirements of this section. No elected official of a member governmental unit shall be a director of an authority. No person shall serve as a director unless he resides within the governmental unit which has appointed him. Directors shall receive such compensation as shall be fixed from time to time by resolution or resolutions of the governing body or bodies of the member governmental unit or units of the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. An authority may defend, indemnify against loss or liability and save harmless any of its directors, officers or employees whenever a claim or demand is made or threatened, or whenever proceeded against in any investigation or before any court, board, commission or other public body to defend or

maintain his official position or a position taken in the course of the execution of his duties or because of any act or omission arising out of the performance of his official duties if the director, officer or employee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the authority. If it is ultimately determined that a director, officer or employee of an authority is entitled to be indemnified by the authority as authorized in this section, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith. Expenses, including attorneys' fees, incurred in defending a civil action, suit or proceeding may be paid by an authority in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in this section upon receipt of an undertaking by or on behalf of the director, officer or employee, to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the authority as authorized in this section.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer or employee, and shall inure to the benefit of the heirs, executors and administrators of such person. An authority shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer or employee of the authority against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the authority would have the power to indemnify him against such liability under the provisions of this section.

1979, c. 416, § 15.1-1608; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5405.1. Applicability of personnel and procurement procedures to certain authorities.**

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall apply to an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 in the exercise of any power conferred under this article only to the extent that such provisions would have applied to the sole member of such authority in the exercise of such power directly.

2006, cc. 929, 941.

**§ 15.2-5406. Rights, powers and duties of authority.**

An authority shall have all of the rights and powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the rights and powers:

1. To adopt bylaws or rules for the regulation of its affairs and the conduct of its business;

2. To adopt an official seal and alter the same at pleasure;

3. To maintain an office at such place or places as it may designate;

4. To sue and be sued;

5. To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

6. To study, plan, research, develop, finance, construct, reconstruct, acquire, improve, enlarge, extend, better, lease, own, operate and maintain any project or any interest in any project, within or outside the Commonwealth, including the acquisition of an ownership interest in any project as a tenant in common with any other unit or units whether public or private, and to enter into and perform contracts with respect thereto, and if the authority acquires an ownership interest as a tenant in common in any project within the Commonwealth, the surrender or waiver by any such owner of its right to partition such property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of such period or as unduly restricting the alienation of such property;

7. To acquire by private negotiated purchase or lease or otherwise an existing project, a project under construction, or other property within or outside the Commonwealth, either individually or jointly with any other unit or units whether public or private; to acquire by private negotiated purchase or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, transportation, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; and to enter into agreements by private negotiation or otherwise, for such period as the authority shall determine, for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water;

8. To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;

9. To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

10. To dispose of by private negotiated sale or lease or otherwise an existing project, a project under construction, or other property owned either individually or jointly, and to dispose of by private negotiated sale or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, transportation, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water;

11. To borrow money and issue revenue bonds of the authority in the manner hereinafter provided;

12. To accept advice and money from any member governmental unit of the authority;

13. To apply and contract for and to expend assistance from the United States or other public or private sources, whether in form of a grant or loan or otherwise;

14. To fix, charge and collect rents, rates, fees and charges for output or capacity of any project and for the use of, or for, the other services, facilities and commodities sold, furnished or supplied through any project;

15. To authorize the acquisition, construction, operation or maintenance of any project by any unit or individual on such terms as the authority shall deem proper, and, in connection with any project which is owned jointly by the authority and one or more units, to act as agent, or designate one or more of the other units to act as agent, for all the owners of the project for the construction, operation or maintenance of such project;

16. To generate, produce, transmit, deliver, exchange, purchase or sell electric power and energy at wholesale or retail, and to enter into contracts for any or all such purposes;

17. To negotiate and enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy at wholesale or retail with any unit within or outside the Commonwealth;

18. To purchase power and energy and related services from any source on behalf of its member governmental units and other customers and to sell the same to its member governmental units and other customers in such amounts, with such characteristics, for such periods of time and under such terms and conditions as the authority shall determine;

19. In the event of any annexation by a governmental unit which is not a member governmental unit of the authority of lands, areas, or territory in which the authority's projects exist, to continue to do business and to exercise jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds remain outstanding or unpaid, or any contracts or other obligations remain in force;

20. To amend the articles of incorporation with respect to the name or powers of such authority or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority;

21. To enter into contracts with any unit on such terms as the authority shall deem proper for the purposes of acting as a billing and collecting agent for electric service or electric service fees, rents or charges imposed by any such unit;

22. To pledge or assign any moneys, fees, rents, charges or other revenues and any proceeds derived by the authority from the sales of bonds, property, insurance or condemnation awards;

23. To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with persons, firms, corporations and others;

24. To apply to the appropriate agencies of the Commonwealth, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, to construct, maintain and operate projects in accordance with such licenses, permits, certificates or approvals; and to obtain, hold and use such licenses, permits, certificates and approvals in the same manner as any other person or operating unit;

25. To employ such persons as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor; and

26. To do all acts and things necessary and convenient to carry out the purposes and to exercise the powers granted to the authority herein.

In undertaking a project, an authority shall apply to the appropriate agencies of the Commonwealth, the United States, or any state therein, for such permits, licenses, certificates, or approvals as may be necessary, including, in any event, those referred to in §§ 56-46.1, 56-234.3, and 56-265.2; former § 62.1-3; and Chapter 7 (§ 62.1-80 et seq.) of Title 62.1 of the Code of Virginia. An authority shall construct, maintain and operate such projects in accordance with such permits, licenses, certificates and approvals. The foregoing sentence shall apply to an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 only to the extent that it would have applied to the governmental unit that is the sole member of such authority if the governmental unit had directly undertaken the project.

In determining which project or projects to undertake in furtherance of its purposes and powers under this chapter, an authority shall take into account estimated future power requirements of member governmental units which have entered into, or propose to enter into, contracts with the authority for the purchase of output, capacity, use or services of such project or projects, and in making such determinations the authority shall consider the following:

1. Economies and efficiencies to be achieved in constructing, on a large scale, facilities for the generation and distribution of electric power and energy;

2. Needs of the authority for reserve and peaking capacity and to meet obligations under pooling and reserve-sharing agreements reasonably related to its needs for power and energy to which the authority is or may become a party;

3. Estimated useful life of such project;

4. Estimated time necessary for the planning, development, acquisition, or construction of such project and length of time required in advance to obtain, acquire or construct an additional power supply for the member governmental units of the authority; and

5. Reliability and availability of alternative power supply sources and cost of such alternative power supply sources.

Nothing herein contained shall prevent an authority from undertaking studies to determine whether there is a need for a project or whether such project is feasible.

1979, c. 416, § 15.1-1609; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5406.1. Retail distribution of electric energy limited to certain authorities.**

Notwithstanding any other provision in this chapter to the contrary, an authority is not authorized to distribute electric energy for retail sale unless the authority is an authority created by a governmental unit

exempt from the referendum requirement of § 15.2-5403. Such distribution shall be limited to retail sales within the geographic area that was, as of January 1, 2006, by the governmental unit of such authority. Nothing in this chapter shall be construed to impair or abridge the exclusive territorial electric distribution rights or property rights of any certificated incumbent public service company operating in the Commonwealth. No such authority is authorized or empowered to take by condemnation, eminent domain, or otherwise, the electric distribution system, utility facilities, or other utility property of any public service company without the consent of such public service company.

2006, cc. 929, 941.

**§ 15.2-5406.2. Tort claims against certain authorities.**

An authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 shall be subject to tort liability only to the extent that the governmental unit that is the sole member of such authority is subject to such liability.

2006, cc. 929, 941.

**§ 15.2-5407. Membership in more than one authority.**

Nothing herein contained shall prohibit any governmental unit from being a member of more than one authority for the purpose of obtaining an adequate electric power supply.

1979, c. 416, § 15.1-1610; 1997, c. 587.

**§ 15.2-5408. Sale of power and energy, including capacity and output to member governmental units by authority; duration of contracts; source of payments; furnishing of money, property or services by member governmental units.**

Any member governmental unit of an authority may contract to buy from the authority power and energy required for its present or future requirements, including the capacity and output of one or more specified projects. Any such contract may provide that the governmental unit so contracting shall be obligated to make payments required by the contract whether or not a project is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance by the authority or any other member governmental unit under the contract or any other instrument. Such contracts with respect to any project may also provide, in the event of default by any member governmental unit which is a party to any such contract for such project in the performance of its obligations thereunder, for other member governmental units which are parties to any such contract for such project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts.

Notwithstanding the provisions of any other law or local charter provision to the contrary, any such contracts with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding fifty years from the date a project is estimated to be placed in normal

continuous operation; the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the Commonwealth or any agency, commission or instrumentality or political subdivision thereof except as specifically required and provided in this chapter.

Payments by a governmental unit under any contract for the purchase of capacity and output from an authority shall be made solely from, and may be secured by a pledge of and lien upon, the revenues derived by such governmental unit from the ownership and operation of the electric system of such governmental unit, and such payments may be made as an operating expense of such electric system. No obligation under such contract shall constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the governmental unit or upon any of its income, receipts or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the governmental unit are, or may be, pledged for the payment of any obligation under any such contract. A governmental unit shall be obligated to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on bonds of such governmental unit heretofore or hereafter issued for purposes related to its electric system. Any pledge made by a governmental unit pursuant to this paragraph shall be governed by the laws of the Commonwealth.

Any member governmental unit of an authority may furnish the authority with money and provide the authority with personnel, equipment and property, both real and personal. Any member governmental unit may also provide any services to an authority. Any member governmental unit may contract for, advance or contribute funds to an authority as may be agreed upon by the authority, and the member governmental unit and the authority shall repay such advances or contributions from proceeds of bonds, from operating revenues or from any other funds of the authority, together with interest thereon as may be agreed upon by the member governmental units and authority.

1979, c. 416, § 15.1-1611; 1997, c. 587.

**§ 15.2-5409. Sale of capacity and output to nonmembers; limitations.**

An authority may sell or exchange the capacity or output of a project not then required by any of its member governmental units for such consideration, for such period, and upon such other terms and conditions as may be determined by the parties, to any person, firm, association or corporation, public or private within or outside the Commonwealth; however, this shall not authorize retail sales by an authority to any nongovernmental end user of electric capacity or energy, except as set forth in § 15.2-5406.1, and sales of such capacity or output of a project shall not be made in such amounts, for such periods of time, and under such terms and conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government.

1979, c. 416, § 15.1-1612; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5410. Contents of agreement as to joint ownership of project; designation of party to agreement as agent for construction, operation and maintenance of project; powers and duties of agent.**
Any agreement between an authority and a unit with respect to the joint ownership of a project shall provide that each party to the agreement shall own a percentage of the project equal to the percentage of the money furnished or the value of property supplied by the respective parties for the acquisition and construction thereof and shall own and control a like percentage of the output thereof. The agreement shall further provide that an authority shall be liable only for its own acts thereunder and that no moneys or other contributions supplied by an authority shall be applied in any way to the account of any other party to the agreement. Any such agreement may contain such terms, conditions, and provisions as the board of directors of an authority shall deem to be in the best interest of such authority.

The agreement may include, but shall not be limited to, provisions for the construction, operation and maintenance of a project by one of the parties thereto, which shall be designated in or pursuant to such agreement as agent on behalf of itself and the other parties, or by such other means as may be determined by the parties and provisions for a uniform method of determining, and allocating among the parties, costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such project. In carrying out its functions and activities as such agent with respect to the construction, operation, and maintenance of such a project, including without limitation the letting of contracts therefor, the agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other parties. Notwithstanding the provisions of any other law to the contrary, the authority may delegate its powers and duties with respect to the construction, operation and maintenance of such project to such agent, and all actions taken by the agent in accordance with the provisions of such agreement shall be binding upon each of the parties without further action or approval by their respective boards of directors or governing bodies. The agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice.

As used in this section, "prudent utility practice" means any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

1979, c. 416, § 15.1-1613; 1997, c. 587.

**§ 15.2-5411. Contracts for planning, acquisition, construction, etc., of projects.**
An authority may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of a project or may contract with one or more units to perform these functions, by advertising for bids, preparing plans and specifications in advance of construction, or securing performances and payment bonds to the extent that its board of directors

determines that these actions are desirable in furtherance of the purposes of this chapter. Except as otherwise provided by this section, no contract shall be invalid or unenforceable by reason of non-performance of the conditions required by any other law relating to public contracts.

1979, c. 416, § 15.1-1614; 1997, c. 587.

**§ 15.2-5412. Issuance of bonds by authority.**

An authority may issue from time to time its bonds in such principal amounts as the authority shall deem necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including but not limited to the payment of all or any part of the cost of a project or projects. The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from, and may be secured solely by, a pledge of and lien upon the revenues, or any portion thereof, derived or to be derived by the authority from one or more of its projects, or contributions or advances from its members, or moneys derived from any source, as the authority shall determine. Bonds of the authority shall be authorized by a resolution adopted by its board of directors, and such resolution shall be spread upon its minutes. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding fifty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions, as may be determined by the authority. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either, at public or at private sale, and for such price as it may determine to be for the best interest of the authority and the member governmental units to be served thereby.

The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and bonds may be issued without obtaining the consent of the Commonwealth or any political subdivisions, or of any agency, commission or instrumentality of either thereof, and without any other approvals, proceedings or the happening of any conditions or things other than those specifically required by this chapter and the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

1979, c. 416, § 15.1-1615; 1997, c. 587.

**§ 15.2-5413. Interim receipts and temporary bonds; lost, stolen and destroyed bonds.**

Prior to the preparation of definitive bonds, the authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

Should any bond issued under this chapter or any coupon appertaining thereto become mutilated or be lost, stolen or destroyed, the authority may cause a new bond or coupon of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen or destroyed bond or coupon has (i) paid the reasonable expense and charges in connection therewith; (ii) in the case of a lost, stolen or destroyed bond or coupon, filed with the authority or its fiduciary evidence satisfactory to such authority or its fiduciary that such bond or coupon was lost, stolen or destroyed and that the holder was the owner thereof; and (iii) furnished indemnity satisfactory to the authority.

1979, c. 416, § 15.1-1616; 1997, c. 587.

**§ 15.2-5414. Bonds not debts of Commonwealth or member governmental unit.**

Bonds issued under the provisions of this chapter shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any governmental unit thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any governmental unit of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the Commonwealth or any governmental unit of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment.

1979, c. 416, § 15.1-1617; 1997, c. 587.

**§ 15.2-5415. Security for bonds; trust agreement; bond resolution.**

In the discretion of any authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee. Such corporate trustee, and any depository of funds of the authority, may be any trust company or bank having the powers of a trust company within the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign all or a portion of the revenues to be received by the authority in respect of any project or projects but shall not convey or mortgage any project, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of such bonds may contain covenants including, but not limited to, the following:

1. The pledge of all or any part of the revenues derived from the project or projects to be financed by the bonds or from the electric system or facilities of the authority;

2. The rents, rates, fees and charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants and funds received or to be received by the authority;

3. The setting aside of reserves and the investment, regulation and disposition thereof;

4. The custody, collection, securing, investment, and payment of any moneys held for the payment of bonds;

5. Limitations or restrictions on the purposes to which the proceeds of the sale of bonds then or thereafter to be issued may be applied;

6. Limitations or restrictions on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured or the refunding of outstanding or other bonds;

7. The procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the bondholders of which must consent thereto, and the manner in which such consent may be given;

8. Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which bonds issued under this chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

9. The preparation and maintenance of a budget;

10. The retention or employment of consulting engineers, independent auditors, and other technical consultants;

11. Limitations on or the prohibition of free service to any person, firm or corporation, public or private;

12. The acquisition and disposal of property, and the appointment of a receiver of the funds and property of the authority in the event of a default;

13. Provisions for insurance and for accounting reports and the inspection and audit thereof; and

14. The continuing operation and maintenance of the project or projects.

Any pledge made by an authority pursuant to this chapter shall be governed by the laws of the Commonwealth.

1979, c. 416, § 15.1-1618; 1997, c. 587.

**§ 15.2-5416. Rents, rates, fees and other charges.**

The authority is hereby authorized to fix, charge and collect rents, rates, fees and other charges for the purchase of output or capacity of, or for the use of and for the electric power and energy or services, facilities and commodities sold, furnished or supplied by, any project. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to (i) pay the cost of maintaining, operating and repairing the project or projects on account of which such bonds are issued, including reserves for such purposes and for replacement and depreciation and necessary extensions; (ii) pay the principal of and redemption premium, if any,

and interest on the revenue bonds as the same shall become due and to create and maintain reserves therefor; (iii) comply with the terms of any resolution or trust agreement securing bonds of the authority; and (iv) pay any and all amounts which the authority may be obligated to pay from such revenues by law or contract.

In fixing rents, rates, fees and other charges as provided in this section, the authority shall hold a public hearing, advertised as required in § 15.2-5403, at which hearing the public may submit comments with respect to such rents, rates, fees and other charges to the authority. The authority shall charge and collect the rates, fees and charges so fixed or revised. Rates, rentals, fees and charges for the sale or purchase of output or capacity of, or for the use of and for the electric power and energy or services, facilities and commodities sold, furnished or supplied by a project may be fixed and revised and charged and collected by the authority under this chapter without obtaining the approval or consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter.

1979, c. 416, § 15.1-1619; 1997, c. 587.

### § 15.2-5417. Moneys received deemed trust funds.

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds may provide that any of such moneys may be temporarily invested and reinvested, pending the disbursement thereof, in such securities and other investments as shall be provided in such resolution or trust agreement, and shall provide that any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the resolution or trust agreement may provide.

1979, c. 416, § 15.1-1620; 1997, c. 587.

### § 15.2-5418. Bondholders' and trustees' remedies.

Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder, or, to the extent permitted by law, under such trust agreement or resolution authorizing the issuance of such bonds or under any agreement or other contract executed by the authority pursuant to this chapter, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by any authority or by any officer thereof, including the fixing, charging and collecting of rents, rates, fees and charges for the purchase of output or capacity of any project or for the use of or for the electric power and energy or services furnished by any project.

1979, c. 416, § 15.1-1621; 1997, c. 587.

### § 15.2-5419. Refunding bonds.

An authority created hereunder is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the authority for the purpose of refunding any revenue bonds then outstanding and issued under the provisions of this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Each such authority is further authorized to provide by resolution for the issuance of a single issue of revenue bonds of the authority for the combined purposes of (i) paying the cost of any project and (ii) refunding the revenue bonds of the authority which have been issued under the provisions of this chapter and are then outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the authority with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as they are applicable.

1979, c. 416, § 15.1-1622; 1997, c. 587.

### § 15.2-5420. Status of bonds under Uniform Commercial Code.

Notwithstanding any of the provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be investment securities under the Uniform Commercial Code as enacted in this Commonwealth, subject only to the provisions of the bonds pertaining to registration.

1979, c. 416, § 15.1-1623; 1997, c. 587.

### § 15.2-5421. Bonds as legal investments and lawful security.

The bonds issued pursuant to this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings institutions, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians and for all public funds of the Commonwealth or other political corporations or subdivisions of the Commonwealth. Such bonds shall be eligible to secure the deposit of any and all public funds of the Commonwealth and any and all public funds of localities, school districts or other political corporations or subdivisions of the Commonwealth, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

1979, c. 416, § 15.1-1624; 1996, c. 77; 1997, c. 587.

### § 15.2-5422. Bonds exempt from taxation.

Bonds, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof, except inheritance or gift taxes.

1979, c. 416, § 15.1-1625; 1997, c. 587.

### § 15.2-5423. Payments in lieu of property taxes; license tax.

A project owned by an authority shall be exempt from property taxes. However, an authority, other than an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, owning a project shall, in lieu of property taxes, pay to any governmental body authorized to levy property taxes, the amount which would be assessed as taxes on real and personal property of a project if such project were otherwise subject to valuation and assessment by the State Corporation Commission, in the same manner as are public utility companies. Such payments in lieu of taxes shall be due and shall bear interest, if unpaid, as in the cases of taxes on other property. Authorities, other than an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, shall pay the annual state license tax imposed by § 58.1-2626, or an equal amount in lieu of such tax, to the same extent as if § 58.1-2626 were by its terms expressly applicable to authorities. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. The retail sales of an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 shall be subject to the taxes imposed under § 58.1-2900. Except as herein expressly provided with respect to projects owned by an authority, no other property of such authority used or useful in the generation, transmission, transformation, and distribution of electric power and energy shall be subject to payment in lieu of taxes.

1979, c. 416, § 15.1-1626; 1997, c. 587; 2006, cc. 929, 941.

**§ 15.2-5423.1. Exemption from taxation for certain authorities.**

An authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 is hereby declared to be performing a public function on behalf of the governmental unit that is the sole member of such authority with respect to which the authority is created and to be a public instrumentality of such governmental unit. Accordingly, an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 shall be exempt from state and local taxation to the same extent that the governmental unit that is the sole member of such authority is exempt from such taxation.

2006, cc. 929, 941.

**§ 15.2-5424. Transfer, etc., of property of political subdivisions upon request of authority.**

The governing body of any political subdivision, notwithstanding any contrary provision of law, is hereby authorized to transfer jurisdiction over, to permit the use of, lease, lend, grant or convey to the authority upon the request of the authority, upon such terms and conditions as the governing body of such subdivision may agree with the authority as reasonable and fair, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of any project by the authority, including public roads and other property already donated to public use. However, the authority must pay full market value for any such real or personal property conveyed by the governing body of any political subdivision to the authority. Whenever any railroad tracks, pipes, poles, wires, conduits or other structures or facilities which are located in, along, across, over or under any public road, street, highway, alley or other public right-of-way shall become an obstruction to, interfere with or be endangered by the construction, operation or maintenance of any

project of the authority, the political subdivision having ownership, control or jurisdiction over such public road, street, highway, alley or other public right-of-way may, as the exercise of an essential governmental function, order the safeguarding, maintaining, relocating, rebuilding, removing and replacing of such railroad tracks, pipes, poles, wires, conduits or other structures or facilities by the owner thereof at the expense of the authority, and subject to the provisions of § 25.1-102.

1979, c. 416, § 15.1-1627; 1997, c. 587.

**§ 15.2-5425. Eminent domain.**

An authority created under the provisions of this chapter is hereby vested with the power of eminent domain and the same authority to exercise the power of eminent domain as is granted in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and as is granted in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, subject to the provisions of § 25.1-102, provided that this power shall not be used to acquire existing power supply facilities or plants held for future use. Furthermore, no authority may condemn property outside of the territorial limits of its member governmental units without obtaining the consent of the governing body of the locality in which such property is located; however, in any case in which the approval by such locality is withheld, the authority seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

1979, c. 416, § 15.1-1628; 1997, c. 587; 2003, c. 940.

**§ 15.2-5426. Annual reports.**

Each authority, promptly following the close of the calendar year, shall submit an annual report of its activities for the preceding year to the governing body of its member governmental unit. Each such report shall set forth a complete operating and financial statement covering the operation of the authority during such year. The authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant, and the cost thereof may be treated as part of the cost of a project, or otherwise as part of the expense of operation of the project by such audit.

1979, c. 416, § 15.1-1629; 1997, c. 587.

**§ 15.2-5427. Liability of members or officers.**

No member of any authority or officer of any governing body of any member governmental unit creating such authority, or person or persons acting in their behalf, while acting within the scope of their authority shall be subject to any personal liability by reason of his carrying out of any of the powers expressly given in this chapter.

1979, c. 416, § 15.1-1630; 1997, c. 587.

**§ 15.2-5428. Dissolution of authority.**

Whenever the board of directors of an authority and its member governmental units determines that the purposes for which it was created have been substantially fulfilled or are impractical or impossible to accomplish and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, the board of directors of the authority and the governing bodies

of the member governmental units may adopt resolutions or ordinances declaring and finding that the authority should be dissolved, and that appropriate articles of dissolution shall be filed with the State Corporation Commission. Upon the filing of such articles of dissolution by the authority, such dissolution shall become effective, and the title to all funds and other property owned by the authority at the time of such filing shall vest in the member governmental units of the authority.

1979, c. 416, § 15.1-1631; 1997, c. 587.

**§ 15.2-5429. Legislative consent to application of laws of other states.**

Legislative consent is hereby given (i) to the application of the laws of other states with respect to taxation, payments in lieu of taxes, and the assessment thereof, to any authority created pursuant to this chapter, which has acquired or has an interest in a project, real or personal, situated outside the Commonwealth or which owns or operates a project outside the Commonwealth pursuant to this chapter and (ii) to the application of regulatory and other laws of other states and of the United States to any authority which owns or operates a project outside the Commonwealth.

1979, c. 416, § 15.1-1632; 1997, c. 587.

**§ 15.2-5430. Provisions of chapter cumulative; construction.**

Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which an authority or governmental unit acting under the provisions of this chapter might otherwise have under any laws of this Commonwealth, but shall be construed as cumulative of any such powers. This chapter shall be construed as complete and independent authority for the performance of each and every act and thing authorized by this chapter. No proceedings, notice or approval shall be required for the organization of an authority or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding. However, nothing herein shall be construed to deprive the Commonwealth and its political subdivisions of their respective police powers over properties of an authority or to impair any power thereover of any official or agency of the Commonwealth and its political subdivisions which may be otherwise provided by law. Nothing contained in this chapter shall be deemed to authorize an authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof.

