

## Chapter 10 - ENVIRONMENT

\***Cross reference** – Unsafe buildings, § 6-25 et seq.; spot blight abatement, § 6-104 et seq.; pollution of waters in parks, § 14-39.

### ARTICLE I. - IN GENERAL

#### **Sec. 10-1. - Repair or removal of defacement of buildings, walls, fences and other structures.**

(a) The building official is hereby authorized to repair or remove defacement of the following if the property owner fails to remove or repair the defacement within 30 days of the mailing of written notice to the owner's address shown on the real property records of the county.

(1) Any public building, wall, fence or other structure; or

(2) Any private building, wall, fence or other structure if the defacement is visible from a public right-of-way.

(b) The building official may have the defacement removed or repaired by county employees or agents at county expense.

(Code 1995, § 10-1; Ord. No. 916, § 1, 4-24-1996; Ord. No. 955, § 1, 8-13-1997)

**Cross reference** – Offenses, ch. 13.

**State law reference** – Authority for repair or removal, Code of Virginia, § 15.2-908; authority to charge parents for costs of defacement of public property by a minor, Code of Virginia, § 8.01-43.

#### **Sec. 10-2. - Repair, removal or securing of buildings and other structures harboring illegal drug use.**

(a) *Definitions.* For the purpose of this section, the following terms shall have the following meanings:

*Drug blight* means a condition on real property tending to endanger public health or the safety of county residents because of the regular presence of persons under the influence of marijuana or illegally obtained controlled substances as defined in Code of Virginia, § 54.1-3401, or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing such substances or marijuana.

*Owner* means the record owner of real property.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate drug blight on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police shall execute and send the building official an affidavit that cites Code of Virginia, § 15.2-907, and states the following:

(1) Drug blight exists on the property;

(2) The grounds for determining that drug blight exists on the property;

(3) The division of police has been unable to abate the drug blight despite diligent efforts to do so; and

(4) The drug blight constitutes a present threat to the public's health, safety or welfare.

The building official shall send a copy of the affidavit by regular mail to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, the building official shall send an additional notice to the owner by regular mail. The notice shall state that the county may take corrective action to abate the drug blight after 15 days from the date of the additional notice, and it shall describe the county's contemplated corrective action. The notice shall also state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek equitable relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section which remains unpaid shall constitute a lien against the property with the same priority as liens for unpaid local taxes and shall be enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action, the building official shall deem the drug blight abated, shall close the proceedings without any charge or costs to the owner, and shall promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the county from initiating a subsequent proceeding if the drug blight recurs.

(g) *Owner's rights preserved.* 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.

(Code 1995, § 10-2; Ord. No. 917, § 1, 4-24-1996)

**State law reference**— Similar provisions, Code of Virginia, § 15.2-907.

### **Sec. 10-3. - Inoperable motor vehicles.**

(a) *Restrictions.* It shall be unlawful to keep more than one inoperable motor vehicle outside a fully enclosed building or structure on property zoned or used for residential purposes, or any property zoned for, commercial or agricultural purposes. For purposes of this section, the term "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer, as defined in Code of Virginia, § 46.2-100, which:

- (1) Is not in operating condition;
- (2) Does not display valid license plates;
- (3) Does not display an inspection decal that is valid; or
- (4) Displays an inspection decal that has been expired for more than 60 days.

(b) *Shielding or screening required.* One inoperable motor vehicle may be kept outside a fully enclosed building or structure if it is shielded or screened from view. As used in this section, the term "shielded or screened from view" means not visible to someone standing at ground level from outside of the property on which the subject vehicle is located.

(c) *Exceptions.* This section shall not apply to a licensed business which is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(d) *Enforcement.* The director of community revitalization shall enforce this section.

(Code 1995, § 10-3; Ord. No. 922, § 1, 5-22-1996; Ord. No. 945, § 1, 5-14-1997; Ord. No. 986, § 1, 7-13-1999; Ord. No. 1069, § 1, 8-10-2004)

**Cross reference**— Traffic and vehicles, ch. 22.

**State law reference**— Authority of Henrico County to restrict keeping of inoperable motor vehicles on

residential or commercial property, Code of Virginia, § 15.2-905.