1979, c. 416, § 15.1-1633; 1997, c. 587.

**§ 15.2-5431. Provisions of chapter controlling over other statutes and charters.**

Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

1979, c. 416, § 15.1-1634; 1997, c. 587; 2015, c. 709.

## Chapter 54.1 - VIRGINIA WIRELESS SERVICE AUTHORITIES ACT

### § 15.2-5431.1. Title of chapter; construction.

This chapter shall be known and may be cited as the "Virginia Wireless Service Authorities Act." This chapter shall constitute full and complete authority for the doing of the acts herein authorized, and shall be liberally construed to effect the purposes of the chapter.

2003, c. 643.

### § 15.2-5431.2. Definitions.

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

"Authority" means an authority created under the provisions of this chapter or, if any such authority has been abolished, the entity succeeding to the principal functions thereof.

"Bonds" and "revenue bonds" include notes, bonds, bond anticipation notes, and other obligations of an authority for the payment of money.

"Cost" or "cost of a project" means, but shall not be limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto, the cost of labor and materials; the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and securing the same; administrative, legal, engineering and inspection expenses; financing fees, expenses and costs; working capital; interest on bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing authority; establishment of reserves; and all other expenditures of the issuing authority incidental, necessary or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project and the placing of the project in operation.

"Project" means any system of facilities for provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56.

2003, c. 643.

### § 15.2-5431.3. Creation of authority.

The governing body of a locality may by resolution, or two or more localities may by concurrent resolutions, create an authority, the name of which shall contain the word "authority." The authority shall be a public body politic and corporate. The resolution creating the authority shall not be adopted or approved until a public hearing has been held in each participating locality on the question of its adoption or approval.

2003, c. 643; 2005, c. 299.

### § 15.2-5431.4. Resolution creating authority to include articles of incorporation.

The resolution creating an authority shall include articles of incorporation, which shall set forth:

1. The name of the authority and address of its principal office.

2. The name of the locality creating the authority and the names, addresses and terms of office of the first members of the board of the authority.

3. The purposes for which the authority is being created, which shall be to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56.

2003, c. 643.

**§ 15.2-5431.5. Advertisement of resolution and notice of hearing.**

The governing body of the locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the resolution creating the authority, or a descriptive summary of the resolution and a reference to the place within the locality where a copy of the resolution can be obtained, and notice of the day, not less than 30 days after publication of the advertisement, on which a public hearing will be held on the resolution.

2003, c. 643.

**§ 15.2-5431.6. Hearing; referendum.**

If at the hearing, in the judgment of the governing body of the locality, substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordinance, agreement or resolution. The provisions of § 24.2-684 shall govern the order for a referendum. If 10 percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality as provided in this section.

2003, c. 643.

**§ 15.2-5431.7. Filing articles of incorporation.**

After adoption or approval of a resolution creating an authority, the governing body of the locality shall file with the State Corporation Commission the authority's articles of incorporation.

2003, c. 643.

**§ 15.2-5431.8. Issuance of certificate or charter.**

The State Corporation Commission shall issue a certificate of incorporation or charter to the authority if it finds that the articles of incorporation conform to law. Upon the issuance of the certificate or charter such authority shall be conclusively deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter.

2003, c. 643.

**§ 15.2-5431.9. Dissolution of authority.**

A. Whenever the board of an authority determines that the purposes for which it was created have been completed or are impractical or impossible and that all its obligations have been paid or have been assumed by one or more of such political subdivisions or any authority created thereby or that

cash or United States government securities have been deposited for their payment, it shall adopt and file with the governing body a resolution declaring such facts. If the governing body adopts a resolution concurring in such declaration and finding that the authority should be dissolved, they shall file appropriate articles of dissolution with the State Corporation Commission.

B. Notwithstanding the provisions of subdivision 1 of § 15.2-5431.11, an authority shall continue in existence and shall not be dissolved because the term for which it was created, including any extensions thereof, has expired, unless all of such authority's functions have been taken over and its obligations have been paid or have been assumed by one or more political subdivisions or by an authority created thereby, or cash or United States government securities have been deposited for their payment.

2003, c. 643.

**§ 15.2-5431.10. Members of authority board; chief administrative or executive officer.**

A. The powers of each authority created by the governing body of a locality shall be exercised by an authority board of five or seven members, or at the option of the board of supervisors of a county, a number of board members equal to the number of members of the board of supervisors. The board members of an authority shall be selected in the manner and for the terms provided by the agreement or ordinance or resolution or concurrent ordinances or resolutions creating the authority. One or more members of the governing body of a locality may be appointed board members of the authority, the provisions of any other law to the contrary notwithstanding. No board member shall be appointed for a term of more than four years. When one or more additional political subdivisions join an existing authority, each of such joining political subdivisions shall have at least one member on the board. Board members shall hold office until their successors have been appointed and may succeed themselves. The board members of the authority shall elect one of their number chairman, and shall elect a secretary and treasurer who need not be members. The offices of secretary and treasurer may be combined.

B. A majority of board members shall constitute a quorum and the vote of a majority of board members shall be necessary for any action taken by the authority. An authority may, by bylaw, provide a method to resolve tie votes or deadlocked issues.

C. No vacancy in the board membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs by reason of the death, disqualification or resignation of a board member, the governing body of the locality that created the authority shall appoint a successor to fill the unexpired term. Whenever a political subdivision withdraws its membership from an authority, the term of any board member appointed to the board of the authority from such political subdivision shall immediately terminate. Board members shall receive such compensation as fixed by resolution of the governing body that created the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. The board members may appoint a chief administrative or executive officer who shall serve at the pleasure of the board members. He shall execute and enforce the orders and resolutions adopted by the board members and perform such duties as may be delegated to him by the board members.

2003, c. 643; 2020, cc. 266, 835.

**§ 15.2-5431.11. Powers of authority.**

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivision creating the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, construct, reconstruct, improve, enlarge, operate or extend any project;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a project;

8. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. The political subdivision creating the authority may lend, advance or give money to such authority;

9. Fix, charge and collect rates, fees and charges for the use of or for the services furnished by or for the benefit from any project operated by the authority. Such rates, fees, rents and charges shall be charged to and collected from any person contracting for the services or the lessee or tenant who uses or occupies any real estate that is served by or benefits from any such project. Connection and service fees established by an authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable; and

10. Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for service fees, rents or charges imposed by an authority.

2003, c. 643.

**§ 15.2-5431.12. Contracts relating to use of systems.**

An authority may make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted by this chapter, on such terms and conditions as the authority may approve. The contract shall be subject to such provisions, limitations or conditions as may be contained in the resolution of the authority authorizing revenue bonds of the authority or the provisions of any trust agreement securing such bonds. Such contract may provide for the collecting of fees, rates or charges for the services and facilities rendered to a subscriber thereof services provided by the authority and for the enforcement of delinquent charges for such services and facilities. The provisions of the contract and of any resolution of the governing body shall not be repealed so long as any of the revenue bonds issued under the authority of this chapter are outstanding and unpaid. The provisions of the contract, and of any resolution enacted pursuant thereto, shall be for the benefit of the bondholders.

2003, c. 643.

**§ 15.2-5431.13. Insurance for employees.**

An authority may establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as localities are permitted under §§ 51.1-801 and 51.1-802.

2003, c. 643.

**§ 15.2-5431.14. Issuance of revenue bonds.**

An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any project. The principal of and the interest on the bonds shall be payable solely from the funds provided for in this chapter for such payment. The full faith and credit of the locality shall not be pledged to support the bonds. The bonds of each issue may be dated, may mature at any time or times not exceeding 40 years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the authority or in such manner as the authority may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the authority or in such manner as the authority may provide, including the determination by reference to indices or formulas or by agents designated by the authority under guidelines established by it. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. All revenue bonds issued under the provisions of this chapter shall have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon, bearer, registered or book entry form, or any

combination of such forms, as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the authority may sell such bonds in such manner, either at a public or a private sale, and for such price, as it may determine to be for the best interest of the authority and the political subdivisions to be served thereby.

2003, c. 643.

**§ 15.2-5431.15. Time for contesting validity of proposed bond issue; when bonds presumed valid.**

A. For a period of 30 days after the date of the filing with the circuit court having jurisdiction over the locality creating the authority, any person in interest may contest the validity of the bonds, the rates, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, any such project, the pledge of the revenues of therefrom, or any combination of any thereof. If such contest is not given within the 30-day period, the authority to issue the bonds, the validity of the pledge of revenues necessary to pay the bonds, the validity of any other provision contained in the resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

B. Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

2003, c. 643.

**§ 15.2-5431.16. Proceeds of bonds.**

The proceeds of bonds issued pursuant to § 15.2-5431.14 shall be used solely for the payment of the cost of the project or projects for which they were issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the authorizing resolution or in any trust agreement. If the proceeds of the bonds, by error of estimates or otherwise, are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the authorizing resolution or in the trust agreement securing them, shall be deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue exceed the amount required for the purpose for which such bonds were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

2003, c. 643.

**§ 15.2-5431.17. Interim receipts and temporary bonds; bonds mutilated, lost or destroyed.**

A. Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

B. If any bond issued under this chapter is mutilated, lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered upon the cancellation in exchange or substitution for a mutilated bond and its interest coupons, or in lieu of and in substitution for a lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond has (i) paid the reasonable expense and charges in connection therewith and, in the case of a lost or destroyed bond, has filed with the authority and its treasurer evidence satisfactory to such authority and its treasurer that such bond was lost or destroyed and that the holder was the owner and (ii) furnished indemnity satisfactory to the treasurer of the authority.

2003, c. 643.

**§ 15.2-5431.18. Provisions of chapter only requirements for issue.**

Bonds may be issued under the provisions of this chapter without obtaining the approval or consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things that are specifically required by this chapter.

2003, c. 643.

**§ 15.2-5431.19. Limitations in bond resolution or trust agreement.**

The resolution providing for the issuance of revenue bonds of the authority, and any trust agreement securing such bonds, may contain such limitations upon the issuance of additional revenue bonds as the authority deems proper. Such additional revenue bonds shall be issued under such limitations.

2003, c. 643.

**§ 15.2-5431.20. Bonds not debts of Commonwealth or participating political subdivision.**

Revenue bonds issued under the provisions of this chapter shall not constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision or locality. All bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any political subdivision are pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth or any political subdivision to levy any taxes or to make any appropriation for their payment except from the funds pledged under the provisions of this chapter.

2003, c. 643.

**§ 15.2-5431.21. Exemption from taxation.**

No authority shall be required to pay any taxes or assessments upon any project acquired or constructed by it under the provisions of this chapter or upon the income therefrom. The bonds issued under the provisions of this chapter, their transfer and the income therefor, including any profit made on their sale, shall be free from taxation within the Commonwealth.

2003, c. 643.

**§ 15.2-5431.22. Trust agreement; bond resolution.**

In the discretion of the authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign the revenues to be received. The resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may also contain such other provisions as the authority deems reasonable and proper for the security of the bondholders. Except as otherwise provided in this chapter, the authority may provide for the payment of the proceeds of the sale of the bonds and its revenues to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of operation.

2003, c. 643.

**§ 15.2-5431.23. Disposition of unclaimed funds due on matured bonds or coupons.**

Any authority having bonds outstanding on which principal, premium or interest has matured for a period of more than five years may pay any money being held to pay the matured principal, premium or interest into the general fund of the authority. Thereafter, the owners of the matured bonds may look only to the authority for payment. The authority shall maintain a record of the bonds for which the funds were held.

2003, c. 643.

**§ 15.2-5431.24. Contracts concerning interest rates, currency, cash flow and other basis.**

A. Any authority may enter into any contract that the authority determines to be necessary or appropriate to place the obligation or investment of the authority, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the authority. Such contracts may include without limitation contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. Such contracts or arrangements may be entered into by the authority in connection with, or incidental to, entering into or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined

by the authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency.

B. Any money set aside and pledged to secure payments of bonds or any contracts entered into pursuant to this section, may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section, and any other criteria as may be appropriate.

2003, c. 643.

**§ 15.2-5431.25. Rates and charges.**

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of a project or any portion thereof and for the services furnished or to be furnished by the authority, or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter or received loan funding from other sources. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the project or systems, or facilities incident thereto, for which such bonds were issued or loans obtained, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, or other loan principal and interest, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised. The authority shall maintain records demonstrating compliance with the requirements of this section concerning the fixing and revision of rates, fees, and charges that shall be made available for inspection and copying by the public pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. No rates, fees or charges shall be fixed under subsection A until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems at least 60 days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

C. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection B shall be kept on file in the office of the clerk or secretary of the governing body of the

locality, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection B. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection B.

D. Connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

2003, c. 643; 2017, c. 389.

### § 15.2-5431.26. Enforcement of charges.

Any resolution or trust agreement providing for the issuance of revenue bonds under the provisions of this chapter may include any of the following provisions, and may require the authority to adopt such resolutions or to take such other lawful action as is necessary to effectuate such provisions. The authority may adopt such resolutions and take such other actions as follows:

1. Require any person who subscribes to pay rates, fees or charges for the use of or for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter to make a reasonable deposit with the authority in advance to insure the payment of such rates, fees or charges and to be subject to application to the payment thereof if delinquent.

2. If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter are not paid within 30 days after due, the authority may at the expiration of such period disconnect the premises from the system, or otherwise suspend services and proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

2003, c. 643.

### § 15.2-5431.27. Lien for charges.

A. There shall be a lien upon real estate for the amount of any fees other charges by an authority to the owner or lessee or tenant of the real estate for the use and services of any system of the authority by or in connection with the real estate from the time when the fees, rents or charges are due, and for the interest which may accrue thereon. Such lien shall be superior to the interest of any owner, lessee or tenant of the real estate and rank on a parity with liens for unpaid real estate taxes. An authority may contract with a locality to collect amounts due on properly recorded liens in the same manner as unpaid real estate taxes due the locality. A lien for delinquent rates or charges applicable to three or fewer delinquent billing periods not exceeding 30 days each may be placed by an authority if the authority or its billing and collection agent (i) has advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on the real estate if

the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to the lessee or tenant; (ii) has mailed to the owner of the real estate a duplicate copy of the final bill rendered to the lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) employs the same collection efforts and practices to collect amounts due the authority from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

B. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such fees, rents and charges is entered in a judgment lien book in the office where deeds may be recorded in the locality in which the real estate or a part thereof is located. The clerk in whose office deeds may be recorded shall make and index the entries therein upon certification by the authority, for which he shall be entitled to a fee of $2 per entry, to be paid by the authority and added to the amount of the lien. The authority shall give the owner of the real estate notice in writing that it has made such certification to the clerk.

C. The lien on any real estate may be discharged by the payment to the authority of the total lien amount, and the interest which has accrued to the date of the payment. The authority shall deliver a certificate thereof to the person making the payment. Upon presentation of such certificate, the clerk having the record of the lien shall mark the entry of the lien satisfied, for which he shall be entitled to a fee of $1.

2003, c. 643.

### § 15.2-5431.28. Trust funds.

All moneys received pursuant to this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution or trust agreement providing for the issuance of revenue bonds of the authority shall provide that any officer to whom, or any bank, trust company or other fiscal agent to which, such moneys are paid shall act as trustee of such moneys and shall hold and apply the same for the purposes provided in this chapter, subject to such regulations as such resolution or trust agreement may provide.

2003, c. 643.

### § 15.2-5431.29. Bondholder's remedies.

Any holder of revenue bonds issued by an authority under this chapter, or of any of the coupons appertaining thereto, except to the extent the rights given by this chapter may be restricted by the resolution or trust agreement providing for the issuance of such bonds, may, either at law or in equity, by suit, mandamus or other proceeding, enforce all rights under the laws of Virginia or granted by this chapter or under such resolution or trust agreement. Such holder may also compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services furnished by any system.

2003, c. 643.

### § 15.2-5431.30. Refunding bonds.

An authority may provide by resolution for the issuance of revenue refunding bonds of the authority to refund any revenue bonds outstanding and issued under this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Proceeds of such revenue refunding bonds may be used to discharge the revenue bonds, or such revenue refunding bonds may be exchanged for the revenue bonds. Each such authority may provide by resolution for the issuance of a single issue of revenue bonds of the authority for the combined purposes of (i) paying the cost of any project or the improvement, extension, addition or reconstruction thereof, and (ii) refunding outstanding revenue bonds of the authority which have been issued under the provisions of this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the bondholders, and the rights, powers, privileges, duties and obligations of the authority with respect to such bonds, shall be governed by the foregoing provisions of this chapter to the extent that they are applicable.

2003, c. 643.

### § 15.2-5431.31. Purchase in open market or otherwise.

Provision may be made in the proceedings authorizing refunding revenue bonds for the purchase of the refunded revenue bonds in the open market or pursuant to tenders made from time to time when there is available in the escrow or sinking fund for the payment of the refunded revenue bonds a surplus in an amount or amounts to be fixed in such proceedings.

2003, c. 643.

### § 15.2-5431.32. Investment in bonds.

Any bonds issued pursuant to this chapter are hereby made securities in which all public officers, bodies and political subdivisions of the Commonwealth; all insurance companies and associations; and all savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth, may properly and legally invest funds in their control.

2003, c. 643.

### § 15.2-5431.33. Financial report; authority budget; audit.

Any locality may, by resolution, require an authority to:

1. Submit to it an annual financial statement in a form prescribed by the Auditor of Public Accounts; or

2. Have an audit conducted for any fiscal year according to generally accepted auditing and accounting standards or according to the audit specifications and audit program prescribed by the Auditor of Public Accounts.

2003, c. 643.

### § 15.2-5431.34. Use of state land.

The Commonwealth hereby consents to the use of all lands above or under water and owned or controlled by it which are necessary for the construction, improvement, operation or maintenance of any project; except that the use of any portion between the right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the approval of the Commissioner of Highways.

2003, c. 643.

**§ 15.2-5431.35. Powers of localities to make grants and conveyances to and contracts with authority.**

Each political subdivision may:

1. Convey or lease to any authority, with or without consideration, any systems or facilities for the provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56;

2. Contract, jointly or severally, with any authority for the provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56;

3. Contract with any authority for terminating any service furnished by the authority to any premises that is connected to the system of the authority if the owner, tenant or occupant of such premises fails to pay any rates, fees or charges for the use of or for the services furnished by the authority within the time or times specified in such contract; and

4. In any instance in which a locality makes rights-of-way, poles, conduits or other permanent distribution facilities available to the authority, the authority shall make these facilities available to private providers of communications services in a nondiscriminatory basis unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities.

2003, c. 643.

**§ 15.2-5431.36. Liability of members or officers.**

No member of any authority or officer of any governing body of locality creating such authority, or person or persons acting in their behalf, while acting within the scope of their authority shall be subject to any personal liability by reason of his carrying out of any of the powers expressly given in this chapter.

2003, c. 643.

**§ 15.2-5431.37. Provisions of chapter cumulative; construction.**

Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which an authority or governmental unit acting under the provisions of this chapter might otherwise have under any laws of the Commonwealth, but shall be construed as cumulative of any such powers. This chapter shall be construed as complete and independent authority for the performance of each and every act and thing authorized by this chapter. No proceedings, notice or approval shall be required for the organization of an authority or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding. However, nothing herein shall be construed to deprive the Commonwealth and its

political subdivisions of their respective police powers over properties of an authority or to impair any power thereover of any official or agency of the Commonwealth and its political subdivisions that may be otherwise provided by law. Nothing contained in this chapter shall be deemed to authorize an authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof.

2003, c. 643.

## Chapter 55 - Tourism Development Authority

### § 15.2-5500. Tourism Development Authority established.

There is hereby established a Tourism Development Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions. The Authority shall promote, expand and develop the tourism industries of this coal-producing region as a whole.

1993, c. 663, § 15.1-1399.19; 1994, c. 160; 1997, c. 587.

### § 15.2-5501. Definitions.

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

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if such Authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions with respect to which an authority may be organized and in which it is contemplated the Authority will function.

1993, c. 663, § 15.1-1399.18; 1994, c. 160; 1997, c. 587.

### § 15.2-5502. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

The Authority shall be governed by a board of directors of 18 representatives in which all powers of the Authority shall be vested and which board shall include eight Tourism Directors representing each county and the City of Norton, which will hold permanent seats on the board. If a Tourism Director position does not exist in a locality, the governing body shall appoint a representative, preferably from the government staff, chamber of commerce, or travel industry to represent the locality on the board of directors. The remaining seats shall be filled preferably by representatives from the travel industry from each of the eight governing localities. Each Tourism Director, working with the tourism committee from the localities, shall provide a slate of nominations to the governing body for selection of one representative, preferably from the tourism industry segment, which may include the chairman of the local tourism committee; a representative from lodging, restaurants, attractions, parks, or outdoor recreation;

or a community leader. The board of directors shall create two ex-officio nonvoting board positions for representatives from the Jefferson National Forest Clinch Ranger District Office and Virginia State Parks. Appointed representatives shall serve a two-year term that begins on January 1 and may be reappointed for additional terms with appointments made at the year-end board meeting. The board of directors shall have the authority to appoint nonvoting tourism representatives and to determine additional seats as they deem necessary.

The directors shall elect from their membership a chair, a vice-chair, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary, but the directors may be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

The board of directors may remove from the board any appointed member in the event that the board member is absent from any three consecutive board meetings or is absent from any four board meetings within any 12-month period. In either such event, the local governing body shall appoint a successor for the unexpired portion of the term of the member who has been removed.

Ten members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of the participating localities and shall be open to public inspection.

1993, c. 663, § 15.1-1399.20; 1994, c. 160; 1997, c. 587; 2018, cc. 176, 321.

### § 15.2-5503. Executive director; staff.

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

1993, c. 663, § 15.1-1399.22; 1997, c. 587.

### § 15.2-5504. Powers of Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board of directors deem necessary in carrying on the business of the Authority;

5. To exercise all powers expressly given the Authority by the governing bodies of the participating localities which established the Authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth;

7. To formulate a tourism development agenda for each participating locality in the LENOWISCO and Cumberland Plateau Planning District Commissions;

8. To receive and expend moneys on behalf of tourism development;

9. To coordinate the participating localities' individual tourism plans; and

10. To form corporations, limited partnerships or limited liability companies for the purposes of fostering or promoting tourism, job creation, economic development, or the sale of goods manufactured and produced in Virginia.

1993, c. 663, § 15.1-1399.21; 1997, c. 587; 2004, c. 806.

**§ 15.2-5505. Establishment of local tourism advisory committees.**

Each of the participating localities in the LENOWISCO and Cumberland Plateau Planning District Commissions shall establish a local tourism advisory committee to promote tourism in the participating locality, participate and assist in the planning of the regional Tourism Development Authority, and develop a tourism destination plan for its participating locality.

The Tourism Director, working with the tourism advisory committee chair, shall provide a slate of recommendations to the local governing body, which shall then appoint five or more appointees representing the travel industry, which includes lodging, restaurants, attractions, outdoor recreation, events or parks, or any community leaders with terms determined by the governing body, and who may be reappointed. The Tourism Director shall work with the chairman of the tourism advisory committee to facilitate regular meetings of the tourism advisory committee.

1993, c. 663, § 15.1-1399.19; 1994, c. 160; 1997, c. 587; 2018, cc. 176, 321.

**§ 15.2-5506. Responsibilities and duties; local tourism advisory committees.**

The local tourism advisory committees established in § 15.2-5505 shall:

1. Promote and assist tourism development in their individual participating localities;

2. Develop and assist in the implementation of a tourism development plan to increase tourism revenue in their respective participating localities;

3. Encourage individuals, businesses and their local government to invest in tourism development as an integral part of overall economic development; and

4. Assist the regional Tourism Development Authority in planning and implementing a regional tourism development plan.

1993, c. 663, § 15.1-1399.23; 1994, c. 160; 1997, c. 587.

**§ 15.2-5507. Application for and acceptance of gifts and grants by local tourism advisory committees.**

The local tourism advisory committees are authorized to apply for, accept and expend gifts, grants or donations from public or private sources to enable them to carry out their objectives.

1993, c. 663, § 15.1-1399.24; 1997, c. 587.

**§ 15.2-5508. Provisions of chapter controlling over other statutes and charters.**

Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

1993, c. 663, § 15.1-1399.25; 1997, c. 587; 2015, c. 709.

## Chapter 55.1 - SOUTHSIDE VIRGINIA TOURISM DEVELOPMENT AUTHORITY

**§ 15.2-5509. Definitions.**

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

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if such Authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Governing body" means the board or body in which the general legislative powers of the municipality are vested.

"Municipality" means any county or incorporated city or town in the West Piedmont or Southside Planning District Commission with respect to which an Authority may be organized and in which it is contemplated the Authority will function.

2002, c. 791.

**§ 15.2-5510. Southside Virginia Tourism Development Authority created.**

A. There is hereby established a Tourism Development Authority for the West Piedmont and the Southside Planning District Commissions that shall be known as the Southside Virginia Tourism Development Authority. The Authority shall inventory attractions and events and market, promote, expand and develop the tourism industries of these tobacco-producing localities as a whole.

B. On the local level, the governing body of each county and city shall appoint one member to represent the member's locality on the Southside Virginia Tourism Development Authority.

2002, c. 791.

**§ 15.2-5511. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. Directors shall be appointed initially for staggered terms of one, two, three and four years. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the Authority, and thereafter, in accordance with the provisions of the preceding sentence. If, at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. Subject to availability of funds, the directors shall receive no salary but the directors may be compensated such amount per regular, special, or committee meeting as may be approved by the appointing authority, not to exceed fifty dollars per meeting, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. A majority of Authority members shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the Authority. The Authority shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of the participating localities and shall be open to public inspection.

2002, c. 791.

**§ 15.2-5512. Powers of Authority.**

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board of directors deem necessary in carrying on the business of the Authority;

5. To exercise all powers expressly given the Authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth;

7. To formulate a tourism development and marketing agenda for each locality in the West Piedmont and Southside Planning District Commissions;

8. To receive and expend moneys on behalf of tourism marketing and development; and

9. To coordinate the individual tourism efforts of the localities who choose to be members of the Authority.

2002, c. 791.

### § 15.2-5513. Executive director; staff.

Subject to the availability of funds, the Authority may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received.

2002, c. 791.

### § 15.2-5514. Application for and acceptance of gifts and grants.

The Authority is authorized to apply for, accept and expend gifts, grants or donations from public or private sources to enable it to carry out its objectives. Authority funds assigned to the Authority are approved for use as matching funds to the funds appropriated pursuant to the Cooperative Tourism Advertising Fund as administered by the Virginia Tourism Corporation and such other tourism grants and programs as may be created to assist communities and regional authorities.

2002, c. 791.

### § 15.2-5515. Provisions of chapter controlling over other statutes and charters.

Any provision of this chapter that is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

2002, c. 791; 2015, c. 709.

## Chapter 55.2 - TOURISM FINANCING DEVELOPMENT AUTHORITY ACT

### § 15.2-5516. Short title.

This chapter shall be known and may be cited as the "Tourism Financing Development Authority Act."

2007, c. 864.

### § 15.2-5517. One or more localities may create authority.

The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a tourism financing development authority for the purpose of supporting tourism infrastructure in localities. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate. Any such locality that levies a transient occupancy tax pursuant to § 58.1-3819 shall designate any excess over two percent to be used for purposes of the authority except such revenues that are otherwise encumbered by the locality.

2007, c. 864.

**§ 15.2-5518. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. If the authority is created by two or more localities, the members of the board shall be appointed as agreed upon by the localities. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms; and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

D. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

2007, c. 864.

**§ 15.2-5519. Powers of authority.**

The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To enter into contracts;

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip, and furnish one or more authority facilities including all real and personal properties that the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

7. To employ and pay compensation to such employees and agents, including attorneys and real estate brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

8. To exercise all powers expressly given the authority by the governing body of the locality that established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the authority's affairs;

9. To accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance, or repair of the authority facilities; or in order to make loans in furtherance of the purposes of this chapter of such contributions, grants, and other financial assistance, and to this end the authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient, or desirable and to agree to such terms and conditions as may be imposed;

10. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter including for the purposes of promoting economic development, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefor. An authority may also be permitted to forgive loans or other obligations if it is deemed to further economic development. The word "revenues"

as used in this subdivision includes contributions, grants, and other financial assistance, as set out in subdivision 9; and

11. To establish a revolving loan fund or loan guarantee program to help carry out its powers and promote establishment of tourism infrastructure.

2007, c. 864.

### § 15.2-5520. Liability of authority.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the authority and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall be available to the authority.

2007, c. 864.

### § 15.2-5521. Dissolution of authority; disposition of property.

Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with, the then members of the board of directors of the authority shall thereupon execute and file for record with the governing body of the locality that created the authority, a resolution declaring such facts. If the governing body of the locality that created the authority is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality.

2007, c. 864.

### § 15.2-5522. Provisions of chapter controlling over other statutes and charters.

Any provision of this chapter that is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

2007, c. 864; 2015, c. 709.

## Chapter 56 - PUBLIC RECREATIONAL FACILITIES AUTHORITIES ACT

### § 15.2-5600. Short title.

This chapter shall be known and may be cited as the "Public Recreational Facilities Authorities Act."

Code 1950, § 15-714.13; 1962, c. 393, § 1, § 15.1-1271; 1997, c. 587.

### § 15.2-5601. Definitions.

As used in this chapter, the following words and terms shall mean, unless the context indicates otherwise:

"Authority" means an authority created under the provisions of § 15.2-5602 or, if any such authority shall be abolished the entity succeeding to the principal functions thereof.

"Bonds" or "revenue bonds" means bonds, notes, certificates or other evidences of borrowing.

"Cost" means, as applied to any project, all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a project or portion thereof, including the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for such construction, additions or expansion, the cost of demolishing or removing any building or structure on land so acquired, including the cost of acquiring any lands to which such building or structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during such construction, and during the construction of any addition or expansion, and if deemed advisable by the authority, for a period not exceeding one year after completion of such construction, addition or expansion, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of cost and revenues, administrative expenses and such other expenses as may be necessary or incident to the construction of the project, and of such subsequent additions thereto or expansion thereof, the cost of financing such construction, additions or expansion and placing the project and such additions or expansion in operation.

"Federal agency" means the United States of America and any department, bureau, agency or instrumentality thereof.

"Project" or "projects" means any one or more of the following: auditorium, theater, concert or entertainment hall, coliseum, convention center, arena, field house, stadium, fairground, campground, land conservation project, including but not limited to the holding of conservation easements, sports facilities, including racetracks, amusement park or center, garden, park, zoo and museum, as such terms are generally used, and parking, transportation, utility and restaurant facilities and concessions in connection with any of the foregoing, including any and all buildings, structures, approaches, roadways, and other facilities and appurtenances thereto which the authority may deem necessary or desirable, together with all property, rights, easements and interests which may be acquired by the authority for the construction, improvement and operation of any of the foregoing. The transportation facilities hereinabove mentioned may be principally for the use and benefit of the inhabitants of the locality creating the authority so long as they are incidentally related to the acquisition and construction of any of the foregoing and may be financed contemporaneously with, prior to or subsequent to the acquisition and construction of any of the foregoing.

Code 1950, § 15-714.14; 1962, c. 393, § 2, § 15.1-1272; 1973, c. 238; 1974, c. 132; 1986, c. 442; 1997, c. 587; 1999, cc. 502, 528.

**§ 15.2-5602. Creation of authorities.**

A. A locality may by ordinance or resolution, or two or more localities, may by concurrent ordinances or resolutions, signify their intention to create an authority under an appropriate name and title containing the word "authority." Each participating locality shall hold a public hearing, notice of which shall be given by publication at least once, not less than ten days prior to the date fixed for the

hearing, in a newspaper having general circulation in the locality. The notice shall contain a brief statement of the substance of the proposed authority, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing. The locality, by resolution, may call for a referendum on the question of the creation of an authority, which shall be held as provided by § 24.2-681 et seq. When a referendum is to be held in more than one locality, the referendum shall be held on the same date in all of such localities.

B. The articles of incorporation shall set forth:

1. The name of the authority and address of its principal office.

2. A statement that the authority is created under this chapter.

3. The name of each participating locality.

4. The names, addresses and terms of office of the first members of the authority.

5. The purpose or purposes for which the authority is to be created.

C. Passage of such ordinance or resolution by the governing body or governing bodies shall constitute the authority a body politic and corporate of the Commonwealth.

D. Any locality may become a member of an existing authority, and any locality which is a member of an existing authority may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without the unanimous consent of all holders of the outstanding obligations.

E. Having specified the initial purpose or purposes of the authority in the articles of incorporation, the governing bodies of the participating localities may, from time to time by subsequent ordinance or resolution, after public hearing, modify the articles of incorporation and the purpose or purposes specified therein. Such modification may be made either with or without a referendum.

Code 1950, § 15-714.15; 1962, c. 393, § 3, § 15.1-1273; 1975, c. 517; 1996, c. 1021; 1997, c. 587.

**§ 15.2-5603. Board to exercise powers of authority.**

The powers of each authority created hereunder shall be exercised by a board which shall consist of not less than five nor more than seventeen members who shall be appointed by the participating localities and who shall be selected in the manner and for the terms provided by the ordinance or resolution creating the authority. Officers and employees of the participating localities may be appointed to the board and may constitute a majority of the members of the board. The members of the board shall elect one of their number chairman and shall elect a secretary and treasurer who need not be members of the board. The offices of secretary and treasurer may be combined. A majority of the members of the board shall constitute a quorum and the vote of a majority of such members shall be necessary for any action taken by the authority. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The members of the board shall be reimbursed for the amount of actual expenses incurred by them in the performance

of their duties. The localities may provide for compensation of the members of the board; provided no compensation shall be paid for meetings not attended.

Alternate members of the board may also be selected. Such alternates shall be selected in the same manner as the members. The term of each alternate shall be the same as the term of the member for whom each serves as an alternate; however, the alternate's term shall not expire because of the member's death, disqualification, resignation or termination of employment with the member's locality. If a member is not present at a meeting of the authority, the alternate for the member shall have all the voting and other rights of a member and shall be counted for purposes of determining a quorum at any meeting of the authority.

Code 1950, § 15-714.16; 1962, c. 393, § 4, § 15.1-1274; 1974, c. 132; 1986, c. 442; 1995, c. 626; 1996, c. 1021; 1997, c. 587.

**§ 15.2-5604. Powers of authority generally.**

Each authority created hereunder shall be a political subdivision of the Commonwealth Virginia and shall be an instrumentality exercising public and essential governmental functions to provide for the public health and welfare. Each authority is authorized and empowered:

1. To have existence for such term of years as specified by the participating localities;

2. To contract and be contracted with; to sue and be sued; to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with general law to carry out its purposes; and to adopt a corporate seal and alter the same at its pleasure;

3. To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain projects within or outside any of the participating localities; and to acquire by gift or purchase lands or rights in land in connection therewith and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by it, at any time;

4. To lease all or any part of any project upon any such terms or conditions and for such term of years as it may deem advisable to carry out the provisions of this chapter;

5. To regulate the uses of all lands and facilities under control of the authority;

6. To fix and revise from time to time and to charge and collect fees, rents and other charges for the use of any project or facilities thereof owned or controlled, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of any such project or facilities thereof;

7. To enter into contracts with any participating locality, the Commonwealth, or any other political subdivision, agency or instrumentality thereof, any federal agency or with any person providing for or relating to any project, including contracts for the management or operation of all or any part of a project;

8. To accept grants and gifts from any participating locality, the Commonwealth or any other political subdivision, agency or instrumentality thereof, any federal agency and from any person;

9. To issue bonds and refunding bonds of the authority, such bonds to be payable solely from funds of the authority; and from such other sources of payment as are authorized by § 15.2-5607;

10. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any bonds or refunding bonds issued hereunder; and

11. To do all acts and things necessary or convenient to carry out the powers granted by this chapter.

Code 1950, § 15-714.17; 1962, c. 393, § 5, § 15.1-1275; 1973, c. 238; 1986, c. 442; 1997, c. 587.

**§ 15.2-5605. Transfers of property, appropriations and contracts by participating localities.**
Each participating locality is authorized and empowered:

1. To transfer jurisdiction over, to lease, lend, grant or convey to the authority at its request, with or without consideration, such real or personal property as may be necessary or desirable to carry out the purposes of the authority, upon such terms and conditions as such participating locality shall determine to be for its best interests;

2. To make appropriations and to provide funds for any purpose of the authority, including the acquisition, construction, improvement and operation of any project or facilities thereof and payment of principal and interest on its indebtedness;

3. To enter into contracts agreeing to carry out any of the provisions set forth in subdivisions 1 or 2, providing for the operation and maintenance of all or any part of a project or otherwise facilitating the construction, development, operation or financing of all or any part of a project; and

4. To enter into leases with the authority pursuant to which a project or any part thereof is leased to the locality. The lease may be for a term ending not later than the end of the then current fiscal year of the locality and renewable for additional terms of one fiscal year each or as may be agreed upon by the parties provided that the total of the original term and any renewals shall in no event exceed fifty years. Each renewal shall be at the option of such locality and the lease may provide that it is renewed for an additional term if the locality fails to cancel the lease in writing on or prior to sixty days before the end of the then current term. Rentals under such lease may be computed at fixed amounts or by a formula based on any factors provided therein and the rentals payable may include provision for all or any part of or a share of the amounts necessary (i) to pay or provide for the expenses of operation and maintenance of a project, (ii) to provide for the payment of principal and interest on any bonds of the authority, and (iii) to maintain such reserves or sinking funds as may be required by the terms of any contract of the authority or as may be deemed necessary or desirable by the authority. Such payments shall be payable only from revenues of the locality available during the fiscal year during which the lease is in effect. Notwithstanding the provisions of § 15.2-5606 or any other provision hereof the authority or the locality leasing the project may contract with a person as sublessee or operator of the project at a compensation to be agreed upon by the parties.

Code 1950, § 15-714.18; 1962, c. 393, § 6, § 15.1-1276; 1973, c. 238; 1975, c. 109; 1997, c. 587.

### § 15.2-5606. Acquisition, maintenance and operation of projects; revenues from projects.

The authority may acquire or construct and maintain and operate any one or more projects under this chapter in such manner as the authority may determine, and the authority may operate each project separately or it may operate one or more projects together. The authority shall have exclusive control over the revenues derived from its operations and may use revenues from one project in connection with any other project. No person shall receive any profit or dividend from the revenues, earnings or other funds or assets of the authority other than for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the authority.

Code 1950, § 15-714.19; 1962, c. 393, § 7, § 15.1-1277; 1997, c. 587.

### § 15.2-5607. Authority to issue bonds; source of payment.

The authority is authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of acquiring, purchasing, constructing, reconstructing, improving or extending any project and acquiring necessary land and equipment therefor. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds.

Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating locality, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the authority, or a mortgage on any project or other property of the authority, or any contract obligation or undertaking, whether in the nature of a guaranty or otherwise, of any participating locality. However, any such contract obligation or undertaking by any participating locality which is a city or town shall not be considered an indebtedness within the meaning of any debt limitation or restriction and that any such contract obligation or undertaking by a participating locality which is a county shall be authorized in accordance with the provisions of Article VII, Section 10 (b) of the Constitution of Virginia.

Neither the members of the board of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof other than the participating localities which have entered into contract obligations or other undertakings with respect to the repayment thereof as authorized in the preceding paragraph, and neither the Commonwealth nor any political subdivision thereof other than the authority and, to the extent provided in the preceding paragraph, participating localities, shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the authority and those created by contract obligations or undertakings of any participating localities entered into pursuant to the preceding paragraph. The bonds shall not constitute

an indebtedness within the meaning of any debt limitation or restriction. Bonds of the authority are declared to be issued for an essential public and governmental purpose.

Code 1950, § 15-714.20; 1962, c. 393, § 8, § 15.1-1278; 1986, c. 442; 1997, c. 587.

**§ 15.2-5608. Bond resolution; terms, conditions, form and execution of bonds; sale; interim receipts or temporary bonds.**

Bonds of the authority shall be authorized by resolution of the board and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the authority.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision thereof, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Code 1950, § 15-714.21; 1962, c. 393, § 9, § 15.1-1279; 1973, c. 238; 1997, c. 587.

**§ 15.2-5609. Trust indenture or agreement to secure payment of bonds.**

In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the authority, whether or not financed in whole or in part from the proceeds of such

bonds, or by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth or by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents, charges and receipts, collected by, payable to or otherwise derived by the authority, and all other moneys and income of whatever kind or character collected by, payable to or otherwise derived from any project. Such trust indenture or agreement, or resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and issuance of any project or other property of the authority, and the rates of fees, rents and other charges to be charged, and the custody, safeguarding and application of all moneys of the authority, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of such bonds or of other revenues of the authority to furnish indemnifying bonds or to pledge such securities as may be required by the authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution may be treated as a part of the cost of a project.

Code 1950, § 15-714.22; 1962, c. 393, § 10, § 15.1-1280; 1973, c. 238; 1997, c. 587.

### § 15.2-5610. Fees, rents and other charges; reserves.

The authority is authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project and the facilities thereof. The fees, rents and other charges shall be fixed and adjusted so as to provide funds, which when added to other funds, are sufficient to pay: (i) the cost of maintaining, repairing and operating the project and (ii) the principal and any interest on the bonds as the same shall become due and payable. Reserves may be accumulated and maintained out of the revenues and receipts of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing the authority's bonds. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any participating locality.

Code 1950, § 15-714.23; 1962, c. 393, § 11, § 15.1-1281; 1973, c. 238; 1986, c. 442; 1997, c. 587.

### § 15.2-5611. Moneys received deemed trust funds.

All moneys received pursuant to the provisions of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

Code 1950, § 15-714.24; 1962, c. 393, § 12, § 15.1-1282; 1997, c. 587.

### § 15.2-5612. Remedies of bondholders and trustee.

Any holder of bonds, notes, certificates or other evidences of borrowing or any coupons appertaining thereto issued under the provisions of this chapter and the trustee under any trust indenture or agreement, except to the extent of the rights herein given may be restricted by such trust indenture, or agreement may protect and enforce their rights under (i) the laws of the Commonwealth; (ii) this chapter; (iii) the trust indenture or agreement; or (iv) the resolution authorizing the issuance of such bonds, notes or certificates. Such holder and trustee may enforce and compel the performance of all duties required by this chapter or by such trust indenture or agreement or resolution to be performed by the authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges.

Code 1950, § 15-714.25; 1962, c. 393, § 13, § 15.1-1283; 1997, c. 587.

### § 15.2-5613. Authority to exercise a governmental function; exemption from taxation.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the authority may undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this chapter. The bonds, notes, certificates or other evidences of debt issued under the provisions of this chapter, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

Code 1950, § 15-714.26; 1962, c. 393, § 14, § 15.1-1284; 1997, c. 587.

### § 15.2-5614. Bonds legal investments.

Bonds issued by the authority are securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are securities which legally may be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is, or may hereafter be, authorized by law.

Code 1950, § 15-714.27; 1962, c. 393, § 15, § 15.1-1285; 1997, c. 587.

### § 15.2-5615. Chapter to constitute complete authority for acts authorized; liberal construction.

This chapter shall constitute full and complete authority, without regard to the provisions of any other law, for the doing of the acts and things herein authorized. This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

Code 1950, § 15-714.28; 1962, c. 393, § 16, § 15.1-1286; 1973, c. 238; 1997, c. 587; 2015, c. 709.

### § 15.2-5616. Dissolution of authority; disposition of property.

Whenever the board of the authority shall by resolution determine that the purposes for which the authority was formed have been substantially complied with and all bonds therefore issued and all obligations theretofore incurred by the authority have been fully paid or adequate provisions have been made for the payment, the board shall execute and file for record with the participating localities a resolution declaring such facts. If the participating localities are of the opinion that the facts stated in the authority's resolution are true and the authority should be dissolved, they shall so resolve and the authority shall stand dissolved as of the date on which the last participating locality adopts such resolution. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the participating localities.

1986, c. 442, § 15.1-1286.1; 1997, c. 587.

## Chapter 57 - PARK AUTHORITIES ACT

### § 15.2-5700. Short title; application.

This chapter shall be known and may be cited as the "Park Authorities Act." The chapter shall apply to all localities of the Commonwealth.

Code 1950, § 15-714.1; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1228; 1997, c. 587.

### § 15.2-5701. Definitions.

As used in this chapter, the following words and terms shall mean unless the context shall indicate otherwise:

"Authority" means an authority created under the provisions of § 15.2-5702 or, if any such authority shall be abolished, the entity succeeding to the principal functions thereof.

"Federal agency" means the United States of America and any department or bureau thereof, and any other agency or instrumentality of the United States of America heretofore established or which may be established hereafter.

"Park" means public parks and recreation areas as the terms are generally used.

Code 1950, § 15-714.2; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1229; 1997, c. 587.

### § 15.2-5702. Creation of authorities.

A. A locality may by ordinance or resolution, or two or more localities may by concurrent ordinances or resolutions, signify their intention to create a park authority, under an appropriate name and title, containing the word "authority" which shall be a body politic and corporate.

Whenever an authority has been incorporated by two or more localities, any one or more of the localities may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without unanimous consent of all holders of the outstanding obligations.

Other localities may join the authority as provided in the ordinances or resolutions.

B. Each ordinance or resolution shall include articles of incorporation setting forth:

1. The name of the authority and the address of its principal office.

2. The name of each incorporating locality, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is created.

C. Each participating locality shall cause to be published at least one time in a newspaper of general circulation in its locality, a copy of the ordinance or resolution together with a notice stating that on a day certain, not less than ten days after publication of the notice, a public hearing will be held on such ordinance or resolution. If at the hearing substantial opposition to the proposed park authority is heard, the members of the participating localities' governing bodies may in their discretion call for a referendum on the question of establishing such an authority. The request for a referendum shall be initiated by resolution of the governing body and filed with the clerk of the circuit court for the locality. The court shall order the referendum as provided for in § 24.2-681 et seq. Where two or more localities are participating in the formation of an authority the referendum, if any be ordered, shall be held on the same date in all such localities so participating. In any event if ten percent of the registered voters in such locality file a petition with the governing body at the hearing calling for a referendum such governing body shall request a referendum as herein provided.

D. Having specified the initial plan of organization of the authority, and having initiated the program, the localities organizing such authority may, from time to time, by subsequent ordinance or resolution, after public hearing, and with or without referendum, specify further parks to be acquired and maintained by the authority, and no other parks shall be acquired or maintained by the authority than those so specified. However, if the governing bodies of the localities fail to specify any project or projects to be undertaken, and if the governing bodies do not disapprove any project or projects proposed by the authority, then the authority shall be deemed to have all the powers granted by this chapter.

Code 1950, § 15-714.3; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1230; 1975, c. 517; 1997, c. 587.

**§ 15.2-5703. Members of authority; appointment, terms, compensation, etc.; officers, quorum.**
Each authority created hereunder, whether created by single or multiple localities, shall be governed by a board of not less than six members, but always an even number, appointed by the governing body of the locality. The board members shall be appointed for staggered four-year terms. Members of the governing body may be appointed to the board but shall not comprise a majority thereon.

When an authority is created by participating localities, each shall appoint at least two members, one of whom may be a member of the governing body. One-half of the members first appointed by each governing body shall serve for two years and one-half shall serve for four years. After the first appointment, the term of office of all members shall be four years. When one or more additional localities join

an existing authority, each of such participating localities shall have not less than two members on the authority's board. The first members shall be appointed immediately upon the admission of the locality into the authority in the same manner as were the first members of the authority.

The members of the board of the authority shall elect one of their number chairman and shall elect a secretary and a treasurer who need not be members of the board of the authority. The offices of secretary and treasurer may be combined. A majority of the members of the authority shall constitute a quorum and the vote of a majority of such quorum shall be necessary for any action taken by the authority. No vacancy in the membership of the board of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

Localities which created or thereafter joined the authority, by ordinance or resolution or concurrent ordinances or resolutions, may provide for the payment of compensation to the members of the authority; provided no compensation shall be paid for meetings not attended and for the reimbursement to each member of the authority the amount of his actual expenses necessarily incurred in the performance of that member's duties.

Code 1950, § 15-714.4; 1950, p. 1246; 1952, c. 401; 1962, c. 623, § 15.1-1231; 1978, cc. 37, 717; 1984, cc. 142, 255; 1995, c. 626; 1997, c. 587.