**Sec. 10-4. - Repair, removal or securing of buildings and other structures harboring a bawdy place.**

(a) *Definitions.* For the purpose of this section, the following terms shall have the following meanings:

*Affidavit* means an affidavit prepared in accordance with subsection (c) of this section.

*Bawdy place* means the same as that term is defined in Code of Virginia, § 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.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate a bawdy place on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police shall execute and send the building official an affidavit that cites Code of Virginia, § 15.2-908.1, and states the following:

(1) A bawdy place exists on the property and in the manner described therein;

(2) The division of police has been unable to abate the bawdy place despite diligent efforts to do so; and

(3) The bawdy place constitutes a present threat to the public's health, safety or welfare.

The building official shall send a copy of the affidavit by regular mail to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action to abate the bawdy place and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, the building official shall send an additional notice to the owner by regular mail. The notice shall state that the county may take corrective action to abate the bawdy place after 15 days from the date of the additional notice, and it shall describe the county's contemplated corrective action. The notice shall also state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek equitable relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section which remains unpaid shall constitute a lien against the property with the same priority as liens for unpaid local taxes and shall be enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action, the building official shall deem the bawdy place abated, shall close the proceedings without any charge or costs to the owner, and shall promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the county from initiating a subsequent proceeding if the bawdy place recurs.

(g) *Owner's rights preserved.* 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.

(Code 1995, § 10-4; Ord. No. 959, § 1, 9-10-1997)

**Cross reference** – Offenses, ch. 13.

**State law reference** – Similar provisions, Code of Virginia, § 15.2-908.1.

**Secs. 10-5 – 10-26. - Reserved.**

## **ARTICLE II. - EROSION AND SEDIMENT CONTROL**

**\*Cross reference** – Buildings and building regulations, ch. 6; streets, sidewalks and other public property, ch. 18; subdivisions, ch. 19; stormwater drainage systems in subdivisions, § 19-163; zoning, ch. 24.

**\*State law reference** – Erosion and sediment control law, Code of Virginia, § 10.1-560 et seq.; adoption of an erosion and sediment control program generally, Code of Virginia, § 10.1-562.

### **Sec. 10-27. - Purpose; statutory authority.**

The purpose of this article is to provide for the control of erosion and sedimentation during and after development so that such erosion and sedimentation is reduced or eliminated and water quality is protected. It is the further purpose of this article to establish procedures for the administration and enforcement of such controls. This article supplements and is to be applied in conjunction with the county's building code, subdivision and zoning regulations (chapters 6, 19 and 24), as they apply to the development or subdivision of land within the county. Authority for this article is found in Code of Virginia, §§ 10.1-562 and 10.1-2108, as amended.

*(Code 1980, § 9-1; Code 1995, § 10-31)*

### **Sec. 10-28. - Definitions.**

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

*Agreement in lieu of a plan* means a contract executed by the director and the owner in lieu of an erosion and sediment control plan for construction of a single-family residence which specifies conservation measures to be used during construction.

*Applicant* means any person executing an agreement in lieu of a plan, submitting an erosion and sediment control plan for approval or requesting the issuance of a permit authorizing land disturbing activities to commence.

*Best management practices (BMPs)* means measures and practices that are the most effective, practicable means of preventing or reducing pollution inputs from nonpoint sources to water bodies. Such measures, which are sometimes structural, are described in authoritative publications such as Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs.

*Buffer* means a natural or landscaped area or screening device intended to provide a horizontal distance and open space, to preserve vegetation, and to lessen the impact and adverse relationships between dissimilar, unrelated or incompatible land uses, or to provide an area of natural or planted vegetation to protect Chesapeake Bay Preservation Areas and county and state waters from degradation due to land disturbances or uses.

*Certificate of competence* means:

- (1) A valid certificate of competence from the Virginia Soil and Water Conservation Board in the areas of combined administration, program administration, inspection, or plan review; or
- (2) A valid license in Virginia as a professional engineer, architect, certified landscape architect or land surveyor or pursuant to Code of Virginia, title 54.1, ch. 4, art. 1 (Code of Virginia, § 54.1-400 et seq.).