**§ 15.2-5704. Powers of authority.**

Each authority shall be deemed to be performing essential governmental functions providing for the public health and welfare, and is authorized and empowered:

1. To have existence for such term of years as specified by the participating localities;

2. To adopt bylaws for the regulation of its affairs and the conduct of its business;

3. To adopt an official seal and alter the same at pleasure;

4. To maintain an office at such place or places as it may designate;

5. To sue and be sued;

6. To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain parks within, or partly within and partly outside, one or more of the participating localities; to acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith; and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by it; however, the power of eminent domain shall not extend beyond the geographical limits of the localities composing the authority;

7. To regulate the uses of all lands and facilities under control of the authority;

8. To issue revenue bonds and revenue refunding bonds of the authority, such bonds to be payable solely from revenues derived from the use of the facilities or the furnishing of park services;

9. To accept grants and gifts from the localities forming or thereafter joining the authority, the Commonwealth, the federal government or any other governmental bodies or political subdivisions, and from any other person;

10. To enter into contracts with the federal government, the Commonwealth, any political subdivision, or any agency or instrumentality thereof, or with any other person providing for or relating to the furnishing of park services or facilities;

11. To contract with any municipality, county, person or any public authority or political subdivision of this or any adjoining state, on such terms as the authority shall deem proper, for the construction, operation and maintenance of any park which is partly in this Commonwealth and partly in such adjoining state;

12. To exercise the same rights for acquiring property for the construction or improvement, maintenance or operation of a park as the locality or localities by which such authority is created may exercise. The governing body of any participating locality, notwithstanding any contrary provision of law, general or special, is authorized and empowered to transfer jurisdiction over, to lease, lend, grant or convey to the authority, upon the request of the authority, upon such terms and conditions as the governing body of such locality may agree with the authority as reasonable and fair, real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a park, including public roads and other property already devoted to public use. Agreements may be entered into by the authority with the Commonwealth, or any agency acting on behalf of the Commonwealth, for the acquisition of any lands or property, owned or controlled by the Commonwealth, for the purposes of construction or improvement, maintenance or operation of a park;

13. In the event of annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, then such authority may continue to do business, exercise its jurisdiction over properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force;

14. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any revenue bonds or revenue refunding bonds issued hereunder;

15. To do all acts and things necessary or convenient to carry out the powers granted by this chapter;

16. To borrow, at such rates of interest as the law authorizes, from the federal government or any agency thereof, individuals, partnerships, or private or municipal corporations, for the purpose of acquiring parklands and improvements thereon; to issue its notes, bonds or other obligations; to secure such obligations by mortgage or pledge of the property and improvements being acquired and the income derived therefrom; and to use any revenues and other income of the authority for payment of interest and retirement of principal of such obligations provided that prior approval of the governing body of the locality shall be obtained by an authority that was created by a single locality. Any locality

which has formed or joined an authority may lend money to the authority. The power to borrow set forth in this subdivision shall be in addition to the power to issue revenue bonds and revenue refunding bonds set forth in subdivision 8 of this section and § 15.2-5712. Notes, bonds or other obligations issued under this subdivision shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth; and

17. To adopt such rules and regulations from time to time, not in conflict with the laws of this Commonwealth, concerning the use of properties under its control as will tend to the protection of such property and the public thereon. No such rule or regulation shall be adopted until after descriptive notice of an intention to propose such rule or regulation for passage has been published in accordance with the procedures required for the adoption of general county ordinances and emergency county ordinances as set forth in § 15.2-1427, mutatis mutandis. The full text of any proposed rule or regulation shall be available for public inspection and copying during regular office hours of the authority at a place designated in the published notice.

Code 1950, § 15-714.5; 1950, p. 1246; 1952, c. 401; 1956, c. 472; 1962, c. 623, § 15.1-1232; 1968, c. 613; 1976, c. 483; 1977, c. 381; 1981, c. 182; 1996, c. 279; 1997, c. 587.

**§ 15.2-5704.1. Northern Virginia Regional Park Authority.**

The Northern Virginia Regional Park Authority is authorized to acquire, either by gift or purchase, any real property or interests therein that the Northern Virginia Regional Park Authority considers necessary or desirable to provide public use areas as identified in the Goose Creek Scenic River Report published in 1975.

2018, c. 273.

**§ 15.2-5705. Violation of rules and regulations.**

Any violation of any such rule and regulation adopted pursuant to subdivision 17 of § 15.2-5704 shall constitute a Class 4 misdemeanor.

1977, c. 381, § 15.1-1232.1; 1997, c. 587.

**§ 15.2-5706. Appointment of special conservators of the peace.**

The chairman of the board of any authority created pursuant to the provisions of this chapter may apply to the circuit court for any locality for the appointment of one or more special conservators of the peace under procedures specified by § 19.2-13. Any such special conservator of the peace shall have, within the lands and facilities controlled by such authority, the powers, functions, duties, responsibilities and authority of any other conservator of the peace.

1977, c. 381, § 15.1-1232.2; 1997, c. 587.

**§ 15.2-5707. Recordation of conveyances of real estate to park authorities.**

No deed purporting to convey real estate to a park authority shall be recorded unless accepted by a person authorized to act on behalf of the park authority, which acceptance shall appear on the face thereof.

1983, c. 52, § 15.1-1232.3; 1997, c. 587.

**§ 15.2-5708. Exemption from taxation.**

No authority shall be required to pay any taxes or assessments upon any park acquired and constructed by it under the provisions of this chapter.

Code 1950, § 15-714.6; 1950, p. 1248; 1962, c. 623, § 15.1-1233; 1997, c. 587.

**§ 15.2-5709. Rates and charges.**

The authority is hereby authorized to fix and revise from time to time rates, fees and other charges for the use of and for the services furnished or to be furnished by any park.

Code 1950, § 15-714.7; 1950, p. 1248; 1962, c. 623, § 15.1-1234; 1997, c. 587.

**§ 15.2-5710. Funds.**

All moneys received pursuant to the powers granted in this chapter shall be held and applied solely as provided in this chapter. The authority shall provide that any officer or other fiscal agent to which such moneys shall be paid shall hold and apply the same for the purposes hereof, subject to such regulations as the authority may provide.

Code 1950, § 15-714.8; 1950, p. 1248; 1962, c. 623, § 15.1-1235; 1997, c. 587.

**§ 15.2-5711. Conveyance or lease of park to authority; contract for park services; when referendum required before certain contracts made.**

Each locality and other public body is hereby authorized and empowered:

1. To convey or lease to any authority created hereunder, with or without consideration, any park upon such terms and conditions as the governing body thereof shall determine to be for the best interests of such locality or other public body; and

2. To contract with any authority created hereunder for park services; provided, that no locality shall enter into any contract with an authority involving payments by such locality to such authority for park services which requires the locality to incur an indebtedness extending beyond one fiscal year, unless the question of entering into such contract shall first be submitted to the voters of the locality for approval or rejection by a majority vote. Nothing herein shall prevent any locality from making a voluntary contribution to any authority.

In the event that a locality shall desire to contract with an authority under this subdivision, such governing body shall adopt a resolution stating in brief and general terms the substance of the proposed contract for park services and requesting the circuit court for the locality to order an election upon the question of entering into such contract. A copy of such resolution, certified by the clerk of the governing body, shall be filed with the judge of the circuit court who shall thereupon enter an order in accordance with § 24.2-681 et seq. Notice of such election entered and paid for by the locality shall be

published at least once in a newspaper of general circulation in the locality at least ten days before the election.

The question to be submitted to the voters for determination shall include the names of the locality and the authority between whom the contract is proposed and the nature, duration and cost of such contract.

Code 1950, § 15-714.9; 1950, p. 1248; 1956, c. 474; 1962, c. 623, § 15.1-1236; 1997, c. 587.

### § 15.2-5712. Revenue bonds.

Each authority is authorized to issue, at one time or from time to time, revenue bonds of the authority for the purpose of acquiring, purchasing, constructing, reconstructing, improving or extending parks and acquiring necessary land or equipment therefor, and revenue refunding bonds of the authority for the purpose of refunding any revenue bonds outstanding. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as authorized by law, as may be determined by the authority. Bonds may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the authority.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth, but such bonds shall be payable solely from revenues of the authority as provided herein.

Code 1950, § 15-714.10; 1956, c. 472; 1958, c. 484; 1962, c. 623, § 15.1-1237; 1997, c. 587.

### § 15.2-5713. Same; for water or sewer systems, etc.

An authority created under the provisions of this chapter is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or any combination of any thereof and for improvement and maintenance of any such system. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as may be authorized by law, shall mature at such time or times not exceeding twenty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any incorporating or participating locality, or a pledge of the faith and credit of the Commonwealth or of any incorporating or participating locality.

Code 1950, § 15-714.11; 1954, c. 540; 1962, c. 623, § 15.1-1238; 1997, c. 587.

### § 15.2-5714. Bonds mutilated, lost or destroyed.

Should any bond issued under this chapter become mutilated or be lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon cancellation of, such mutilated bond and its coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (i) has paid the reasonable expense and charges in connection therewith; (ii) in the case of a lost or destroyed bond, has filed with the authority and its treasurer satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof; and (iii) has furnished indemnity satisfactory to its treasurer.

Code 1950, § 15-714.12; 1962, c. 203, § 15.1-1238.1; 1997, c. 587.

## Chapter 58 - Virginia Baseball Stadium Authority

### § 15.2-5800. Definitions; professional baseball games; consent for construction.

As used in this chapter the following words have the meanings indicated:

"Authority" means the Virginia Baseball Stadium Authority.

"Facility" means (i) major league and minor league baseball stadiums, (ii) practice fields or other areas where major league and minor league professional baseball teams may practice or perform, (iii) offices for major league and minor league professional baseball teams or franchises, (iv) office, restaurant, concessions, retail and lodging facilities which are owned and operated in connection with a major league baseball stadium, and (v) any other directly related properties including, but not limited to, onsite and offsite parking lots, garages, and other properties.

"Major league baseball" means the organization which controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.

"Major league baseball franchise" means the contractual right granted by major league baseball to any person or persons to own or operate a major league baseball team in a specified location.

"Major league baseball stadium" means a sports facility which is designed for use primarily as a baseball stadium and which meets criteria that may be established by major league baseball.

"Minor league baseball stadium" means a sports facility which is designed for use primarily as a stadium for a minor league professional baseball team.

"Sales tax revenues" means taxes collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. Sales tax revenues shall not include any local general retail sales and use tax levied pursuant to §§ 58.1-605 and 58.1-606.

1992, c. 823, § 15.1-227.70; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

**§ 15.2-5801. Creation of Authority.**

There is hereby established a body corporate and politic known as the Virginia Baseball Stadium Authority. The Authority is a political subdivision of the Commonwealth.

1992, c. 823, § 15.1-227.71; 1995, cc. 613, 629; 1997, c. 587.

**§ 15.2-5802. Members of Authority; chairman; terms.**

A. The Authority shall consist of nine members who shall be appointed by the Governor, and the Governor shall designate one of the members as chairman. The members of the Authority annually shall elect a vice-chairman from their membership who shall perform the duties of the chairman in his absence. In making appointments to the Authority, the Governor shall ensure that the geographic areas of the Commonwealth are represented; however, in the event a major league baseball stadium is proposed, at least four members of the Authority shall be residents of the county or city in which the facility is proposed to be located. The appointments of the members by the Governor shall be confirmed in accordance with § 2.2-107.

B. The term of a member of the Authority is four years. However, upon the initial appointment of the members of the Authority, the terms of the members shall be staggered as follows: The initial term of three of the members shall be four years; the initial term of three members shall be three years; and the initial term of the remaining three members shall be two years. The Governor shall designate the term to be served by each appointee at the time of appointment.

At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. Upon the end of the term of a member, or upon the resignation or removal of a member, the Governor shall appoint a member to the Authority. The Governor may remove a member for cause in accordance with § 2.2-108. The members of the Authority shall receive no compensation for their services, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of the duties of that office.

1992, c. 823, § 15.1-227.72; 1995, cc. 613, 629; 1997, c. 587.

**§ 15.2-5803. Quorum; actions of Authority; meetings.**

Five members of the Authority shall constitute a quorum for the purpose of conducting business. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.

1992, c. 823, § 15.1-227.73; 1995, cc. 613, 629; 1997, c. 587.

**§ 15.2-5804. Executive Director appointment; duties.**

A. The Authority shall appoint an Executive Director, who is the chief administrative officer and secretary of the Authority and serves at the pleasure of the Authority. The Executive Director shall be paid from funds as may be appropriated or received by the Authority.

B. In addition to any other duties set forth in this chapter, the Executive Director shall:

1. Direct and supervise the administrative affairs and activities of the Authority in accordance with its rules, regulations, and policies;

2. Attend all meetings and keep minutes of all proceedings;

3. Approve all accounts for salaries, per diem payments, and allowable expenses of the Authority and its employees and consultants and approve all expenses incidental to the operation of the Authority;

4. Report and make recommendations to the Authority on the merits and status of any proposed facility; and

5. Perform any other duty that the Authority requires for carrying out the provisions of this chapter.

1992, c. 823, § 15.1-227.74; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, c. 587.

**§ 15.2-5805. Powers.**

In addition to the powers set forth elsewhere in this chapter, the Authority may:

1. Adopt and alter an official seal;

2. Sue and be sued in its own name;

3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

4. Maintain an office at such place as the Authority may designate;

5. Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the Authority, and fix their compensation;

6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of the Authority;

7. Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property, including a lease of its property or any interest therein whatever the condition thereof, whether or not constructed or acquired, to the Commonwealth or any political subdivision of the Commonwealth. The Commonwealth and any such political subdivision are authorized to acquire or lease such property or any interest therein; however, the Commonwealth shall not enter into any such lease or purchase agreement unless such lease or purchase agreement has first been approved pursuant to subsections E and F of § 15.2-5806;

8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

9. Operate, enter into contracts for the operation of, and regulate the use and operation of facilities developed under the provisions of the chapter;

10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

11. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or funds of the Authority and to contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

12. Issue bonds under this chapter;

13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or property; and

14. Do all things necessary or convenient to carry out the powers granted by this chapter.

1992, c. 823, § 15.1-227.75; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

**§ 15.2-5806. Public hearings; notice; reports.**

A. At least sixty days prior to selecting a site for a major league or minor league baseball stadium, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least sixty days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the major league or minor league baseball stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a major league or minor league baseball stadium is proposed to be located may require that this period be extended for up to sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least thirty days before acquiring or entering into a lease involving a major league or minor league baseball stadium and before entering into a construction contract involving a major league or minor league baseball stadium or stadium site, the Authority shall submit a detailed written report and the findings of the Authority that justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

E. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement or arrangement to allow the State Treasurer to undertake a review for the purposes of determining (i) whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement or arrangement on the debt capacity and credit ratings of the Commonwealth. If after such review the State Treasurer determines that the agreement or arrangement may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the agreement or arrangement and any associated financing shall be submitted to the Treasury Board for review and approval of terms and structures in a manner consistent with § 2.2-2416.

F. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been reviewed and approved as required by subsection E and subsequently approved in writing by the Governor.

1992, c. 823, § 15.1-227.76; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

### § 15.2-5807. Acquisition of property.

A. The Authority may acquire in its own name, by gift or purchase, any real or personal property, or interests in property, necessary or convenient to construct or operate any facility.

B. In any jurisdiction where planning, zoning, and development regulations may apply, the Authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

C. This section does not affect the right of the Authority to acquire an option for acquisition of the property, prior to 2000, once the approval required by this section is obtained.

D. Any locality shall have the power to acquire by eminent domain, in the manner and in accordance with the procedure provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, any real property, including fixtures and improvements, and personal property, including any interest, right, easement, or estate therein, located within such locality for public purposes. For purposes of this section, public purpose means the construction and operation of any facility, as defined in § 15.2-5800, when determined by the governing body of such locality that the construction and operation of such a facility would enhance the economic development, resources, or advantages of the locality. In furtherance of this public purpose, the locality may convey any such real property, including fixtures and improvements, and personal property acquired pursuant to this section to the Authority, by sale, gift or lease, upon terms mutually agreed upon by the Authority and the locality. The Authority and locality may enter into agreements regarding the initiation and prosecution of such condemnation proceedings, including payment and reimbursement of any costs, fees, expenses, or awards resulting from the proceedings. Upon the written request of the Authority, the locality in which the stadium site is proposed may, by majority vote, exercise its power of eminent domain as provided herein.

1992, c. 823, § 15.1-227.77; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, c. 587; 2003, c. 940.

### § 15.2-5808. Bond issues.

A. The Authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. In this chapter the term "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the Authority, including, but not limited to:

1. Taxes, fees, charges, or other revenues payable to the Authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or line of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the Authority and may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the Authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions which shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the Authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. The refunding or refinancing of outstanding bonds;

6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions which shall constitute a default in the duties of the Authority to bondholders and providing the rights or remedies of such holders in the event of a default which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

9. Any other matter relating to the bonds which the Authority determines appropriate.

E. No member of the Authority nor any person executing the bonds on behalf of the Authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The Authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the Authority, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the Authority need be filed or recorded in any public record other than the records of the Authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. The Authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. The franchise holder must agree that the franchise will not be relocated until any bonds issued hereunder are defeased.

K. In the event a major league baseball facility is planned, no bonds shall be issued hereunder until the Authority has executed a long-term lease with a major league baseball franchise. In the event a minor league baseball facility is planned, the same requirements, mutatis mutandis, shall apply.

1992, c. 823, § 15.1-227.78; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

### § 15.2-5809. Investments in bonds.

Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the Authority.

1992, c. 823, § 15.1-227.79; 1997, c. 587.

### § 15.2-5810. Bonds are tax exempt.

The Authority shall not be required to pay any taxes or assessments of any kind whatsoever and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1992, c. 823, § 15.1-227.80; 1997, c. 587.

### § 15.2-5811. Stadium Authority Financing Fund; use.

A. There is hereby created a Virginia Baseball Stadium Authority Financing Fund ("Fund"). The Authority shall use the Fund as a nonlapsing revolving fund for carrying out the provisions of this chapter.

B. All of the following receipts of the Authority shall be placed in the Fund: (i) proceeds from the sale of bonds, (ii) revenues collected or received from any source under the provisions of this chapter, and (iii) any other revenues under the jurisdiction of the Authority.

C. The Authority shall pay all expenses and make all expenditures from the Fund. To the extent deemed appropriate by the Authority, the receipts of the Fund shall be pledged to and charged with the payment of debt service on Authority bonds and all reasonable charges and expenses related to Authority borrowing and the management of Authority obligation.

1992, c. 823, § 15.1-227.81; 1997, c. 587.

### § 15.2-5812. Additional duties.

In addition to the duties set forth elsewhere in this chapter, the Authority shall:

1. Keep records as are consistent with sound business practices and accounting records using generally accepted accounting practices;

2. Cause an audit by an independent certified public accountant to be made of accounts and transactions at the conclusion of each fiscal year;

3. Be subject to audit and examination at any reasonable time of its accounts and transactions by the Auditor of Public Accounts; and

4. Submit a detailed annual report of its activities and financial standing to the Governor and to the General Assembly.

1992, c. 823, § 15.1-227.82; 1997, c. 587.

**§ 15.2-5813. Creation of local advisory boards.**

Prior to constructing any facility, the Authority shall create a local advisory board for that facility. Each local advisory board shall be composed of twelve members. Six members shall be appointed by the local governing body in which the proposed facility is to be located. Notwithstanding the provisions of § 15.2-1534, the governing body may appoint one or more of its members to serve on the local advisory board. Six members shall be appointed by the Authority, and each of those six members shall reside in the locality in which the facility is proposed to be located. All advisory board members shall be appointed for a term of four years. All advisory board members shall serve without pay, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of advisory functions. Each advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The Authority shall give each local advisory board reasonable opportunity to provide appropriate comments and recommendations on the design and the operation of the facility in its locality.

1995, cc. 613, 629, § 15.1-227.83; 1997, c. 587.

**§ 15.2-5814. Entitlement to sales tax revenues derived from a major league baseball stadium.**

A. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the Authority shall be entitled to all sales tax revenues that are generated by transactions taking place upon the premises of the major league baseball stadium. Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed thirty years. Sales tax revenues may be applied to repayment of the bonds, stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. The State Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the premises of the major league baseball stadium. The State Comptroller shall make such remittances to the Authority, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

B. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the local governing body of the locality in which the stadium is located may direct, by ordinance or resolution, that all local sales and use tax revenues generated by transactions taking place upon the premises of the major league stadium from taxes levied pursuant to §§ 58.1-605 and 58.1-606 shall be remitted by the State Comptroller to the Authority for the repayment of bonds,

stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. Such remittances shall be for the same period and under the same conditions as remittances to the Authority paid in accordance with subsection A, mutatis mutandis.

C. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the local governing body of the locality in which the stadium is located may direct, by ordinance or resolution, that all admissions tax revenues of such locality generated by admissions to the major league stadium from taxes levied pursuant to §§ 58.1-3818 and 58.1-3840 shall be remitted to the Authority for the repayment of bonds, stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. Any levy pursuant to this section may be for the lifetime of such bonds, but such levy shall not exceed thirty years.

1995, cc. 613, 629, § 15.1-227.84; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

**§ 15.2-5815. Tax revenues of the Commonwealth or any other political subdivision not pledged.**
Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds.

1995, cc. 613, 629, § 15.1-227.85; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

**§ 15.2-5816. Cooperation between the Authority and other political subdivisions.**
The Authority may enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300.

1995, cc. 613, 629, § 15.1-227.86; 1997, c. 587.

**§ 15.2-5817. Tort liability.**
No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance or nonfeasance by or on the part of the Authority, its agents, servants or employees.

1995, cc. 613, 629, § 15.1-227.87; 1997, c. 587.

**§ 15.2-5818. Tort claims.**
For purposes of Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the Authority is an "agency" within the meaning of § 8.01-195.2, and each of its members and agents is an "employee" within the meaning of such section.

1996, cc. 950, 1038, § 15.1-227.88; 1997, c. 587.

**§ 15.2-5819. Policy statement.**
It is hereby found, determined, and declared that the acquisition of a major league baseball franchise and a major league baseball stadium will result in substantial economic development in the Commonwealth and is in all respects for the benefit of the people of the Commonwealth and is a public

purpose and that the Authority will be performing an essential government function in the exercise of the powers conferred by this chapter.

1996, cc. 950, 1038, § 15.1-227.89; 1997, c. 587.

### §§ 15.2-5820, 15.2-5821. Expired.

Expired.

### §§ 15.2-5822, 15.2-5823. Expired.

Expired.

## Chapter 59 - HAMPTON ROADS SPORTS FACILITY AUTHORITY

### §§ 15.2-5900 through 15.2-5916. Repealed.

Repealed by Acts 2020, cc. 538 and 539, cl. 3.

### §§ 15.2-5917 through 15.2-5920. Expired.

Expired.

## Chapter 59.1 - Virginia Beach Arena

### §§ 15.2-5921 through 15.2-5927. Expired.

Expired.

## Chapter 60 - VIRGINIA COALFIELD ECONOMIC DEVELOPMENT AUTHORITY

### § 15.2-6000. Authority created; name.

The Virginia Coalfield Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

1988, c. 833, § 15.1-1635; 1997, c. 587.

### § 15.2-6001. Findings of fact.

The economy of Southwest Virginia has not kept pace with that of the rest of the Commonwealth. The economic problems of Southwest Virginia are due in large part to its present inability to diversify. The Southwest has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Virginia Coalfield Economic Development Authority will assist the seven county and one city coal producing areas of the Commonwealth to achieve some degree of economic stability.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

1988, c. 833, § 15.1-1636; 1997, c. 587.

### § 15.2-6002. Purpose of Authority; performs governmental function.

The primary purpose of the Authority is to enhance the economic base for the seven county and one city coalfield region of Virginia (Lee, Wise, Scott, Buchanan, Russell, Tazewell and Dickenson Counties and the City of Norton).

The Authority shall provide financial support for the purchase of real estate, construction of buildings for sale or lease, installation of utilities, direct loans and grants to private for-profit basic employers; may apply for matching funds from the state or federal government, or the private sector; and any other support improvements it deems necessary, including flood control dams. All such loans and grants may be managed by the LENOWISCO and Cumberland Plateau Planning District Commissions in their respective service areas.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the aforesaid seven county and one city areas, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity.

1988, c. 833, § 15.1-1637; 1990, c. 341; 1992, c. 32; 1997, c. 587.

**§ 15.2-6003. Board of Authority; members and officers; staff; annual report.**

All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coalfield Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Board members shall serve for terms of four years except that all vacancies shall be filled for the unexpired term. All terms shall commence July 1 of the year of appointment. Initial appointments shall begin July 1, 1988. The Board shall consist of sixteen members, residents of the Commonwealth, as follows:

Three initial members shall be the sitting chairmen of the county boards of supervisors of the three counties which are the three largest contributors to the coal and gas road improvement fund for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be supervisors from the county boards of supervisors of the three counties which are the three largest contributors to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin. Such supervisors shall be selected by their respective county boards of supervisors.

Five members shall be appointed by the Governor at large; however, if there is any participating county or city in which there resides no member of the Board appointed by the other methods herein specified, the Governor shall include at least one member who is a resident of each such county or city among his appointees. For the first four-year terms these five members shall be selected to the extent possible from former members of the Southwest Virginia Economic Development Commission who reside in Planning District 1 or 2.

One member shall be a representative of the Virginia Economic Development Partnership, as designated by the Chief Executive Officer of the Partnership.

One member shall be a representative named by the Virginia Coal and Energy Alliance.

Two members shall be the Executive Directors of the LENOWISCO and Cumberland Plateau Planning District Commissions.

Three initial members shall be representatives named by the three largest coal producers determined by the dollar value of their contribution to the respective county coal and gas road improvement funds for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be representatives named by the three largest coal producers determined by the dollar value of their contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

One member shall be a representative named by the largest oil and gas producer determined by the dollar value of its contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

Should a member who is a member solely by virtue of his office as member of a board of supervisors or executive director of a planning district commission cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor selected by the board of supervisors of his county or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe the oath prescribed in § 49-1. They shall receive their expenses spent on business of the Authority.

Ten members of the Authority shall constitute a quorum and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board shall elect from its membership a chairman, a vice-chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board.

Staff functions of the Authority may be undertaken by the LENOWISCO and Cumberland Plateau Planning District Commissions, as agreed by the Board and participating Commissions.

The Board, promptly following the close of the calendar year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors of the seven coalfield counties and the Norton City Council. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once each year

by a certified public accountant and the cost thereof may be treated as part of the expense of operation.

1988, c. 833, § 15.1-1638; 1989, c. 281; 1990, c. 341; 1995, c. 334; 1996, cc. 590, 598, 607; 1997, c. 587; 2010, c. 869; 2014, c. 438.

**§ 15.2-6004. Office of Authority; title to property.**

The Authority shall have and maintain its principal office as determined by the Board, within the participating counties and one city at which all of its records shall be kept, and from which its business shall be transacted. The title to all property of every kind belonging to the Authority shall be titled to the Authority, which shall hold it for the benefit of the member localities and the Commonwealth.

1988, c. 833, § 15.1-1639; 1990, c. 341; 1997, c. 587.

**§ 15.2-6005. General powers of Authority; regulations; enforcement of statutes, rules, etc.**

In order to enable it to carry out the purposes of this chapter, the Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, to plead and be impleaded, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purpose; and

3. Is vested with power to adopt, alter or repeal its own bylaws, regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary to facilitate its business. Such committees shall consist of such number of persons as the Authority shall deem advisable. Members of committees shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may set flat fees for expenses for a member's attendance at all meetings of the Authority or at its other functions. Such fees shall not exceed $100 per day.

1988, c. 833, § 15.1-1640; 1990, c. 341; 1997, c. 587.

**§ 15.2-6006. Further powers.**

The Authority, to accomplish its general purpose, is given the following powers, namely:

1. To enter into contractual agreements in furtherance of its purpose;

2. To rent, lease, buy, own, acquire and dispose of such property, real or personal, as the Authority deems proper to carry out any of the purposes and provisions of this chapter, including the execution of leases with option to purchase;

3. To apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter, and to expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;

4. To engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities;

5. To pay from the Authority's funds any and all expenses incurred by the Authority including, but not limited to, administrative, operational, personnel, consultant, legal, marketing, business attraction, advertising, promotional, and any other expenses incurred in furtherance of the purposes of this chapter; and

6. To do and perform any act or function that is in accord with the purposes of the chapter, including (i) borrowing money and (ii) employing such persons as the Board deems necessary to carry on the business of the Authority.

1988, c. 833, § 15.1-1641; 1990, c. 341; 1997, c. 587; 2004, cc. 36, 177.

**§ 15.2-6007. Acceptance of funds, property and grants or loans.**

The Authority may accept funds and property from the federal government, the Commonwealth, persons and localities, and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

1988, c. 833, § 15.1-1642; 1990, c. 341; 1997, c. 587.

**§ 15.2-6008. Forms of accounts and records; audit of same.**

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit by the Auditor of Public Accounts on an annual basis and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's.

1988, c. 833, § 15.1-1643; 1997, c. 587.

**§ 15.2-6009. Capitalization of Authority.**

On September 1, 1988, and on the first day of each month thereafter, each county and city shall remit to the Virginia Coalfield Economic Development Fund 25 percent of the revenues collected during the next to last calendar month from the (i) gas road improvement tax pursuant to § 58.1-3713 and (ii) local coal road improvement severance license tax pursuant to subsection B of § 58.1-3741.

1988, c. 833, § 15.1-1644; 1997, c. 587; 2013, cc. 305, 618.

**§ 15.2-6010. Proceeds held.**

The treasurer may invest and reinvest funds of the Authority pending their need. All moneys received by the Authority pursuant to § 15.2-6009, together with any matching funds received from state or fed-

eral sources, shall be applied and used only in the county or city from which the funds were received, unless the governing body of the county or city consents to their use in another county or city.

Moneys received pursuant to § 58.1-3713.4 may be used at the discretion of the Authority for purposes and projects as determined by the Authority.

1988, c. 833, § 15.1-1645; 1990, c. 341; 1997, c. 587.

**§ 15.2-6011. Eligible use of funds.**

The Authority is hereby empowered to pledge its funds, and make loans and grants to or for the benefit of for-profit enterprises or entities; governmental or corporate instrumentalities in the coalfield region of Virginia (including any political subdivision of the Commonwealth and the Breaks Interstate Park); not-for-profit enterprises or entities; nonprofit industrial development corporations; economic development authorities; or industrial development authorities for financing the following:

1. Purchase of real estate;

2. Grading of site(s);

3. Construction of flood control dams;

4. Water, sewer, natural gas and electrical line replacement and extensions;

5. Construction or rehabilitation or expansion of buildings;

6. Construction of parking facilities;

7. Access roads construction and street improvements;

8. Purchase, lease, or relocation of machinery, tools, equipment, furniture, software, or other personal property;

9. Construction of improvements outside the Commonwealth if in the Breaks Interstate Park;

10. Feasibility studies, site studies, preliminary engineering or architectural reports, and other studies and plans;

11. Such other improvements, projects, activities, or purposes as the Authority deems necessary to accomplish its purpose; and

12. Costs and expenses associated with any item listed in subdivisions 1 through 11, including, but not limited to, architectural, engineering, consulting, legal, closing, installation, delivery, and assembly expenses.

1988, c. 833, § 15.1-1646; 1990, c. 341; 1992, c. 32; 1993, c. 771; 1994, cc. 615, 674; 1997, c. 587; 2004, cc. 36, 177.

**§ 15.2-6012. Dissolution of Authority.**

Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible of accomplishment and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government

securities has been deposited for their payment or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions.

1988, c. 833, § 15.1-1647; 1997, c. 587.

### § 15.2-6013. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1988, c. 833, § 15.1-1648; 1997, c. 587.

### § 15.2-6014. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this chapter are hereby declared to be inapplicable to the provisions of this chapter.

1988, c. 833, § 15.1-1649; 1997, c. 587.

### § 15.2-6015. City of Norton deemed contributing jurisdiction of Wise County.

For the purpose of this chapter the City of Norton shall be deemed a contributing jurisdiction of Wise County and moneys collected from Wise County may be used in the City of Norton.

1988, c. 833, § 15.1-1650; 1997, c. 587.

## Chapter 60.1 - SOUTHWEST REGIONAL RECREATION AUTHORITY

### § 15.2-6016. Southwest Regional Recreation Authority established.

There is hereby established a Southwest Regional Recreation Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions for the purpose of establishing and maintaining a Southwest Regional Recreation Area.

2008, cc. 645, 648.

### § 15.2-6017. Definitions.

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

"Authority" means the Southwest Regional Recreation Authority, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Board" means the board of the Southwest Regional Recreation Authority established pursuant to § 15.2-6018.

"Land" includes roads, water, watercourses, private ways and buildings, structures, and machinery or equipment thereon when attached to the realty.

"Owner" includes tenant, lessee, occupant, or person in control of the premises.

"Recreational purposes" includes any one or any combination of the following recreational activities: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycle or all-terrain vehicle riding, bicycling, horseback riding, nature study, water skiing, winter sports, and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites or otherwise using land for purposes of the user.

"Southwest Regional Recreation Area" means a system of recreational trails and appurtenant facilities, including trail-head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities that are a part of the system.

2008, cc. 645, 648.

**§ 15.2-6018. Board of directors; appointments; terms.**

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. The Authority shall consist of members as follows:

1. One representative each appointed by the governing body of the City of Norton and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise to serve terms of three years;

2. Four additional non-voting members appointed by a majority vote of the members appointed in subdivision 1 to serve terms of two years; and

3. Any additional non-voting members as determined by the board.

Appointments to fill vacancies shall be for the unexpired terms. Any member may be reappointed. The directors shall elect from their membership a chairman and a vice-chairman. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

2008, cc. 645, 648; 2009, c. 720.

**§ 15.2-6019. Meetings; decisions of Authority; compensation.**

The board shall meet quarterly, unless a special meeting is called by its chairman. A majority of the Authority shall constitute a quorum. Decisions of the Authority shall require a quorum and shall be in accordance with voting procedures established by the Authority.

The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the Authority is conducted and shall review and approve an annual budget. The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and may appoint counsel and legal staff for the Authority and retain such temporary engineering, financial, and other consultants or technicians as may be required for any special study

or survey consistent with the provisions of this chapter. The executive director shall carry out plans to implement the provisions of this chapter and to exercise those powers enumerated in the bylaws. The executive director shall prepare annually a budget to be submitted to the board for its review and approval.

All costs incidental to the administration of the Authority, including office expenses, personal services expense, and current expense, shall be paid in accordance with guidelines issued by the board from funds accruing to the Authority.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under this chapter, and no liability or obligation may be incurred by the Authority under this chapter beyond the extent to which moneys have been provided under the authority of this chapter.

2008, cc. 645, 648.

**§ 15.2-6020. Powers of Authority.**

The Authority, as a public corporation and governmental instrumentality exercising public powers of the state, may exercise all powers necessary or appropriate to carry out the purposes of this chapter, including the power to:

1. Acquire, own, hold and dispose of property, real and personal, tangible and intangible; provided that, the Authority shall not acquire such property through the exercise of the power of eminent domain;

2. Lease property, whether as lessee or lessor, and acquire or grant through easement, license or other appropriate legal form, the right to develop and use property and open it to the use of the public;

3. Mortgage or otherwise grant security interests in its property;

4. Procure insurance against any losses in connection with its property, license or easements, contracts, including hold-harmless agreements, operations or assets in such amounts and from such insurers as the Authority considers desirable;

5. Maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the Authority;

6. Sue and be sued, implead and be impleaded, and complain and defend in any court;

7. Adopt, use, and alter at will a corporate seal;

8. Make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

9. Make contracts of every kind and nature and execute all instruments necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation to effect any or all of the purposes of this chapter;

10. Accept grants and loans from and enter into contracts and other transactions with any federal agency;

11. Maintain an office at such places within the state as it may designate;

12. Borrow money and issue bonds, security interests, or notes and provide for and secure the payment of the bonds, security interests, or notes and provide for the rights of the holders of the bonds, security interests, or notes and purchase, hold, and dispose of any of its bonds, security interests, or notes;

13. Accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the federal government or from any governmental unit or any person, firm, or corporation and to carry out the terms or provisions of or make agreements with respect to or pledge any gifts or grants and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring, acceptance, or disposition of gifts or grants;

14. Enter into contract with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the recreational activities operated or managed by the Authority from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or other person or any of his or her agents or employees;

15. Assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers, or other facilities which are part of the Southwest Regional Recreation Area and to retain and utilize that revenue for any purposes consistent with this chapter;

16. Adopt rules to regulate the use and maintenance of the Southwest Regional Recreation Area;

17. Cooperate with the states of Kentucky, Tennessee, and West Virginia and appropriate state and local officials and community leaders in those states to connect the trails in Virginia with similar recreation facilities in those states; and

18. Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.

2008, cc. 645, 648.

**§ 15.2-6021. Southwest Regional Recreation Area rangers.**

The board may appoint qualified persons as Southwest Regional Recreation Area rangers. The ranger may enforce the rules adopted by the Board and issue civil penalties for violations thereof and further be eligible for appointment as a special conservator of the peace in accordance with § 19.2-13 as necessary and proper to protect and enforce the safe use and enjoyment of the properties under the use and control of the Southwest Regional Recreation Area Authority. The ranger may preserve law and order on any premises that is part of the Southwest Regional Recreation Area, any immediately adjacent property of landowners who are making land available for public use under

agreement with the Authority, and on streets, highways, or other public lands utilized by the trails, parking areas, or related recreational facilities and other immediately adjacent public lands. The assignment of rangers to the duties authorized by this section shall not supersede the authority of any law-enforcement officers. The salary of all rangers shall be paid by the board. The board shall furnish each ranger with an official uniform to be worn while on duty and shall furnish and require each ranger while on duty to wear a shield with an appropriate inscription and to carry credentials certifying the person's identity and authority as a ranger.

2008, cc. 645, 648; 2009, c. 720.

**§ 15.2-6022. Bonds not a debt of the Commonwealth.**

Revenue bonds and revenue refunding bonds of the Authority issued under the provisions of this chapter do not constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision, but the bonds shall be payable solely from the funds provided for in this chapter from revenues resulting from the issuance of bonds. All bonds shall contain on the face of the bond a statement to the effect that neither the Commonwealth nor any political subdivision of the Commonwealth is obligated to pay the bond or the interest on the bond except from revenues of the recreational project or projects for which they are issued and that neither the faith or credit nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal or the interest on the bonds.

2008, cc. 645, 648.

**§ 15.2-6023. Violation of rules; civil penalties.**

Any person who violates any of the rules adopted by the board pursuant to this chapter relating to permits or failure to purchase a permit, safety violations, or other civil violations is subject to a civil penalty of $100. All penalties collected pursuant to this section shall be allocated to the Southwest Regional Recreation Authority.

2008, cc. 645, 648; 2010, c. 798.

**§ 15.2-6023.1. Additional civil penalties.**

Any locality within the Southwest Regional Recreation Area may, by ordinance, allocate to the Authority a specified portion of civil penalties paid for violations of ordinances.

2010, c. 798.

**§ 15.2-6024. Limiting liability.**

A. An owner of land used by or for the stated purposes of the Authority, whether with or without charge, owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous or hazardous condition, use, structure, or activity on the premises to persons entering for those purposes.

B. The landowner or lessor of the property used for recreational purposes does not: (i) extend any assurance that the premises are safe for any purpose; (ii) confer upon users the legal status of an invitee or licensee to whom a duty of care is owed; or (iii) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of these persons.

C. Nothing herein limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or waste.

2008, cc. 645, 648.

## Chapter 61 - SOUTHSIDE VIRGINIA DEVELOPMENT AUTHORITY

### §§ 15.2-6100 through 15.2-6110. Repealed.

Repealed by Acts 2003, c. 158, cl. 1.

## Chapter 62 - ALLEGHANY HIGHLANDS ECONOMIC DEVELOPMENT AUTHORITY

### § 15.2-6200. Authority created; name.

The Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. Each locality within the region may become a member of the Authority upon passage of a region-wide concurrent resolution by the governing bodies. The resolution may be passed at any time prior to the effective date of this chapter; otherwise, membership shall be effective July 1, 1993.

1993, c. 982, § 15.1-1662; 1997, c. 587.

### § 15.2-6201. Findings of fact.

The economy of the Alleghany-Highlands region has not kept pace with that of the rest of the Commonwealth. The economic problems of the Alleghany-Highlands region are due in large part to its inability to diversify. The region has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Alleghany-Highlands Economic Development Authority will assist this region of the Commonwealth to achieve a greater degree of economic stability.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

1997, c. 587.

### § 15.2-6202. Duties of Authority; governmental functions.

A. The Authority shall provide financial support (i) for the purchase of real estate, construction of buildings for sale or lease, installation of utilities and any other support improvements it deems necessary, including flood control dams, and (ii) for direct loans and grants to private for-profit basic employers. The Authority shall also apply for matching funds from the state or federal government, or the private sector. All such loans and grants may be managed by the Fifth Planning District Commission.

B. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the County of Alleghany and the Town of Clifton Forge; for the increase of their commerce; and for the promotion of their safety, health, welfare, convenience and prosperity.

C. For purposes of this chapter, "Alleghany-Highlands Region" includes the County of Alleghany and the Town of Clifton Forge.

1993, c. 982, § 15.1-1663; 1997, c. 587; 2006, c. 861.

**§ 15.2-6203. Board of Authority; members and officers; staff; annual report.**

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 1993. The Board shall consist of seven members as follows: one representative of each of the region's governing bodies, or their designees, who shall be appointed by the respective governing bodies and shall be residents of the region; four at-large members, who shall be appointed by the Governor and shall be residents of the region; and one member to be appointed by the Chief Executive Officer of the Virginia Economic Development Partnership. However, all appointments made after July 1, 2005, shall be made solely by the participating governing bodies, in a manner agreed to by the governing bodies. All members shall serve for a term of four years and may be reappointed for one additional term. For the initial appointments only, two of the four at-large members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Four members of the Board shall constitute a quorum, and the affirmative vote of four members of the Board shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a secretary-treasurer for each calendar year. The secretary-treasurer shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director and staff who shall discharge such functions as may be directed by the Board.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors and town council of the Region. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

1993, c. 982, § 15.1-1664; 1994, c. 448; 1996, cc. 590, 598; 1997, c. 587; 2005, c. 671; 2006, c. 861; 2010, c. 869.

**§ 15.2-6204. Office of Authority; title to property.**

The Board shall maintain the principal office of the Authority within the Region. All records shall be kept and business transacted at such office. The title to all property of every kind belonging to the Authority shall be titled to the Authority, which shall hold it for the benefit of its members and the Commonwealth.

1993, c. 982, § 15.1-1665; 1997, c. 587.

**§ 15.2-6205. General powers of Authority; regulations; enforcement of statutes, rules, etc.**

The Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, plead and be impleaded, make contracts, and adopt and use a common seal and alter the same as may be deemed expedient;

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purposes; and

3. May adopt, alter or repeal its own bylaws and regulations which govern the manner in which its business may be transacted and may provide for the appointment of such committees, and the functions thereof, as the Authority deems necessary to facilitate its business. Each committee shall consist of the number of persons as the Authority deems advisable. Committee members shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on the business of the Authority. The Authority may set a flat fee for the expenses of a member in attendance at a meeting of the Authority or at its other functions. Such fee shall not exceed $100 per day.

1993, c. 982, § 15.1-1666; 1997, c. 587.

**§ 15.2-6206. Further powers.**

The Authority may:

1. Enter into contractual agreements in furtherance of its purpose;

2. Rent, lease, including the execution of leases with option to purchase, buy, own, acquire and dispose of such property, real or personal, as the Authority deems proper to carry out any of the purposes and provisions of this chapter;

3. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency; and

4. Perform any act or function which is in accord with the purposes of this chapter, including (i) borrowing money, including issuing bonds, (ii) providing for the guarantee of loans, and (iii) employing such persons as the Board deems necessary to carry on the business of the Authority.

1993, c. 982, § 15.1-1667; 1997, c. 587.

**§ 15.2-6207. Acceptance of funds, property, grants, or loans.**

The Authority may accept funds and property from the federal government, the Commonwealth, persons, and localities and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

1993, c. 982, § 15.1-1668; 1997, c. 587.

**§ 15.2-6208. Eligible use of funds.**

From such funds as may be appropriated or received, the Authority may make loans and grants for the benefit of qualified private, for-profit enterprises and public or not-for-profit enterprises, nonprofit industrial development corporations, or industrial development authorities for financing the following:

1. Purchase of real estate;

2. Grading of sites;

3. Water, sewer, natural gas or electrical line improvements, replacement and extensions;

4. Construction, rehabilitation, and expansion of buildings;

5. Construction of parking facilities;

6. Access roads construction and street improvements;

7. Purchase or lease of machinery and tools; and

8. Any other improvements deemed necessary by the Authority to meet its objectives.

1993, c. 982, § 15.1-1669; 1997, c. 587.

**§ 15.2-6209. Capitalization of Authority.**

On or before January 1, 1994, and on or before the first day of each year thereafter, each county and town that is a member of the Authority may remit to the Authority an amount it deems appropriate for Authority purposes.

1993, c. 982, § 15.1-1670; 1997, c. 587; 2005, c. 671; 2006, c. 861.

**§ 15.2-6210. Proceeds held.**

The secretary-treasurer may invest and reinvest funds of the Authority pending their need. All moneys received by the Authority pursuant to § 15.2-6208, together with any matching funds received from state or federal sources, shall be applied and used only in the county or town from which the funds were received, unless the governing body of the county or town consents to their use in another county, city, or town.

1993, c. 982, § 15.1-1671; 1997, c. 587; 2006, c. 861.

**§ 15.2-6211. Forms of accounts and records; audit of same.**

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit pursuant to § 30-140 and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's.

1993, c. 982, § 15.1-1672; 1997, c. 587.

**§ 15.2-6212. Dissolution of Authority.**

Each member locality of the Authority may withdraw from the Authority only upon dissolution of the Authority as set forth herein. Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions.

1993, c. 982, § 15.1-1673; 1997, c. 587.

**§ 15.2-6213. Chapter liberally construed.**

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1993, c. 982, § 15.1-1674; 1997, c. 587.

**§ 15.2-6214. Revenue sharing agreements.**

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of Title 15.2, the County of Alleghany and the Town of Clifton Forge may agree to a revenue and economic growth sharing arrangement with respect to tax revenues generated by any industry, business or other for-profit employment generating enterprise locating in any of the localities. The obligations of the parties to any

such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the localities reaching agreement but shall not require any other approval.

1993, c. 982, § 15.1-1675; 1997, c. 587; 2006, c. 861.

## Chapter 63 - AUTHORITIES FOR DEVELOPMENT OF FORMER FEDERAL AREAS

### § 15.2-6300. Declaration of policy for authorities created by the Governor.

This legislation is enacted to provide for the acquisition by political subdivisions of areas which have been or may hereafter be occupied as United States government military installations and which are disposed of by the United States government. The industrial and economic development of localities included in or adjacent to such military installations and the tax revenues of the Commonwealth will be seriously affected by the manner in which such areas are returned to nonmilitary uses and to the tax rolls, no provision having been made therefor. The proper development of such areas industrially and otherwise is required so that local governments may derive revenues with which to render necessary services to their citizens and so that industrial development; job creation; and housing, recreational, commercial, educational and other economic and social development may be fostered and stimulated to prevent the creation of blighted areas in the Commonwealth with resultant injury to all. The creation by this chapter and operation of authorities pursuant to this chapter are governmental functions of the gravest concern to the Commonwealth and the need for this enactment being a matter of legislative policy such need is hereby declared as a matter of legislative determination.

Code 1950, § 15-937; 1954, c. 645; 1962, c. 623, § 15.1-1320; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887.

### § 15.2-6300.1. Declaration of policy for authorities created by a locality.

It is further found and declared that: It being the policy of the federal government to promote the development of federal employee housing, including military housing, office buildings and other infrastructure through partnerships with private and governmental entities, the purpose of such transactions being to help the federal government get needed infrastructure in place more quickly, and to increase the value of its installations, the creation and operation of the authorities by a locality and the granting to such an authority of the powers set forth under this chapter are necessary for the public welfare, to enable more efficient cooperation with the federal government, and to increase the value of federal installations in the Commonwealth.

2005, cc. 869, 887.

### § 15.2-6301. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise:

"Adjacent to such authority" includes real or personal property which is contiguous, neighboring, or within reasonable proximity of an authority.

"Area of operation" means an area coextensive with the territorial boundaries of the land acquired from the federal government by the authority.

"Authority" means any political subdivision created by this chapter. The terms "an authority" or "the authority" refer to each such authority.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

"Commissioners" means the members of the board of commissioners of an authority.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances and accessories necessary or appropriate for the operation of such facility.

"Federal area" means an area coextensive with the territorial boundaries that is, or has been, occupied by a United States governmental activity or operation.

"Federal government" includes the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal area" means an area coextensive with the territorial boundaries that is, or has been, occupied by a United States governmental military installation and which is, or appears likely to be, subject to disposal by the United States government to public bodies, or otherwise.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, and the federal government when it is a party to any contract with the authority.

"Project" means any specific enterprise undertaken by an authority, including the facilities as hereinafter defined, and all other property, real or personal or any interest therein, necessary or appropriate for the operation of such property.

"Public body of the Commonwealth" means any city, town, county, municipal corporation, commission, district, authority, other political subdivision or public body of the Commonwealth.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

Code 1950, § 15-938; 1954, c. 645; 1962, c. 623, § 15.1-1321; 1997, c. 587; 2005, cc. 839, 869, 887.

**§ 15.2-6302. Establishment of development authorities.**

With regard to an authority created by the Governor, there is hereby created with respect to every former federal area a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Each such authority shall be designated as the _____ _____ Development Authority (with a name chosen by the Governor descriptive of the area in which the property is located); however, no authority shall exercise any power or transact any business hereunder unless or until the Governor upon receipt of a duly certified resolution of the governing

body of each of the localities within the area of operation of an authority requesting such action, shall proclaim that a former federal area exists with respect to which an authority should function under the terms of this chapter. Any such authority for which such a proclamation has been issued may proceed to transact business and to exercise its powers hereunder at any time after the selection of the commissioners of the authority, as set forth in § 15.2-6304.

Alternatively, the governing body of the City of Hampton may by ordinance create a development authority for the development or redevelopment of federal areas. The ordinance creating such an authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of or action by the authority, the authority shall be conclusively presumed to have been established and authorized to transact business and exercise its powers hereunder (i) upon proof of the action of the Governor in issuing a proclamation with reference to such authority and the designation of its name by the Governor, which descriptive name can be altered by the authority as may be deemed expedient, or (ii) upon the adoption and approval of an ordinance by the City of Hampton in accordance with this section.

Code 1950, § 15-939; 1954, c. 645; 1962, c. 623, § 15.1-1322; 1997, c. 587; 2003, c. 246; 2005, cc. 869, 887.

**§ 15.2-6303. Authorities to file annual reports.**

At least once a year, each authority shall file with the Governor a report of its activities for the preceding year.