*Certified inspector* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of project inspection; or
- (2) Is enrolled in the Virginia Soil and Water Conservation Board's training program for project inspection and successfully completes such program within one year after enrollment.

*Certified plan reviewer* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review;
- (2) Is enrolled in the Virginia Soil and Water Conservation Board's training program for plan review and successfully completes such program within one year after enrollment; or
- (3) Is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, title 54.1, ch. 4, art. 1 (Code of Virginia, § 54.1-400 et seq.).

*Certified program administrator* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of program administration; or
- (2) Is enrolled in the Virginia Soil and Water Conservation Board's training program for program administration and successfully completes such program within one year after enrollment.

*Chesapeake Bay Preservation Area* means any land as defined in section 24-3. Chesapeake Bay Preservation Areas shall consist of a resource protection area and a resource management area.

*Clearing* means any activity which removes vegetation, including removal of trees, root mat or topsoil.

*Development* means any manmade change to land, such as the construction of buildings and structures, mining, dredging, filling, grading, paving, excavation or drilling.

*Director* means the director of public works/county engineer.

*District or soil and water conservation district* means a political subdivision of the state organized in accordance with the provisions of Code of Virginia, title 10.1, ch. 5, art. 3 (Code of Virginia, § 10.1-506 et seq.).

*Erosion and sediment control plan* means a document containing material, including all major conservation decisions, for the conservation of soil and water resources of a unit or group of units of land. Each plan shall contain the information specified in section 10-30.

*Erosion impact area* means an area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

*Excavating* means any digging, scooping or other method of removing earth materials.

*Filling* means any depositing or stockpiling of earth materials.

*Grading* means any excavating or filling of earth materials or any combination thereof which changes the slope or contour of land.

*Highly erodible soils* means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the rill formula  $RKLS/T$ , where K is the soil susceptibility to water in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

*Highly permeable soils* means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resources Soil Conservation Service.

*Impervious cover* means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to roofs, buildings, streets, parking areas and any concrete, asphalt or compacted gravel surface.

*Land development approval process* means an administrative procedure for approvals required by this Code, including approvals of construction plans, plans of development, conditional and special use permits, provisional use permits, landscape plans, agreements in lieu of a plan, erosion and sediment control plans, building permits, conditional or final subdivision plats, and construction plans.

*Land disturbing activity* means any land change that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including any clearing, grading, excavating, transporting or filling of land, except that the term shall not include:

- (1) Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining activities authorized under a permit issued by the state department of mines, minerals and energy;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia, title 10.1, ch. 11 (Code of Virginia, § 10.1-1100 et seq.), or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163(B);

- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Code of Virginia, title 10.1, ch. 6, art. 4 (10.1-604 et seq.) (Dam Safety Act), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- (10) Disturbed land areas of less than 2,500 square feet in size;
- (11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (12) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to state and local erosion and sediment control requirements; and
- (13) Emergency work to protect life, limb or property, and emergency repair; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

*100-year floodplain* means the special flood hazard area as defined in section 24-3.

*Owner* means the owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property.

*Permittee* means the person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan or agreement in lieu of a plan will be followed.

*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the state, any interstate body, or any other legal entity.

*Plan approving authority* means the county department of public works, which is responsible for determining the adequacy of erosion and sediment control plans and their approval.

*Plan of development* means a site plan required under section 24-106.

*Postdevelopment* means conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

*Predevelopment* means conditions at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish predevelopment conditions.

*Program authority* means the County of Henrico.

*Redevelopment* means the process of developing land that is or has been previously developed.

*Resource management area (RMA)* means that component of Chesapeake Bay Preservation Areas defined in section 24-106.3 and section 24-3.

*Resource protection area (RPA)* means that component of Chesapeake Bay Preservation Areas comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

*Silvicultural activities* means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to Code of Virginia, § 10.1-1105, and are located on property defined as real estate devoted to forest use under Code of Virginia, § 58.1-3230.

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one family.

*Stabilized* means an area that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the state or within its jurisdiction.