Code 1950, § 15-940; 1954, c. 645; 1962, c. 623, § 15.1-1323; 1997, c. 587.

**§ 15.2-6304. Board of commissioners; appointment of director, agents and employees.**

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority created hereunder shall be exercised by a board of commissioners of that authority, hereinafter referred to as board or board of commissioners.

B. In the case of authorities created by proclamation of the Governor pursuant to § 15.2-6302, the board shall consist of seven members to be appointed by the Governor, of whom at least five shall be residents of the locality or localities in which the authority is located. The members shall serve for terms of six years each, the initial appointment to be two members for terms of six years, two members for terms of five years, two members for terms of four years and one member for a term of three years, and subsequent appointments to be made for terms of six years, except appointments to fill vacancies which shall be made for the unexpired term.

C. In the case of authorities created by the City of Hampton pursuant to § 15.2-6302, the board shall initially consist of up to seven members appointed by the locality in which the authority is located, all of whom shall be residents of such locality. Beginning in 2010, the board shall consist of up to nine members appointed by the locality in which the authority is located, all of whom shall be residents of

such locality. The members shall serve for terms of not more than four years each. If a member resigns, dies, or is otherwise removed from his position on the board, the locality may appoint a new member to fill the vacancy for the remainder of the unexpired term.

D. Members shall receive from the authority their necessary travel and business expenses while on business of the board. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1.

E. The board shall appoint the chief executive officer of the authority, who shall not be a member thereof, to be known as the director of that authority, hereinafter referred to as director, and whose compensation shall be paid by the authority in the amount determined by the board. The board shall employ or retain such other agents or employees subordinate to the director as may be necessary, including persons with special qualifications, and shall determine which such agents or employees shall be bonded and the amount of such bonds. The director and other agents and employees so appointed shall serve at the pleasure of the board, which shall fix their compensation and prescribe their duties.

The board shall elect from its membership a chairman, vice-chairman, a secretary and a treasurer, or secretary-treasurer, and shall prescribe their powers and duties. Four members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and for all other purposes. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection. It shall keep suitable records of all of its financial transactions and shall arrange to have the same audited annually.

Code 1950, § 15-941; 1954, c. 645; 1962, c. 623, § 15.1-1324; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887; 2007, cc. 707, 740; 2010, cc. 338, 381, 460.

### § 15.2-6304.1. Repealed.

Repealed by Acts 2010, cc. 338 and 460, cl. 3.

### § 15.2-6305. Powers and duties of director.

The director shall exercise such of the powers and duties relating to the authority conferred upon the board as may be delegated to him by the board, including powers and duties involving the exercise of discretion. The director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.

Code 1950, § 15-942; 1954, c. 645; 1962, c. 623, § 15.1-1325; 1997, c. 587.

### § 15.2-6306. Principal and branch offices.

The board of each authority created by proclamation of the Governor pursuant to § 15.2-6302 shall establish a principal office within one of the counties included in the authority. The board may also establish such branch offices as may be considered by the board to be appropriate to the efficient operation of the authority.

Code 1950, § 15-943; 1954, c. 645; 1962, c. 623, § 15.1-1326; 1997, c. 587; 2005, cc. 869, 887.

### § 15.2-6307. Legal services.

For such legal services as it may require, the authority may employ its own counsel and legal staff or make use of legal services made available to it by any public body, or both.

Code 1950, § 15-944; 1954, c. 645; 1962, c. 623, § 15.1-1327; 1997, c. 587.

### § 15.2-6308. Powers of authorities generally.

An authority shall have the following powers:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with law, to carry into effect the powers and purposes of the authority.

2. To foster and stimulate the industrial, social and other economic development of its area of operation, including without limitation development for industrial, employment, housing, commercial, recreational, educational and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, improvement, alteration, maintenance, removal, equipping or repair of any buildings, structures or land of any kind; to sell, lease or rent to others or to develop, operate or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of § 15.2-6317, any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within its area of operations; to establish, collect and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges or facilities in connection with any activity in which the authority may engage; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may be made for less than fair market value; to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; to dedicate, make a gift of, or lease for a nominal amount, any real or personal property or any interest therein to the Commonwealth, or the localities or agencies, public or private, within the area of operation or adjacent to such authority, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell or otherwise dispose of on-site utility and infrastructure systems or sell any excess service capacity for off-site use; to acquire, lease, construct, maintain and operate and dispose of tracks, spurs, crossings, terminals, warehouses and terminal facilities of every kind and description necessary or useful in the transportation and storage of

goods, wares and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards.

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

4. To undertake and carry out examinations, investigations, studies and analyses of the business, industrial, agricultural, utility, transportation and other economic development needs, requirements and potentialities of its area of operation, or off-site needs, requirements and potentialities which directly affect the successful industrial and economic development of its area of operation, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

5. In the discharge of its enumerated powers, to cooperate with the federal government, the Commonwealth and the localities within its area of operation or adjacent to such authority.

6. To appoint an authority advisory committee to advise it, consisting of such number of persons as it may deem proper. Such persons so appointed shall be residents of the locality in which the authority is located. They shall not receive any compensation for their services but may be reimbursed for their necessary traveling and other expenses incurred while on business of the authority.

7. To exercise all or any part or combination of powers herein granted.

8. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers.

No provision of law with respect to the acquisition, operation or disposition of property by other political subdivisions or public bodies shall be applicable to an authority unless specifically stated therein. In any locality where planning, zoning or development regulations may apply, the authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

Code 1950, § 15-946; 1954, c. 645; 1962, c. 623, § 15.1-1329; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887.

### § 15.2-6308.1. Approval of Governor required.

If an authority desires to undertake a project or other activity as provided in this chapter, and the property involved in such undertaking is subject to a reversionary interest in favor of the Commonwealth, such undertaking shall require the prior approval of the Governor but shall not require the approval of any other agency or political subdivision of the Commonwealth. Once the Governor grants such

approval, the Commonwealth's reversionary interest in such property shall be subordinate to any lease, mortgage, or other transaction entered into by such authority with regard to such property.

2005, cc. 869, 887.

**§ 15.2-6309. Two or more authorities may join or cooperate in exercising powers.**

Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of the powers granted to such authorities.

Code 1950, § 15-947; 1954, c. 645; 1962, c. 623, § 15.1-1330; 1997, c. 587.

**§ 15.2-6310. Payments to Commonwealth or political subdivisions thereof.**

An authority may agree to make such payments to the Commonwealth, a locality, or any political subdivision thereof, which payments such bodies are hereby authorized to accept, as the authority finds consistent with the purposes for which the authority has been created.

Code 1950, § 15-948; 1954, c. 645; 1962, c. 623, § 15.1-1331; 1997, c. 587.

**§ 15.2-6311. Authorities may borrow money, accept contributions, etc.**

In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government; the Commonwealth; any locality or political subdivision; or any agency or instrumentality thereof; or from any source, public or private, for or in aid of any project of the authority, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable.

Code 1950, § 15-949; 1954, c. 645; 1962, c. 623, § 15.1-1332; 1996, c. 740; 1997, c. 587.

**§ 15.2-6312. Authorities empowered to issue bonds; additional security; liability thereon.**

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes, including the issuance of refunding bonds for the payment or retirement of bonds previously issued by it. An authority may issue such type of bonds as it may determine, including (without limiting the generality of the foregoing):

1. Bonds on which the principal and interest are payable:

a. Exclusively from the income and revenues of the project or facility financed with the proceeds of such bonds; or

b. Exclusively from the income and revenues of certain designated projects or facilities whether or not they are financed in whole or in part with the proceeds of such bonds; or

c. From its revenues generally.

2. Bonds on which the principal and/or interest are payable solely from contributions or grants received from the federal government, the Commonwealth or any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grants or contributions from the federal government, the Commonwealth or any political subdivision of the Commonwealth, or other

source, or a pledge of any income or revenues of the authority, or a mortgage of any particular projects or facilities or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth, or any political subdivision thereof (other than the issuing authority), and neither the Commonwealth nor any political subdivision thereof (other than the issuing authority) shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose.

Code 1950, § 15-950; 1954, c. 645; 1962, c. 623, § 15.1-1333; 1996, c. 740; 1997, c. 587.

**§ 15.2-6313. Bonds to be authorized by resolution of board; terms; sale; negotiability; validity.**
Bonds of an authority shall be authorized by resolution of its board and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such annual rate or rates, not exceeding nine percent, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable to such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable within the meaning and for all the purposes of Title 8.3A.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a specific project or facility of such authority shall be conclusively deemed to have been issued for such enumerated purpose and such project or facility shall be conclusively deemed to have been conducted and operated in all respects in accordance with the purposes and provisions of this chapter.

Code 1950, § 15-951; 1954, c. 645; 1962, c. 623, § 15.1-1334; 1996, c. 740; 1997, c. 587.

**§ 15.2-6314. Exemption from taxation; authorities to be municipal corporate instrumentalities of Commonwealth.**
The bonds or other securities issued by an authority, the interest thereon, and all real and personal property and any interest therein of an authority, and all income derived therefrom by an authority shall

at all times be free from taxation by the Commonwealth, or by any political subdivision thereof. The authority shall be regarded as a municipal corporate instrumentality of the Commonwealth for the purpose of discharging its functions and exercising its powers under this chapter.

Code 1950, § 15-952; 1954, c. 645; 1962, c. 623, § 15.1-1335; 1997, c. 587.

**§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.**
A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act; and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, handicap, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the United States Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the United States Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (United States Public Law 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

2005, cc. 869, 887; 2020, c. 1137.

**§ 15.2-6315. Provisions for securing payment of bonds.**
In order to secure the payment of such bonds, the authority shall have power by provision or provisions included in any resolution authorizing said bonds or in any indenture made to secure their payment:

1. To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

2. To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

3. To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any property or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it.

4. To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time of the payment of its bonds

or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

5. To covenant as to the rents and fees to be charged in the operation of a specific project or facility, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

6. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

7. To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

8. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

9. To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the authority, to take possession and use, operate and manage any property or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any portion of them may enforce any covenant or rights securing or relating to the bonds.

10. To exercise all or any part or combination of the powers herein granted; and to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenant and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

Code 1950, § 15-953; 1954, c. 645; 1962, c. 623, § 15.1-1336; 1997, c. 587.

### § 15.2-6316. Rights and remedies of obligees.

An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

1. By mandamus, suit, action or proceeding at law or in equity to compel the authority and the commissioners, officers, agents or employees thereof, to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

2. By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of the authority.

Code 1950, § 15-954; 1954, c. 645; 1962, c. 623, § 15.1-1337; 1997, c. 587.

**§ 15.2-6317. Rents, fees and charges; disposition of revenues.**

The rents, fees and charges established by the authority for the use of its property, projects and facilities and for any other service furnished or provided by the authority shall be fixed so that they, together with other revenues of the authority, shall provide at least sufficient funds to pay the cost of maintaining, repairing and operating the authority, its property, projects and facilities and the principal and interest of any bonds issued by the authority or other debts contracted as the same shall become due and payable. A reserve may be accumulated and maintained out of the revenues of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations issued hereunder, the authority shall have exclusive control of the revenue derived from the operation of the authority and the right to use such revenues in the exercise of its powers and duties set forth in this chapter. No person, firm, association or corporation shall receive any profit or dividend from the revenues, earnings or other funds or assets of such authority other than for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the authority.

Code 1950, § 15-955; 1954, c. 645; 1962, c. 623, § 15.1-1338; 1997, c. 587.

**§ 15.2-6318. Investment in bonds issued by authorities.**

The Commonwealth and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, except domestic life insurance companies, and all fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by any such authority, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth; it being the purpose of this chapter to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension funds, and funds held on deposit, for the purchase of any such bonds or other obligations and that any such

bonds or other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth.

Code 1950, § 15-956; 1954, c. 645; 1962, c. 623, § 15.1-1339; 1997, c. 587.

### § 15.2-6319. Dissolution of authority.

Whenever the commission of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds issued and all obligations incurred by the authority have been fully paid, the commission shall execute and file for record with the governing body or bodies of the locality in which the authority was created, a resolution declaring such facts. If the governing bodies are of the opinion that the facts stated in the authority's resolution are true and the authority should be dissolved, they shall so resolve; however, in the case of an authority created by proclamation of the Governor pursuant to § 15.2-6302, the authority shall not be dissolved unless or until the Governor, upon determination that such dissolution is appropriate or upon receipt of a duly certified resolution of each governing body of each locality within the area of operation of the authority requesting dissolution, shall proclaim that the authority is dissolved. Any such authority for which such a proclamation was issued shall be dissolved as of the date on which the proclamation was issued. Upon dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest, (i) in the case of authorities created by proclamation of the Governor, in the localities in the area of operation or to not-for-profit agencies, public or private, as may be designated by the localities, or (ii) in the case of authorities created by the City of Hampton pursuant to § 15.2-6302, in such locality or to not-for-profit agencies, public or private, as may be designated by such locality.

1996, c. 740, § 15.1-1339.1; 1997, c. 587; 2005, cc. 869, 887; 2011, cc. 126, 178; 2014, c. 640.

### § 15.2-6320. Powers conferred additional and supplemental; liberal construction.

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. This chapter shall be liberally construed to effect the purposes hereof.

Code 1950, § 15-957; 1954, c. 645; 1962, c. 623, § 15.1-1340; 1996, c. 740; 1997, c. 587; 2015, c. 709.

### § 15.2-6321. Chapter controlling over inconsistent laws.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, including provisions of charters of localities, the provisions of this chapter shall be controlling.

Code 1950, § 15-958; 1954, c. 645; 1962, c. 623, § 15.1-1341; 1997, c. 587.

### § 15.2-6322. Sovereign immunity.

No provisions of this chapter nor act of an authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the authority or its directors, officers, employees, or agents are otherwise entitled.

2005, cc. 869, 887.

## Chapter 64 - VIRGINIA REGIONAL INDUSTRIAL FACILITIES ACT

### § 15.2-6400. Definitions.

As used in this chapter the following words have the meanings indicated:

"Authority" means any regional facility authority organized and existing pursuant to this chapter.

"Board" means the board of directors of an authority.

"Facility" means any structure or park, including real estate and improvements as applicable, for manufacturing, warehousing, distribution, office, or other industrial, residential, recreational or commercial purposes. A facility specifically includes structures or parks that are not owned by an authority or its member localities, but are subject to a cooperative arrangement pursuant to subdivision 13 of § 15.2-6405.

"Governing bodies" means the boards of supervisors of counties and the councils of cities and towns which are members of an authority.

"Member localities" means the counties, cities, and towns, or combination thereof, which are members of an authority.

"Region" means the area within the boundaries of the member localities.

1997, cc. 276, 587, § 15.1-1710; 1999, cc. 540, 804, 820, 837, 882; 2000, cc. 892, 915, 960, 965; 2001, cc. 391, 404; 2003, c. 874; 2004, cc. 603, 640; 2007, cc. 941, 947; 2009, c. 616.

### § 15.2-6401. Findings; purpose; governmental functions.

A. The economies of many localities within the region have not kept pace with those of the rest of the Commonwealth. Individual localities in the region often lack the financial resources to assist in the development of economic development projects. Providing a mechanism for localities in the region to cooperate in the development of facilities will assist the region in overcoming this barrier to economic growth. The creation of regional industrial facility authorities will assist this area of the Commonwealth in achieving a greater degree of economic stability.

B. The purpose of a regional industrial facility authority is to enhance the economic base for the member localities by developing, owning, and operating one or more facilities on a cooperative basis involving its member localities.

C. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the region and other areas of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity.

1997, cc. 276, 587, § 15.1-1711.

### § 15.2-6402. Procedure for creation of authorities.

The governing bodies of any two or more localities within the region, provided that at least two or more of the localities are cities or counties or a combination thereof, may, in conformance with the procedure set forth herein, create a regional industrial facility authority by adopting ordinances proposing

to create an authority which shall (i) set forth the name of the proposed regional industrial facility authority (which shall include the words "industrial facility authority"); (ii) name the member localities; (iii) contain findings that the economic growth and development of the locality and the comfort, convenience and welfare of its citizens require the development of facilities and that joint action through a regional industrial facility authority by the localities which are to be members of the proposed authority will facilitate the development of the needed facilities; and (iv) authorize the execution of an agreement establishing the respective rights and obligations of the member localities with respect to the authority consistent with the provisions of this chapter. However, with regard to Planning Districts 2, 3, 10, 11 and 12, the governing bodies of any two or more localities within the region, provided that one or more of the localities is a city or county, may adopt such an ordinance. Such ordinances shall be filed with the Secretary of the Commonwealth. Upon certification by the Secretary of the Commonwealth that the ordinances required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the proposed authority shall be and constitute an authority for all of the purposes of this chapter, to be known and designated by the name stated in the ordinances. Upon the issuance of such certificate, the authority shall be deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter. Each authority created pursuant to this chapter is hereby created as a political subdivision of the Commonwealth. At any time subsequent to the creation of an authority under this chapter, the membership of the authority may, with the approval of the authority's board, be expanded to include any locality within the region that would have been eligible to be an initial member of the authority. The governing body of a locality seeking to become a member of an existing authority shall evidence its intent to become a member by adopting an ordinance proposing to join the authority that conforms, to the extent applicable, to the requirements for an ordinance set forth in clauses (i), (iii), and (iv) of this section.

1997, cc. 276, 587, § 15.1-1712; 1999, cc. 820, 882; 2000, c. 892; 2001, c. 391; 2002, c. 691; 2006, c. 324; 2018, c. 545.

**§ 15.2-6403. Board of the authority.**

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority shall be exercised by a board of directors. A board shall consist of two members for each member locality. The governing body of each member locality shall appoint two members to the board. Any person who is a resident of the Commonwealth may be appointed to the board. However, if an authority has only two member localities, the governing body of each locality may appoint three members each. However, in any instance in which the member localities are not equally contributing funding to the authority, and upon agreement by each member locality, the number of appointments to be made by each locality may be based upon the percentage of local funds contributed by each of the member localities. Each member of a board shall serve for a term of four years and may be reappointed for as many terms as the governing body desires. However, the board may elect to provide for staggered terms, in which case some members may draw an initial two-year term. If a vacancy occurs by reason

of the death, disqualification or resignation of a board member, the governing body of the member locality that appointed the authority board member shall appoint a successor to fill the unexpired term.

However, with regard to any authority created by Planning Districts 10, 11, and 12, only members of the appointing governing body of each member locality shall be appointed to the board. In the event such board members feel it is necessary to have an odd number of members, they may establish a rotation system that will allow one locality to appoint one extra member to serve for up to two years. Each locality will, in turn, appoint such extra member. Once the cycle is completed, the rotation shall be repeated.

Each member locality may appoint up to two alternate board members. Alternates shall be selected in the same manner as board members, and may serve as an alternate for either board member from the member locality that appoints the alternate. Alternates shall be appointed for terms that coincide with one or more of the board members from the member locality that appoints the alternate. If a board member is not present at a meeting of the authority, the alternate shall have all the voting and other rights of the board member not present and shall be counted for purposes of determining a quorum. Alternates are required to take an oath of office and are entitled to reimbursement for expenses in the same manner as board members.

B. Each member of a board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties from funds available to the authority.

C. A quorum shall exist when a majority of the member localities are represented by at least one member of the board. The affirmative vote of a quorum of the board shall be necessary for any action taken by the board. No vacancy in the membership of a board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. The board shall determine the times and places of its regular meetings, which may be adjourned or continued, without further public notice, from day to day or from time to time or from place to place, but not beyond the time fixed for the next regular meeting, until the business before the board is completed. Special meetings of a board shall be held when requested by members of the board representing two or more localities. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the board are present. Special meetings may be adjourned or continued, without further public notice, from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the board is completed.

D. Each board shall elect from its membership a chairman for each calendar year. The board may also appoint an executive director and staff who shall discharge such functions as may be directed by the board. The executive director and staff shall be paid from funds received by the authority.

E. Each board, promptly following the close of the fiscal year, shall submit an annual report of the authority's activities of the preceding year to the governing body of each member locality. Each such report shall set forth a complete operating and financial statement covering the operation of the authority during such year.

1997, cc. 276, 587, § 15.1-1713; 1999, cc. 820, 882; 2000, c. 892; 2001, cc. 7, 15, 390, 391; 2002, c. 691; 2006, c. 758; 2014, c. 728.

**§ 15.2-6404. Office of authority; title to property.**

Each board shall maintain the principal office of the authority within a member locality. All records shall be kept at such office. The title to all property of every kind belonging to an authority shall be titled to the authority, which shall hold it for the benefit of its member localities.

1997, cc. 276, 587, § 15.1-1714.

**§ 15.2-6405. Powers of the authority.**

Each authority is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as may be deemed expedient. In addition to the powers set forth elsewhere in this chapter, an authority may:

1. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

2. Employ, either as regular employees or as independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the authority, and fix their compensation;

3. Determine the locations of, develop, establish, construct, erect, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary or convenient to accomplish the purposes of the authority;

4. Acquire, own, hold, lease, use, sell, encumber, transfer, or dispose of, in its own name, any real or personal property or interests therein;

5. Invest and reinvest funds of the authority;

6. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the authority;

7. Expend such funds as may be available to it for the purpose of developing facilities, including but not limited to (i) purchasing real estate; (ii) grading sites; (iii) improving, replacing, and extending water, sewer, natural gas, electrical, and other utility lines; (iv) constructing, rehabilitating, and expanding buildings; (v) constructing parking facilities; (vi) constructing access roads, streets, and rail lines; (vii) purchasing or leasing machinery and tools; and (viii) making any other improvements deemed necessary by the authority to meet its objectives;

8. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

9. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest; mortgage, pledge, or otherwise encumber the property or funds of the authority; and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

10. Issue bonds under this chapter;

11. Accept funds and property from the Commonwealth, persons, counties, cities, and towns and use the same for any of the purposes for which the authority is created;

12. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;

13. Make loans or grants to, and enter into cooperative arrangements with, any person, partnership, association, corporation, business or governmental entity in furtherance of the purposes of this chapter, for the purposes of promoting economic and workforce development, provided that such loans or grants shall be made only from revenues of the authority that have not been pledged or assigned for the payment of any of the authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans, and any security therefor. The word "revenues" as used in this subdivision includes grants, loans, funds and property, as set out in subdivisions 11 and 12;

14. Enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300; and

15. Do all things necessary or convenient to carry out the purposes of this chapter.

1997, cc. 276, 587, § 15.1-1715; 2002, c. 691; 2003, c. 874.

**§ 15.2-6406. Donations to authority; remittance of tax revenue.**

A. Member localities are hereby authorized to lend or donate money or other property to an authority for any of its purposes. The member locality making the grant or loan may restrict the use of such grants or loans to a specific facility owned by the authority, within or without that member locality.

B. The governing body of the member locality in which a facility owned by an authority is located may direct, by resolution or ordinance, that all tax revenue collected with respect to the facility shall be remitted to the authority. Such revenues may be used for the payment of debt service on bonds of the authority and other obligations of the authority incurred with respect to such facility. The action of such governing body shall not constitute a pledge of the credit or taxing power of such locality.

1997, cc. 276, 587, § 15.1-1716; 2004, cc. 42, 603, 640.

**§ 15.2-6407. (Effective until July 1, 2021) Revenue sharing agreements.**

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of this title, the member localities may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by an authority. Such member localities may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement for interstate cooperation for economic and workforce development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the member localities reaching such an agreement but shall not require any other approval.

1997, cc. 276, 587, § 15.1-1717; 2007, cc. 941, 947.

**§ 15.2-6407. (Effective July 1, 2021) Revenue sharing agreements.**

A. Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of this title, the member localities may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by an authority. Such member localities may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement for interstate cooperation for economic and workforce development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the member localities reaching such an agreement but shall not require any other approval.

B. With any such revenue and economic growth-sharing arrangement entered into by localities, the Department of Taxation's calculation of true values as applied to the Commonwealth's composite index of local ability-to-pay shall take into account an agreement whereby a portion of real property tax revenue is initially paid to one locality and redistributed to another locality. Such calculation shall properly apportion the percentage of tax revenue ultimately received by each locality. Each participating locality shall include in reports to the Department of Taxation of its taxable real estate the apportioned fair market value of the property upon which such revenue sharing is based. The Department of Taxation shall collect annually, from each participating locality, the taxable real estate value used to determine and apportion the fair market value of the property adjustments upon which such revenue sharing is based.

1997, cc. 276, 587, § 15.1-1717; 2007, cc. 941, 947; 2019, c. 534.

**§ 15.2-6408. Applicability of land use regulations.**

In any locality where planning, zoning, and development regulations may apply, an authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

1997, cc. 276, 587, § 15.1-1718.

**§ 15.2-6409. Bond issues; contesting validity of bonds.**

A. An authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. In this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the authority, including, but not limited to:

1. Taxes, rents, fees, charges, or other revenues payable to the authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of an authority and may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the authority designated by the authority, which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions which shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. Setting aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limiting the purpose to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limiting the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. Refunding or refinancing outstanding bonds;

6. Providing a procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions which shall constitute a default in the duties of the authority to bondholders and providing the rights of or remedies for such holders in the event of a default which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of the bondholders; and

9. Addressing any other matter relating to the bonds which the authority determines appropriate.

E. No member of an authority, member of a board, or any person executing the bonds on behalf of an authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. An authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by an authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against an authority, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by an authority need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter,

may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. An authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. For a period of thirty days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions that are members of the authority and in which the facility or any portion thereof being financed is located a certified copy of the initial resolution of the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, the rates, rents, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, the facility or any portion thereof being financed, the pledge of revenues pledged to payment of the bonds, any provisions that may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not given within the thirty-day period, the authority to issue bonds, the validity of any other provision contained in the resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

1997, cc. 276, 587, § 15.1-1719; 2002, c. 691.

### § 15.2-6410. Investments in bonds.

Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by an authority.

1997, cc. 276, 587, § 15.1-1720.

### § 15.2-6411. Bonds exempt from taxation.

An authority shall not be required to pay any taxes or assessments of any kind whatsoever, and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of

taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1997, cc. 276, 587, § 15.1-1721.

**§ 15.2-6412. Tax revenues of the Commonwealth or any other political subdivision not pledged.**
Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds issued by an authority.

1997, cc. 276, 587, § 15.1-1722.

**§ 15.2-6413. Forms of accounts and records; audit of same.**
The accounts and records of an authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of an authority shall be subject to audit pursuant to § 30-140, and the costs of such audit services shall be borne by the authority. An authority's fiscal year shall be the same as the Commonwealth's.

1997, cc. 276, 587, § 15.1-1723.

**§ 15.2-6414. Tort liability.**
No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance or nonfeasance by or on the part of an authority, its agents, servants or employees.

1997, cc. 276, 587, § 15.1-1724.

**§ 15.2-6415. Dissolution of authority.**
A member locality of an authority may withdraw from the authority only (i) upon dissolution of the authority as set forth herein, or (ii) with the majority approval of all other members of such authority, upon a resolution adopted by the governing body of a member locality and after satisfaction of such member locality's legal obligations, including repayment of its portion of any debt incurred, with regard to the authority, or after making contractual provisions for the repayment of its portion of any debt incurred, with regard to the authority, as well as pledging to pay general dues for operation of the authority for the current and succeeding fiscal year following the effective date of withdrawal. No member seeking withdrawal shall retain, without the consent of a majority of the remaining members, any rights to contributions made by such member, to any property held by such authority or to any revenue sharing as allowed by §§ 15.2-6406 and 15.2-6407. Upon withdrawal, the withdrawing member shall also return to the authority any dues or other contributions refunded to such member during its membership in the authority. Whenever the board determines that the purpose for which the authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the authority have been paid or that cash or a sufficient amount of United States

government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the board may adopt resolutions declaring and finding that the authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving such authority may be introduced in the General Assembly. The dissolution of an authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by such authority at the time of such dissolution shall vest in the member localities which have contributed to the authority in proportion to their respective contributions.

1997, cc. 276, 587, § 15.1-1725; 2010, c. 531.

### § 15.2-6416. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1997, cc. 276, 587, § 15.1-1726.

## Chapter 65 - TOURIST TRAIN DEVELOPMENT AUTHORITY

### §§ 15.2-6500 through 15.2-6504. Repealed.

Repealed by Acts 2011, cc. 594 and 681, cl. 2.

## Chapter 65.1 - TOURIST TRAIN DEVELOPMENT AUTHORITY

### § 15.2-6550. Tourist Train Development Authority established.

The Tourist Train Development Authority, hereinafter referred to as the "Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

2014, c. 608.

### § 15.2-6551. Board of the Authority; qualifications; terms; quorum; records.

All powers, rights, and duties conferred by this chapter, or by other provisions of law, upon the Authority shall be exercised by the Board of the Tourist Train Development Authority, hereinafter referred to as "the board." Initial appointments to the board shall begin July 1, 2014. The board shall consist of nine members as follows: seven members appointed by the Governor, of whom three shall be representatives from the governing bodies of Tazewell County, the Town of Bluefield, and the Town of Pocahontas and four shall be nonlegislative citizen members who reside in Tazewell County; one member of the House of Delegates representing Tazewell County, who shall be appointed by the Speaker of the House of Delegates if more than one Delegate represents Tazewell County; and one member of the Senate representing Tazewell County, who shall be appointed by the Senate Committee on Rules if more than one Senator represents Tazewell County. All members shall serve for a term of four years and may be reappointed for one additional term, except legislative members, who shall serve terms coincident with their terms of office and may be reappointed. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the

initial appointment. Vacancies shall be filled for the unexpired term. For the initial appointments only, three of the members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

The board shall elect from its membership a chairman and a vice-chairman and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The members of the board shall receive no compensation. All members may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties from such funds as may be available to the Authority.

Four members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions, and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Tazewell County and all adjacent counties and the Auditor of Public Accounts and shall be open to public inspection.

2014, c. 608.

### § 15.2-6552. Executive director; staff.

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2014, c. 608.

### § 15.2-6553. Powers of Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;

5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth;

7. To issue bonds in accordance with applicable law;

8. To receive and expend moneys on behalf of tourist train development; and

9. To cooperate with any private or governmental entity in the state of West Virginia in the development of a tourist train.

2014, c. 608.

### § 15.2-6554. Authority of localities.

Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

2014, c. 608.

## Chapter 66 - MIDDLE PENINSULA CHESAPEAKE BAY PUBLIC ACCESS AUTHORITY ACT

### § 15.2-6600. Title.

This act shall be known and may be cited as the Middle Peninsula Chesapeake Bay Public Access Authority Act.

2002, c. 766.

### § 15.2-6601. Creation; public purpose.

If any of the governing bodies of the Counties of Essex, Gloucester, King William, King and Queen, Mathews, Middlesex, and the Towns of West Point, Tappahannock and Urbanna by resolution declare that there is a need for a public access authority to be created and an operating agreement is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Middle Peninsula Chesapeake Bay Public Access Authority (hereinafter the "Authority"), which shall thereupon exist for such participating counties and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority;

7. Receive and expend public funds and private donations in order to restore or create tidal wetlands within the region for which the Authority exists; provided that any tidal mitigation credits resulting from such restoration or creation projects shall be held by the Authority for the benefit and use of participating political subdivisions and shall not be sold or conveyed to any private party by the Authority or any participating political subdivision;

8. Receive and expend public funds and private donations and apply for permits in order to perform dredging projects on waterways and construct facilities and infrastructure within the region for which the Authority exists. Such projects shall enhance recreational or commercial public access; and

9. Perform other duties required to fulfill the mission of the Middle Peninsula Chesapeake Bay Public Access Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Middle Peninsula Chesapeake Bay Public Access Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties and towns by which it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county or town pursuant to Section 10(a) of Article VII of the Constitution of Virginia.

2002, c. 766; 2009, c. 429; 2018, c. 326.

**§ 15.2-6602. Definitions.**

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Middle Peninsula Chesapeake Bay Public Access Authority Act.

"Authority" means the Middle Peninsula Chesapeake Bay Public Access Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Middle Peninsula Planning District Commission or any other subdivision that may join the Authority pursuant to the act.

"Political subdivision" means a county, municipality or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2002, c. 766.

**§ 15.2-6603. Participating political subdivision.**

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2002, c. 766.

**§ 15.2-6604. Appointment of a board of directors.**

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating jurisdictions in the Authority, each participating jurisdiction shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2002, c. 766.

**§ 15.2-6605. Organization.**

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees.

2002, c. 766.

**§ 15.2-6606. Powers.**

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;

12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof, accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Request and accept legal advice and assistance from the Office of the Attorney General;

21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

22. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such

subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2002, c. 766; 2016, c. 395; 2018, c. 327.

**§ 15.2-6607. Name of authority.**

The name of the Authority shall be the Middle Peninsula Chesapeake Bay Public Access Authority. The name of this authority may be changed upon approval of a simple majority of the directors of the Authority.

2002, c. 766.

**§ 15.2-6608. Rules, regulations, and minimum standards.**

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards, for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least ten days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities,

including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2002, c. 766.

**§ 15.2-6609. Reports.**

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2002, c. 766.

**§ 15.2-6610. Procurement.**

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2002, c. 766.

**§ 15.2-6611. Deposit and investment of funds.**

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2002, c. 766.

**§ 15.2-6612. Authority to issue bonds.**

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or

commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act; provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance, from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2002, c. 766; 2003, c. 353.

**§ 15.2-6613. Fees, rents, and charges.**

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2002, c. 766.

**§ 15.2-6614. Credit of Commonwealth and political subdivisions not pledged.**

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on

the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2002, c. 766.

**§ 15.2-6615. Directors and persons executing bonds not liable thereon.**

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2002, c. 766.

**§ 15.2-6616. Security for payment of bonds; default.**

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2002, c. 766.

**§ 15.2-6617. Taxation.**

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2002, c. 766.

**§ 15.2-6618. Bonds as legal investments.**

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2002, c. 766.

**§ 15.2-6619. Appropriation by political subdivision.**

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by, such participating political subdivision with respect to facilities conveyed by it to the Authority.

2002, c. 766.

**§ 15.2-6620. Contracts with political subdivisions.**

The Authority is authorized to enter into contracts with any one or more political subdivisions.

2002, c. 766.

**§ 15.2-6621. Agreement with Commonwealth and participating political subdivisions.**

The Commonwealth and, by participating in the Authority, each participating political subdivision, pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2002, c. 766.

**§ 15.2-6622. Liberal construction.**

Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2002, c. 766; 2015, c. 709.

**§ 15.2-6623. Application of local ordinances, service charges, and taxes upon leaseholds.**

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2002, c. 766.

**§ 15.2-6624. Existing contracts, leases, franchises, etc., not impaired.**

No provisions of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and con-

ditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2002, c. 766.

### § 15.2-6625. Withdrawal of membership.

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2002, c. 766.

## Chapter 66.1 - Northern Neck Chesapeake Bay Public Access Authority Act

### § 15.2-6626. Title.

This act shall be known and may be cited as the Northern Neck Chesapeake Bay Public Access Authority Act.

2005, c. 842.

### § 15.2-6627. Creation; public purpose.

If any of the governing bodies of the Counties of Lancaster, Northumberland, Richmond, and Westmoreland by resolution declare that there is a need for a public access authority to be created and an operating agreement, which shall be approved by participating localities by ordinance, is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Northern Neck Chesapeake Bay Public Access Authority (hereinafter the "Authority"), which shall thereupon exist for such participating counties and towns and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority; and

7. Perform other duties required to fulfill the mission of the Northern Neck Chesapeake Bay Public Access Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Northern Neck Chesapeake Bay Public Access Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties and towns by which it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county or town pursuant to Section 10 (a) of Article VII of the Constitution of Virginia.

2005, c. 842.

**§ 15.2-6628. Definitions.**

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Northern Neck Chesapeake Bay Public Access Authority Act.

"Authority" means the Northern Neck Chesapeake Bay Public Access Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Northern Neck Planning District Commission or any other subdivision that may join the Authority pursuant to the act.

"Political subdivision" means a county, municipality, or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2005, c. 842.

**§ 15.2-6629. Participating political subdivision.**

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2005, c. 842.

### § 15.2-6630. Appointment of a board of directors.

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating jurisdictions in the Authority, each participating jurisdiction shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2005, c. 842.

### § 15.2-6631. Organization.

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from their membership, and a secretary and a treasurer or a secretary-treasurer from their membership, or not, as they deem appropriate, and such other officers as they may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees.

2005, c. 842.

### § 15.2-6632. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements, and legal instruments, as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;

12. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, and depository and investment services contemplated by § 15.2-6638 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

21. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2005, c. 842; 2018, c. 327.

**§ 15.2-6633. Name of Authority.**

The name of the Authority shall be the Northern Neck Chesapeake Bay Public Access Authority. The name of this authority may be changed upon approval of a simple majority of the directors of the Authority.

2005, c. 842.

### § 15.2-6634. Rules, regulations, and minimum standards.

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards, for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment, or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2005, c. 842.

### § 15.2-6635. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2005, c. 842.

### § 15.2-6636. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2005, c. 842.

**§ 15.2-6637. Deposit and investment of funds.**

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2005, c. 842.

**§ 15.2-6638. Authority to issue bonds.**

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth, or any political subdivision, agency, or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in

like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act; provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance, from time to time, of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2005, c. 842.

**§ 15.2-6639. Fees, rents, and charges.**

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the

extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2005, c. 842.

**§ 15.2-6640. Credit of Commonwealth and political subdivisions not pledged.**

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2005, c. 842.

**§ 15.2-6641. Directors and persons executing bonds not liable thereon.**

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2005, c. 842.

**§ 15.2-6642. Security for payment of bonds; default.**

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged

may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2005, c. 842.

### § 15.2-6643. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer, and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation, or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2005, c. 842.

### § 15.2-6644. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance

companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2005, c. 842.

**§ 15.2-6645. Appropriation by political subdivision.**

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act of 1991 (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by, such participating political subdivision with respect to facilities conveyed by it to the Authority.

2005, c. 842.

**§ 15.2-6646. Contracts with political subdivisions.**

The Authority is authorized to enter into contracts with any one or more political subdivisions.

2005, c. 842.

**§ 15.2-6647. Agreement with Commonwealth and participating political subdivisions.**

The Commonwealth and, by participating in the Authority, each participating political subdivision, pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2005, c. 842.

**§ 15.2-6648. Liberal construction.**

Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete,

additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2005, c. 842; 2015, c. 709.

**§ 15.2-6649. Application of local ordinances, service charges, and taxes upon leaseholds.**
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2005, c. 842.

**§ 15.2-6650. Existing contracts, leases, franchises, etc., not impaired.**
No provisions of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2005, c. 842.

**§ 15.2-6651. Withdrawal of membership.**
Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2005, c. 842.

## Chapter 67 - BUCHANAN COUNTY TOURIST TRAIN DEVELOPMENT AUTHORITY

**§ 15.2-6700. Buchanan County Tourist Train Development Authority established.**
The Buchanan County Tourist Train Development Authority, hereinafter referred to as the "Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

2003, c. 577.

**§ 15.2-6701. Board of the Authority; qualifications; terms; quorum; records.**

All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Buchanan County Tourist Train Development Authority, hereinafter referred to as "the board." Initial appointments to the board shall begin July 1, 2003. The board shall consist of 22 members appointed by the governing body of Buchanan County as follows: two representatives from the governing body of Buchanan County, 19 citizen members, at least three of whom shall be residents of Buchanan County, and one member of the General Assembly representing Buchanan County, who shall serve as an ex officio, voting member. All board members shall serve for a term of four years and may be reappointed for additional terms. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term.

The board shall elect from its membership a chairman, a vice-chairman, and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The members of the board shall receive no salary, unless specifically authorized by the governing body of Buchanan County. Four members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Buchanan County and all adjacent counties and the Auditor of Public Accounts and shall be open to public inspection.

2003, c. 577; 2004, cc. 35, 158.

### § 15.2-6702. Executive director; staff.

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2003, c. 577.

### § 15.2-6703. Powers of Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;

5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth or any private person, foundation or financial institution;

7. To issue bonds in accordance with applicable law;

8. To receive and expend moneys on behalf of tourist train development; and

9. To cooperate with any private or governmental entities in the states of West Virginia, Kentucky, Tennessee, or North Carolina in the development of a tourist train and theme park.

2003, c. 577; 2004, cc. 35, 158.

### § 15.2-6704. Authority of localities.

Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

2003, c. 577.

## Chapter 68 - WILLIAMSBURG AREA TRANSIT AUTHORITY [Repealed]

### §§15.2-6800 through 15.2-6809. Repealed.

Repealed by Acts 2015, c. 256, cl. 9.

## Chapter 70 - RICHMOND METROPOLITAN TRANSPORTATION AUTHORITY [Repealed]

### §§ 15.2-7000 through 15.2-7021. Repealed.

Repealed by Acts 2014, c. 805, cl. 11, effective October 1, 2014.

## Chapter 71 - CHARLOTTESVILLE-ALBEMARLE REGIONAL TRANSIT AUTHORITY [Repealed]

### §§ 15.2-7022 through 15.2-7035. Repealed.

Repealed by Acts 2014, c. 805, cl. 11, effective October 1, 2014.

## Chapter 72 - BVU AUTHORITY ACT

### § 15.2-7200. Short title.

This chapter shall be known and may be cited as the BVU Authority Act.

2010, cc. 117, 210.

### § 15.2-7201. Creation; public purpose.

There is hereby created a political subdivision of the Commonwealth known as the BVU Authority.

The BVU Authority is created for the express purpose of receiving, by operation of this chapter, the powers, assets, and debts of that separately managed and financed division of the City of Bristol, Virginia, heretofore known as Bristol Virginia Utilities and to provide the services Bristol Virginia Utilities has provided or may lawfully provide. The General Assembly therefore deems this to be an entity conversion and for all purposes the BVU Authority is the same entity as Bristol Virginia Utilities, which is hereby converted to the BVU Authority. The BVU Authority shall exercise the rights and duties as hereinafter set out to provide the various utility services it currently lawfully provides all subject to the limitations as are herein set forth or referenced.

2010, cc. 117, 210.

### § 15.2-7202. Definitions.

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

"Authority" means the BVU Authority created by entity conversion of Bristol Virginia Utilities by this chapter.

"Board," "Authority Board," or "Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, bond acceptance notes, or other evidence of financial indebtedness either issued or assumed by the Authority pursuant to this chapter.

"Bristol Virginia Utilities Board" means the Board of Directors of Bristol Virginia Utilities governing that entity until the Authority Board takes office on July 1, 2010.

"City" means the City of Bristol, Virginia.

"City Council" means the City Council of the City of Bristol, Virginia.

"Commission" means the Virginia State Corporation Commission.

"Commonwealth" means the Commonwealth of Virginia.

"Infrastructure" means all property, whether attached to real property or not, now used by Bristol Virginia Utilities and hereafter used by the Authority for the provision of (i) electric, water, sewer, telecommunications, internet, and cable television services and (ii) all other utility services the Authority may lawfully provide.

"MLEC" means any city, county, or town certificated to provide local exchange and/or interexchange telecommunications services pursuant to § 56-265.4:4 and any authority granted such powers pursuant to § 15.2-7209.

"Political subdivision" means, when referring to an entity other than the Authority, a locality, authority, or other public body of the Commonwealth or of any state in which the Authority does business.

"Utility," "utilities," or "utility services" means and includes electric, water, sewer, and telecommunications, internet and cable television services, including all other services that might be lawfully rendered by use of its fiber optic system.

2010, cc. 117, 210; 2016, cc. 724, 725.

**§ 15.2-7203. BVU Authority; operating name or names.**

The name of the Authority shall be BVU Authority.

The BVU Authority is hereby authorized to operate under the names BVU, BVU OptiNet, CPC OptiNet, and BVU Focus. The name of the Authority and any division or operating name may be changed upon approval of a simple majority of the Board. The Board may adopt additional operating names in the future. The Authority shall comply with requisite fictitious name recording requirements for any areas in which it is doing business.

2010, cc. 117, 210; 2016, cc. 724, 725.

**§ 15.2-7204. Divisions.**

The Board may create such divisions of the Authority as it deems expedient to perform such services as are authorized by statute.

2010, cc. 117, 210.

**. (Contingent expiration date -- see note) Board of Directors; membership.**

A. The powers of the Authority shall be vested in the Authority Board of Directors consisting of seven directors. The number of directors shall not be altered by the Authority Board.

B. The Authority Board will initially take office on July 1, 2010. However, beginning on July 1, 2016, the Authority Board shall be constituted as follows:

1. One director who is a citizen of the City of Bristol, Virginia, and is not a member of the Bristol City Council, appointed by the Speaker of the House of Delegates.

2. One director who is a member of the Bristol City Council, appointed by the Bristol City Council to serve a four-year term coterminous with his term on the Council.

3. One director who is a citizen of Washington County and is not a member of the Washington County Board of Supervisors, appointed by the Senate Committee on Rules.

4. One director who is a citizen of the City of Bristol, Virginia, who is engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board. However, the first such director shall be appointed by the Bristol City Council for a term that ends the sooner of July 1, 2017, or the date upon which the Authority Board appoints a director to this position to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this position thereafter.

5. One director who is a member of the Washington County, Virginia, Board of Supervisors, appointed by the Washington County Board of Supervisors to serve a four-year term coterminous with his term on the Board of Supervisors.

6. One director who is a member of the Abingdon Town Council, appointed by the Abingdon Town Council to serve a four-year term coterminous with his term on the Town Council.

7. One director who is a Scott County citizen and is not a member of the Scott County Board of Supervisors, appointed by the Speaker of the House of Delegates.

C. The four-year term of all directors shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. Each director who is a member of the Abingdon Town Council, Bristol City Council, or Washington County Board of Supervisors may serve as many terms as the appointing governing body decides as long as the appointee remains a member of the relevant governing body. The governing body may appoint a different member of the Council or Board of Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the member from the governing body. In the latter case, the new appointee shall serve for the remainder of the term vacated by an exiting member of the governing body.

E. If funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. Such expense allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated among each of the systems it manages using the "Three-Factor" allocation method approved by the Commission. The three factors consist of the percentages that each division comprises of total plant in service, total operating revenues, and total customer accounts. Once each operating division's percentage of each of the three factors is calculated, the sum of the three factors divided by three results in the operating division's share of the total direct or indirect costs.

2010, cc. 117, 210; 2016, cc. 724, 725.

**§ 15.2-7205. (Contingent effective date -- see notes) Board of Directors; membership.**

A. The powers of the Authority shall be vested in the Authority Board of Directors consisting of five directors. The number of directors shall not be altered by the Authority Board.

B. The Authority Board shall be constituted as follows:

1. One director who is a citizen of the City of Bristol, Virginia, and is not a member of the Bristol City Council, appointed by the Speaker of the House of Delegates.

2. One director who is a member of the Bristol City Council, appointed by the Bristol City Council to serve a four-year term coterminous with his term on the Council.

3. One director who is a citizen of Washington County and is not a member of the Washington County Board of Supervisors, appointed by the Senate Committee on Rules.

4. One director who is a citizen of the City of Bristol, Virginia, who is engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board. However, the first such director shall be appointed by the Bristol City Council for a term that ends the sooner of July 1, 2017, or the

date upon which the Authority Board appoints a director to this position to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this position thereafter.

5. One director who is a member of the Washington County, Virginia, Board of Supervisors, appointed by the Washington County Board of Supervisors to serve a four-year term coterminous with his term on the Board of Supervisors.

C. The four-year term of all directors shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. Each director who is a member of the Bristol City Council or Washington County Board of Supervisors may serve as many terms as the appointing governing body decides as long as the appointee remains a member of the relevant governing body. The governing body may appoint a different member of the Council or Board of Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the member from the governing body. In the latter case, the new appointee shall serve for the remainder of the term vacated by an exiting member of the governing body.

E. If funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. Such expense allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated among each of the systems it manages using the "Three-Factor" allocation method approved by the Commission. The three factors consist of the percentages that each division comprises of total plant in service, total operating revenues, and total customer accounts. Once each operating division's percentage of each of the three factors is calculated, the sum of the three factors divided by three results in the operating division's share of the total direct or indirect costs.

2010, cc. 117, 210; 2016, cc. 724, 725.

**. (Contingent expiration date -- see note) Organization; compensation.**

A. The following provisions apply to the Board of Directors:

1. Five of the directors shall constitute a quorum. No vacancy in the Board of Directors shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

2. The Board shall hold regular meetings at such times and places as may be established by its bylaws. The Board shall hold its meetings as provided in § 2.2-3707.

3. The Board shall hold its first organizational meeting on July 1, 2010.

4. The Board shall adopt bylaws governing the conduct of business by the Board and the Authority. Proposed bylaws shall be made available before being duly adopted at each annual meeting. The Board is authorized to adopt bylaws governing the amendment of bylaws at any time.

5. The Board shall annually elect a chairman and a vice-chairman from its membership and a secretary of the Board from either its membership or the staff of the Authority at its annual meeting. The terms of such officers shall be for one year.

6. The Board shall deal with Authority employees solely through the president. The Board shall not give orders to any of the subordinates of the president, either publicly or privately.

7. The Board shall not direct the appointment or removal of any Authority contractor or employee other than the president.

8. The Board may appoint committees from among its membership in accordance with its bylaws.

9. No Board member shall receive any financial compensation for service on the Board. The Board may reimburse members for reasonable expenses they incur while serving on the Board. Any member seeking reimbursement shall itemize and document by receipts such expenses pursuant to subsection E of § 15.2-7205.

10. The Board shall adopt a travel and expense policy that applies to Board members and Authority employees and addresses what expenditures are appropriate in furtherance of the activities of the Authority.

11. The Board shall adopt a conflict of interest policy addressing the acceptance by Board members or Authority employees of gifts of travel or entertainment from any vendor that seeks or maintains a contract with the Authority.

12. Each member of the Board shall file with the president a disclosure form containing a statement of economic interests as provided in § 2.2-3117 according to the schedule required by § 2.2-3115.