*Stream, nontributary*, means those intermittent streams depicted as a broken blue line on the most recent U.S. Geological Survey 7½-minute topographic quadrangle map (scale 1:24,000), unless site-specific information demonstrates the map resource to be incorrect.

*Stream, tributary*, means those perennial streams depicted as a solid blue line on the most recent U.S. Geological Survey 7½-minute topographic quadrangle map (scale 1:24,000), unless site-specific evidence demonstrates the map resource to be incorrect.

*Subdivision* means a division of land as defined in section 19-2.

*Tidal shore* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

*Transporting* means any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destruction of the vegetative ground cover, either by tracking or the buildup of earth materials, and erosion and sedimentation.

*Water quality impact assessment* means an evaluation of the environmental impacts associated with proposed development in Chesapeake Bay Preservation Areas. The evaluation components may be submitted as part of the plan of development process or in a separate document.

*Wetlands, nontidal*, means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adopted for life in saturated soil conditions, as defined by current federal regulatory programs under section 404 of the Clean Water Act.

*Wetlands, tidal*, means vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

*(Code 1980, § 9-2; Code 1995, § 10-32; Ord. No. 896, § 1, 5-24-1995; Ord. No. 1056, § 1, 11-12-2003; Ord. No. 1072, § 1, 8-10-2004; Ord. No. 1083, § 1, 12-13-2005; Ord. No. 1116, § 1, 11-27-2007)*

**Cross reference** – Definitions and rules of construction, § 1-2.

**State law reference**—Similar provisions, Code of Virginia, § 10.1-560.

**Sec. 10-29. - Plan approval required.**

Except as provided in Code of Virginia, § 10.1-564, for state agency projects or when the Virginia Soil and Water Conservation Board has approved an erosion and sediment control program for land under the jurisdiction of more than one local program or district, no person may engage in any land disturbing activity until an erosion and sediment control plan has been approved by the department of public works for such land disturbing activity. An agreement in lieu of a plan may be substituted for an erosion and sediment control plan when the land disturbing activity results from construction of a single-family residence. No county department which issues grading, building or other permits for work involving land disturbing activities may issue such permits unless the applicant submits an approved erosion and sediment control plan or agreement in lieu of a plan and certifies that the plan or agreement will be followed. The owner is responsible for obtaining approval even if land disturbing activity will be performed by contractors or others. When a plan or agreement in lieu of a plan is required, it shall be submitted as part of any application in the land development approval process.

*(Code 1980, § 9-3; Code 1995, § 10-34; Ord. No. 896, § 1, 5-24-1995)*

**Sec. 10-30. - Contents of plan.**

The standards contained within the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook, the Virginia Stormwater Management Handbook, and the Henrico County Environmental Program Manual are to be used by the applicant in the preparation and submission of an erosion and sediment control plan. The plan-approving authority shall be guided by the same standards, regulations and guidelines in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence.

- (1) Generally.** The erosion and sediment control plan shall detail the methods and techniques to be utilized in the control of erosion, sedimentation and stormwater. The erosion and sediment control plan shall contain the following components:
- a. A statement that it was prepared by a professional engineer or land surveyor registered in the state.
  - b. A site plan or map which conforms to any plan of development or subdivision plat.
  - c. An approved tree protection plan which satisfies section 24-106.2.
  - d. The location of all buffers required by this Code, including resource protection area buffers, or conditions for zoning, development or use in which land disturbing activities will occur. The plan also shall contain a certification that prior to any land disturbing activity:
    1. All buffer areas and wetlands shall be conspicuously flagged or otherwise identified and not disturbed unless authorized by law; and
    2. The applicant shall notify the director upon completion of flagging.
  - e. Measures to control erosion and sediment.
  - f. Measures to control and manage stormwater.
  - g. A comprehensive drainage plan.
  - h. Evidence on the site plan that no more land than is necessary to provide for the proposed use or development shall be disturbed.
  - i. A statement by the permittee that all erosion and sediment control measures shall be maintained and that the permittee will inspect the erosion and sediment control measures at least once in every two-week period and within 48 hours following rainstorm events during

construction to ensure continued compliance with the approved plan. Records of self-inspection shall be maintained on the site and available for review by county inspectors.