B. The following provisions apply to the president:

1. The Board shall continue to appoint and contract with a president to manage the operations of the Authority, and the contract with the president that is in effect as of January 1, 2016, shall continue in effect and be binding upon the Authority.

2. The term of the president's employment contract shall not exceed three years. The board may vote to renew the contract of the president for additional terms not to exceed three years each.

3. The president's employment contract shall not contain a severance payout upon termination amounting to more than 12 months of his base salary.

4. The president shall have the sole authority to hire, fire, and manage such staff and contractors as the president deems expedient to the operation of the Authority, subject to the availability of budgeted funds, and to assign such positions, titles, powers, and duties at such salaries as the president deems most effective for the efficient operation of the Authority.

5. The president shall not have the power to enter into an employment contract with any employee of the Authority unless the Board ratifies such contract by a majority vote in an open meeting. Such contract shall be subject to the term and severance payout restrictions applicable to the president's contract as provided in subdivisions 2 and 3.

6. The Board may appoint an employee as acting president during any period of vacancy. The Board shall advertise the vacancy of the presidency and accept applications from candidates interested in filling the vacancy.

C. The Board shall vote annually to retain outside legal counsel to advise the Authority on legal matters. The legal counsel shall be licensed to practice law in the Commonwealth, shall not be an employee of the Authority, and shall be separate from and independent of any legal counsel for the City of Bristol, Scott County, or Washington County. The legal counsel shall provide annual training to the Board on the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

D. The Board may authorize the position of executive vice-president, to be filled and managed by the president.

E. Notwithstanding the quorum requirement in subsection A, any decision of the Board related to the provision, use, operation, or maintenance of water or sewer systems shall be made by a majority vote of the three members of the Board representing the City of Bristol, Virginia, and the director who is a member of the Washington County Board of Supervisors.

2010, cc. 117, 210; 2016, cc. 724, 725.

**. (Contingent effective date -- see note) Organization; compensation.**

A. The following provisions apply to the Board of Directors:

1. Three of the directors shall constitute a quorum. No vacancy in the Board of Directors shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

2. The Board shall hold regular meetings at such times and places as may be established by its bylaws. The Board shall hold its meetings as provided in § 2.2-3707.

3. The Board shall hold its first organizational meeting on July 1, 2010.

4. The Board shall adopt bylaws governing the conduct of business by the Board and the Authority. Proposed bylaws shall be made available before being duly adopted at each annual meeting. The Board is authorized to adopt bylaws governing the amendment of bylaws at any time.

5. The Board shall annually elect a chairman and a vice-chairman from its membership and a secretary of the Board from either its membership or the staff of the Authority at its annual meeting. The terms of such officers shall be for one year.

6. The Board shall deal with Authority employees solely through the president. The Board shall not give orders to any of the subordinates of the president, either publicly or privately.

7. The Board shall not direct the appointment or removal of any Authority contractor or employee other than the president.

8. The Board may appoint committees from among its membership in accordance with its bylaws.

9. No Board member shall receive any financial compensation for service on the Board. The Board may reimburse members for reasonable expenses they incur while serving on the Board. Any member seeking reimbursement shall itemize and document by receipts such expenses pursuant to subsection E of § 15.2-7205.

10. The Board shall adopt a travel and expense policy that applies to Board members and Authority employees and addresses what expenditures are appropriate in furtherance of the activities of the Authority.

11. The Board shall adopt a conflict of interest policy addressing the acceptance by Board members or Authority employees of gifts of travel or entertainment from any vendor that seeks or maintains a contract with the Authority.

12. Each member of the Board shall file with the president a disclosure form containing a statement of economic interests as provided in § 2.2-3117 according to the schedule required by § 2.2-3115.

B. The following provisions apply to the president:

1. The Board shall continue to appoint and contract with a president to manage the operations of the Authority, and the contract with the president that is in effect as of January 1, 2016, shall continue in effect and be binding upon the Authority.

2. The term of the president's employment contract shall not exceed three years. The board may vote to renew the contract of the president for additional terms not to exceed three years each.

3. The president's employment contract shall not contain a severance payout upon termination amounting to more than 12 months of his base salary.

4. The president shall have the sole authority to hire, fire, and manage such staff and contractors as the president deems expedient to the operation of the Authority, subject to the availability of budgeted funds, and to assign such positions, titles, powers, and duties at such salaries as the president deems most effective for the efficient operation of the Authority.

5. The president shall not have the power to enter into an employment contract with any employee of the Authority unless the Board ratifies such contract by a majority vote in an open meeting. Such contract shall be subject to the term and severance payout restrictions applicable to the president's contract as provided in subdivisions 2 and 3.

6. The Board may appoint an employee as acting president during any period of vacancy. The Board shall advertise the vacancy of the presidency and accept applications from candidates interested in filling the vacancy.

C. The Board shall vote annually to retain outside legal counsel to advise the Authority on legal matters. The legal counsel shall be licensed to practice law in the Commonwealth, shall not be an employee of the Authority, and shall be separate from and independent of any legal counsel for the

City of Bristol, Virginia, or Washington County. The legal counsel shall provide annual training to the Board on the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

D. The Board may authorize the position of executive vice-president, to be filled and managed by the president.

E. Notwithstanding the quorum requirement in subsection A, any decision of the Board related to the provision, use, operation, or maintenance of water or sewer systems shall be made by a majority vote of the three members of the Board representing the City of Bristol, Virginia, and the director who is a member of the Washington County Board of Supervisors.

2010, cc. 117, 210; 2016, cc. 724, 725.

**§ 15.2-7207. Powers generally.**

A. The Authority is hereby granted all powers reasonably necessary or appropriate to carry out the purposes of this chapter in order to provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system, subject to all applicable limitations and restrictions thereon. Such powers include, without limitation, except as set forth hereafter, the following:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;

2. To sue and be sued in the Authority's name;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate;

5. To appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

6. To establish personnel rules;

7. To make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

8. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

9. To provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television, internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system as set forth in § 15.2-7208 subject to all applicable restrictions and limitations thereon;

10. To determine fees, rates, and charges for the services and products it provides, subject only to such state or federal regulation as the Tennessee Valley Authority (TVA) or other cognizant state or federal agency may impose by order, rulemaking, contract or otherwise, including, without limitation, electric, water and sewer, and internet and cable television services, including all other services that might be rendered by use of its fiber optic system, furnished by the Authority. MLEC telephone service, including rates, is regulated by the Commission. All rate increases for services other than electric, which are set by the TVA, and telephone, which are set by the Commission and applicable law, shall require a favorable vote at two meetings, one of which must be a regular meeting of the BVU Authority Board;

11. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and utility services and governing the conduct of persons and organizations using its facilities or obtaining its utility services and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities and services, as authorized by the enacting body of such rules, regulations, ordinances, and statutes. The civil penalty for violation of any such rules and regulations shall be set forth in the rules and may be enforced by the Authority by direct action in terminating services and by the imposition of monetary penalties to be billed to the customer. The Authority may request the governing body of each locality in which it does business to impose by ordinance such penal liability for violation of such rules and regulations as such body deems appropriate;

12. Subject to subdivision 20, to apply for and accept gifts or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of its infrastructure or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, or for the operation of any of its services, or for any other purpose of the Authority, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

13. Subject to subdivision 15 and all existing limitations and restrictions thereon, to acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate electric, water, sewer, telecommunications, internet and cable television services, including all other services that might be rendered by use of its fiber optic system, and other infrastructure and facilities that are owned or managed by the Authority within the territorial areas in which it operates or provides services;

14. To construct, install, maintain, and operate facilities and infrastructure for managing its utility, consulting and operational management services. The Authority shall have the power and duty to manage and operate the electric, public lighting, water, sewerage, telecommunications, internet and cable television services, including all other services that might be rendered by use of its fiber optic system

directly subject to all existing limitations and restrictions thereon, or it may subcontract such functions. The Authority shall construct, maintain, and operate all facilities necessary thereto; shall sell and distribute to the public electric power, light, water, sewer, telecommunications, internet and cable television, and other services as they now exist or may exist in the future subject to all existing limitations and restrictions thereon; and shall collect the rates and charges provided for all such services;

15. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property and dispose of any or all such properties as is deemed appropriate by the Board, including, notwithstanding the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), executing, assigning, or transferring, without implementing the provisions of the Virginia Public Procurement Act, any internal contract between the divisions of the Authority that following such execution, assignment, or transfer will be between the Authority and the purchaser of the Authority's assets. The Authority shall have the power of eminent domain to acquire property and easements as needed for its electric power, light, water, and sewer services within the areas it provides or can provide such services. The power of eminent domain shall not include the power to acquire existing telecommunications, internet or cable facilities, which is expressly prohibited, and the Authority shall not accept or receive any telecommunications, internet or cable facilities from an entity that acquired such facilities by use of eminent domain for the purpose of conveying them to the Authority;

16. To purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority and on behalf of the Authority itself against any liability asserted against it or him or incurred by it or him in any such capacity or arising out of his status as such;

17. To establish and charge such fees as it deems appropriate for attachment to or inclusion in the Authority's infrastructure, including but not limited to its poles, conduits, and co-location sites, subject to all existing limitations and restrictions thereon;

18. To fund economic development projects and, in advance of economic development projects, to enter into contracts, to borrow money and to do all other such acts as will allow it to encourage and support economic development.

Before the Authority expends any funds for an economic development project that is funded in whole or in part by funds allocated by the Board pursuant to a power purchase agreement with the Tennessee Valley Authority, a determination shall be made that the electric system benefit is expected to be commensurate with the expenditure.

Within 30 days of the end of the Authority's fiscal year, the Authority shall publish on its website the details of any incentive awarded to an economic development project;

19. To have police powers on all of the properties of the Authority within the Commonwealth, exercised through appointment of an armed conservator of the peace. The president of the Authority may

apply to the circuit court for any locality in which the Authority has property for the appointment of one or more special conservators of the peace under procedures specified by Chapter 2 (§ 19.2-12 et seq.) of Title 19.2 or any successor provisions. Any such special conservator of the peace shall have, within the lands and facilities controlled by the Authority, the powers, functions, duties, responsibilities, and authority of any other armed conservator of the peace. Nothing in this section shall be construed to prevent the conservator of the peace currently serving Bristol Virginia Utilities from continuing as an armed special conservator of the peace for the Authority during the remainder of his term, if not removed for cause; and

20. To build or facilitate the building of, as the first broadband priority of the Authority, wired broadband infrastructure to serve residents in the Authority's lawful service area who are not served by any wired broadband service provider. The president of the Authority shall annually provide the Board with a report detailing (i) the number of requests for broadband services received from residents in unserved areas, (ii) the number of such requests for which the Authority has provided a connection to broadband services, and (iii) the costs of providing such broadband service.

B. The Authority is authorized to (i) operate only in Virginia and Tennessee; (ii) offer broadband services only in Sullivan, Unicoi, and Washington Counties, Tennessee; the City of Bristol, Virginia; and Bland, Buchanan, Dickenson, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties in Virginia, together with any towns located in such counties; and (iii) offer cable television services or other video services only within the electric utility service territory of Bristol Virginia Utilities as it existed on December 31, 2009, in the City of Bristol, Virginia, Scott County, and Washington County, including within the Town of Abingdon. Notwithstanding the geographic limitations of this subsection, the Authority shall have the right to sell any of its non-electric utility services at wholesale to an independent third party in which the Authority has no ownership or management interest and no economic interest apart from the sale of utility services, to allow such independent third party to distribute and sell the utility services at retail in areas outside of the Authority's geographic limitations.

C. Whenever any grant, loan, or application for such grant or loan includes or refers to funding for broadband deployment, the Authority shall ensure that (i) funds are allocated to the maximum extent possible to projects that expand broadband deployment to areas, residents, or businesses that are unserved by wired broadband; (ii) in any funding of grants for broadband deployment that include areas already served by wired broadband, such areas already served are incidental to and are crossed only for the purpose of reaching an unserved area; and (iii) any broadband network built will be operated on an open-access basis, available to multiple broadband providers, with dark fibers and capacity sufficient for competitive broadband providers to lease the same from the Authority at commercially reasonable rates.

D. The Authority shall not seek to become or establish a wireless service authority under the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) or contract for services with such an authority.

E. The Authority shall not solicit or contract with any locality or other entity possessing the power of eminent domain in order to cause such a third party to exercise its power of eminent domain to acquire any easements or other property where the Authority itself lacks such power.

F. The Authority shall not have the power to make charitable donations.

2010, cc. 117, 210; 2016, cc. 724, 725; 2018, c. 839.

### § 15.2-7208. Powers.

Unless limited elsewhere in this chapter, the Authority shall have those powers possessed by the City of Bristol necessary and convenient for the provision of electric, water and sanitary sewer services, and those powers possessed by the Bristol Virginia Utilities Board and the division of the city known as Bristol Virginia Utilities as they existed on July 1, 2001, in the Charter of the City of Bristol, Virginia, and the general laws of the Commonwealth. Unless limited elsewhere in this chapter, the Authority shall also possess all those powers, subject to the limitations and restrictions thereon, as granted to the City, the Bristol Virginia Utilities Board, and BVU by Chapter 479 of the Acts of Assembly of 2002, Chapters 539, 546, and 677 of the Acts of Assembly 2003, Chapter 586 of the Acts of Assembly of 2004, Chapter 258 of the Acts of Assembly of 2005, Chapters 607 and 682 of the Acts of Assembly of 2007, and Chapters 99 and 323 of the Acts of Assembly of 2008.

2010, cc. 117, 210; 2016, cc. 724, 725.

### § 15.2-7209. Authority deemed to be an MLEC.

A. The establishment of the BVU Authority is deemed to be an entity conversion and all assets of, tariffs on file with the Commission, and all certificates authorizing the furnishing of Local Exchange Telephone Service and the furnishing of interexchange telecommunications services, granted to and held by Bristol Virginia Utilities and the City of Bristol, Bristol Virginia Utilities Division are hereby deemed to be transferred to BVU Authority without further application by BVU Authority to the Commission. The Commission shall issue appropriate documentation to effectuate this transfer without further action on behalf of BVU Authority. It is further deemed that the Authority has met all conditions precedent to qualify for such certificates and the powers granted therein and the limitations, restrictions, and requirements set forth thereto continuing in full force and effect.

B. BVU Authority will be deemed to be an MLEC.

C. Upon enactment of this chapter, the Authority shall file a name change with the Commission.

D. No bond shall be required of BVU Authority by the Commission.

2010, cc. 117, 210.

### § 15.2-7210. Transfer of properties and debt.

All of the properties, infrastructure, and other assets used by Bristol Virginia Utilities for any of its utility services or otherwise, whether held in its name or in the name of the City of Bristol, Virginia, are hereby transferred to the Authority and declared to be held by the Authority as its property. The portion of the City's debt that was incurred for the benefit of Bristol Virginia Utilities is hereby declared to be

the debt of the Authority. That debt will be the sole responsibility of the Authority. The Authority will either assume that debt or issue new bonded indebtedness to pay it off as soon as practical and in accordance with all bond covenants in the BVU bonds on the City's financial statements.

2010, cc. 117, 210.

### § 15.2-7211. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Such audited financial reports will be provided to the Commonwealth Auditor of Public Accounts and to each participating political subdivision each year and shall be open to public inspection.

2010, cc. 11, 210.

### § 15.2-7212. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or goods, materials, and equipment shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Nothing herein will be construed to prevent the Authority from adopting a small purchases policy in keeping with such Act. If the Authority is procuring pursuant to a federal grant or program that requires compliance with federal procurement law, then the Authority may procure in compliance with federal law. If the Authority in the exercise of its powers is procuring in another state for use in that state, the Authority may procure in compliance with that state's procurement law.

2010, cc. 117, 210.

### § 15.2-7213. Deposit and investment of funds.

All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds or any contract between the Authority and TVA, be invested in securities that are considered lawful investments for fiduciaries.

2010, cc. 117, 210.

### § 15.2-7214. Authority to issue bonds.

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority infrastructure and facilities; including the payment or retirement of bonds previously issued by it and including the costs of the issuance of such bonds. The Authority may issue such types of bonds as it may determine, including, without limitation, bonds payable, both as to principal and interest: (i) from its revenues and receipts

generally and (ii) exclusively from the revenues and receipts of certain designated operations or facilities whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured (a) by a pledge of any grant or contribution from the Commonwealth, or any political subdivision, agency, or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, or other entity, or (b) by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceedings authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of the Authority. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered, book entry, or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times, and at such place or places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the Board of Directors in authorizing each particular bond issue including any designation of an agent or officer of the Authority to establish such provisions under guidelines established by the Authority.

If deemed advisable by the Board of Directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Board of Directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its Board of Directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Board of Directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, including insurance costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby.

All bonds shall be signed on behalf of the Authority by the chairman or vice-chairman of the Authority, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Authority, or a facsimile thereof shall be impressed or imprinted thereon and shall be attested to by the manual or facsimile signature of the secretary (or the secretary-treasurer) or assistant secretary (or assistant secretary-treasurer) of the Authority. Any coupons attached thereto shall bear the signature or facsimile signature of such chairman. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities or infrastructure for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities or infrastructure for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this chapter.

All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

The interest income from and any profit made on the sale of the obligations issued under the provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof.

2010, cc. 117, 210.

### § 15.2-7215. Credit of Commonwealth and political subdivisions not pledged.

Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth of Virginia, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall state on their face that neither the Commonwealth of Virginia nor any political subdivisions thereof, nor the Authority, are obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds, the redemption premium, if any, thereon, or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the meaning of any debt limitation or restriction.

2010, cc. 117, 210.

### § 15.2-7216. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof.

2010, cc. 117, 210.

### § 15.2-7217. Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the Board of Directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and

every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of such remedies.

2010, cc. 117, 210.

### § 15.2-7218. Bonds as legal investments.

All bonds issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, under their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2010, cc. 117, 210.

### § 15.2-7219. Contracts concerning interest rates and investments.

The Authority may enter into any contract that the Board of Directors determines to be necessary or appropriate to place the obligation or investment of the Authority, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow, or other basis desired by the Authority, which contract may include, without limitation, interest rate swap agreements, future contracts and contracts providing for payments based upon levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Authority in connection with, or incidental to, entering into or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts may contain such payment, security, default, remedy, and other terms as determined by the Authority. Any money set aside and pledged to secure payments of bonds or any contracts entered into pursuant to this section may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section.

2010, cc. 117, 210.

### § 15.2-7220. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the public, for the increase of their commerce and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any service that the Authority is authorized to provide will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons,

firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including but not limited to any leasehold tax on real property and taxes on the sale of utility services and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services. The Authority shall continue to pay or impute any taxes presently paid or imputed by Bristol Virginia Utilities and to collect and remit all taxes presently collected and remitted by Bristol Virginia Utilities.

2010, cc. 117, 210.

**§ 15.2-7221. Sovereign immunity.**

No provisions of this chapter nor act of an authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the Authority or its directors, officers, employees, or agents are otherwise entitled.

2010, cc. 117, 210.

**§ 15.2-7222. Appropriation by political subdivision.**

Any political subdivision of the Commonwealth is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act of 1991 (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

2010, cc. 117, 210.

**§ 15.2-7223. Contracts with political subdivisions.**

The Authority is authorized to enter into contracts with the Commonwealth, with the states it operates within, with any one or more political subdivisions within and without the Commonwealth, and with any other person or entity for any legal purpose.

2010, cc. 117, 210.

**§ 15.2-7224. Application of local ordinances, service charges, and taxes upon leaseholds.**

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located, except as otherwise specifically excluded herein. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2010, cc. 117, 210.

### § 15.2-7225. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence, including all contracts entered into by Bristol Virginia Utilities except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to such renegotiation, renewal, extension, or modification. The Authority shall be obligated for the performance of any contract of Bristol Virginia Utilities now in existence in accordance with its terms, and such contracts shall remain in full force and effect.

2010, cc. 117, 210.

### § 15.2-7226. Liberal construction.

Neither this chapter nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this chapter is cumulative to any such powers, provided, however, that nothing in the foregoing provision shall be deemed to have expanded the powers of the Authority to provide and operate telecommunication and related services, including without limitation, cable television, internet, and all other services that might be rendered by use of the Authority's fiber optic system, beyond existing restrictions and limitations thereon. This chapter does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2010, cc. 117, 210; 2015, c. 709.

## Chapter 73 - FORT MONROE AUTHORITY ACT

### §§ 15.2-7300 through 15.2-7315. Repealed.

Repealed by Acts 2011, c. 716, cl. 2.

## Chapter 74 - EASTERN SHORE WATER ACCESS AUTHORITY

### § 15.2-7400. Title.

This act shall be known and may be cited as the Eastern Shore Water Access Authority Act.

2014, c. 471.

### § 15.2-7401. Creation; public purpose.

If any of the governing bodies of the Counties of Accomack and Northampton by resolution declare that there is a need for a public access authority to be created and an operating agreement is developed for the purpose of establishing or operating a public access authority for any such

participating political subdivisions and that they should unite in the formation of an authority to be known as the Eastern Shore Water Access Authority (the Authority), which shall thereupon exist for such participating counties and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings, that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority;

7. Receive and expend public funds and private donations in order to restore or create tidal wetlands within the region for which the Authority exists, provided that any tidal mitigation credits resulting from such restoration or creation projects shall be held by the Authority for the benefit and use of participating political subdivisions and shall not be sold or conveyed to any private party by the Authority or any participating political subdivision;

8. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

9. In conjunction with one or both of the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the MPCBPAA, or the NNCBPAA exists; and

10. Perform other duties required to fulfill the mission of the Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that

there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties by which it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (a) of the Constitution of Virginia.

2014, c. 471; 2018, c. 327.

**§ 15.2-7402. Definitions.**

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Eastern Shore Water Access Authority Act.

"Authority" means the Eastern Shore Water Access Authority created by this act.

"Board of directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by the Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Accomack-Northampton Planning District Commission or any other subdivision that may join the Authority pursuant to this act.

"Political subdivision" means a locality or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2014, c. 471.

**§ 15.2-7403. Participating political subdivision.**

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2014, c. 471.

**§ 15.2-7404. Appointment of a board of directors.**

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating political subdivisions in the Authority, each participating political subdivision shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2014, c. 471.

### § 15.2-7405. Organization.

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from its membership, a secretary and a treasurer or a secretary-treasurer from its membership or not as the board of directors deems appropriate, an assistant secretary or assistant secretary-treasurer from its membership or not as the board of directors deems appropriate, and such other officers as the board of directors may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees.

2014, c. 471.

### § 15.2-7406. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the Authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, grants of money, or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and fix their duties and compensation;

11. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-7412, accounting services, including the annual independent audit required by § 15.2-7409, and procurement of goods and services and act as fiscal agent for the Authority;

12. Establish personnel rules;

13. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

14. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

15. Borrow money, as hereinafter provided, and borrow money for the purpose of meeting casual deficits in its revenues;

16. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

17. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

18. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

19. Whenever it shall appear to the Authority that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2014, c. 471.

**§ 15.2-7407. Name of authority.**

The name of the Authority shall be the Eastern Shore Water Access Authority. The name of the Authority may be changed upon approval of a simple majority of the directors of the Authority.

2014, c. 471.

**§ 15.2-7408. Rules, regulations, and minimum standards.**

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment, or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will

at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2014, c. 471.

**§ 15.2-7409. Reports.**

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2014, c. 471.

**§ 15.2-7410. Procurement.**

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2014, c. 471.

**§ 15.2-7411. Deposit and investment of funds.**

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2014, c. 471.

**§ 15.2-7412. Authority to issue bonds.**

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest, (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision; the Commonwealth or any political subdivision, agency, or instrumentality thereof; any federal agency; or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing

other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost. Bonds may be issued under

the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act, provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2014, c. 471.

**§ 15.2-7413. Fees, rents, and charges.**

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2014, c. 471.

### § 15.2-7414. Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2014, c. 471.

### § 15.2-7415. Directors and persons executing bonds not liable thereon.

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2014, c. 471.

### § 15.2-7416. Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, said pledge or agreement may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees

thereof to perform each and every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2014, c. 471.

### § 15.2-7417. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act, and the bonds issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation, or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2014, c. 471.

### § 15.2-7418. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2014, c. 471.

### § 15.2-7419. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the

manner provided in the Public Finance Act (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority.

2014, c. 471.

**§ 15.2-7420. Contracts with political subdivisions.**
The Authority is authorized to enter into contracts with any one or more political subdivisions.

2014, c. 471.

**§ 15.2-7421. Agreement with Commonwealth and participating political subdivisions.**
The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2014, c. 471.

**§ 15.2-7422. Liberal construction.**
Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2014, c. 471; 2015, c. 709.

**§ 15.2-7423. Application of local ordinances, service charges, and taxes upon leaseholds.**
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2014, c. 471.

**§ 15.2-7424. Existing contracts, leases, franchises, etc., not impaired.**

No provision of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2014, c. 471.

**§ 15.2-7425. Withdrawal of membership.**

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2014, c. 471.