**j.** A statement by the permittee acknowledging that the U.S. Army Corps of Engineers may have additional jurisdiction over wetlands not regulated by the county.

**k.** A statement by the permittee acknowledging that a national pollutant discharge elimination system permit application, if required, has been made for land disturbing activities of 2,500 square feet or greater.

**l.** A statement incorporating by reference the minimum standards (section 4) of the erosion and sediment control regulations of the Virginia Soil and Water Conservation Board (VR625-02-00).

**m.** Environmental site assessment information consisting of:

1. Base flood hazard areas (100-year floodplain).
2. Location of all tidal and nontidal wetlands.
3. Location of all tidal shores.
4. Location of all tributary and nontributary streams.
5. Location of all resource management areas as defined in section 24-106.3.

**n.** A stormwater management section that:

1. Specifies the applicable watershed management area designation and all watershed management practices that will be implemented, including construction of best management practices or a contribution to the county's environmental fund at a rate of \$8,000.00 per pound of pollutant removal required for the project, in compliance with the requirements contained in chapter 2, Stream Assessment/Watershed Management Program; chapter 3, Stormwater Pollutant Removal; and chapter 4, Stormwater Quality Controls, of the Henrico County Environmental Program Manual which are hereby incorporated by reference and may only be amended by duly-adopted ordinance;
2. Includes calculations and other evidence necessary to show that nonpoint source pollution loads of phosphorous and sediments to receiving surface waters during and after development will be controlled in accordance with regulations implementing Code of Virginia, title 10.1, ch. 21 (Code of Virginia, § 10.1-2100 et seq.), the Chesapeake Bay Preservation Act and the Natural Pollutant Discharge Elimination System, as summarized in section 3.3 of the Henrico County Environmental Program Manual;
3. Shows the location of all planned stormwater control devices;
4. Includes the design of all planned stormwater control devices;
5. Includes a verification of structural soundness, including a professional engineer or class IIIB surveyor certification, for all stormwater facilities;
6. Establishes a longterm schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for maintenance; and
7. Contains procedures for implementing nonstructural stormwater control practices and technologies.

Any maintenance, alteration, use or improvement to an existing structure which the director of public works determines does not degrade the quality of surface water discharges shall be exempt from the stormwater management requirements of this subsection.

**o.** Clear delineation of the preliminary areas of land disturbance necessary for installation of the initial erosion and sediment control measures. The preliminary areas of land disturbance shall

be the minimum necessary for installation of the initial erosion and sediment control measures and the delineation should include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas.

p. Clear delineation of the ultimate areas of land disturbance.

(2) *Chesapeake Bay Preservation Areas.* All plans for development on a lot containing a Chesapeake Bay Preservation Area must also include the location of all Chesapeake Bay Preservation Areas, including all land disturbing activities contemplated therein. The plan shall also contain a statement that, prior to any land disturbing activity, all wetlands shall be conspicuously flagged or otherwise identified, and that the applicant shall notify the director upon completion of flagging. In addition, plans for proposed development within a Chesapeake Bay Preservation Area must show that:

a. All applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands or appropriate waivers of jurisdiction have been obtained.

b. A water quality impact assessment has been performed for any proposed development within an RPA, including any buffer area modification or reduction, and for any development in an RMA which, due to the unique characteristics of the site or intensity of the proposed development, is considered by the director to be environmentally sensitive land. Two types of water quality impact assessments are appropriate:

1. A minor water quality impact assessment for development which causes no more than 5,000 square feet of land disturbance within Chesapeake Bay Preservation Areas. A minor water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and mitigate the effects of the buffer encroachment.

2. A major water quality impact assessment for any development which exceeds 5,000 square feet of land disturbance within Chesapeake Bay Preservation Areas. A major water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and will mitigate the effects of the buffer encroachment. In addition, the major water quality impact assessment shall address all the following requirements except those waived by the director of public works:

(i) Describe the existing topography, soils, hydrology and geology of the site and adjacent lands.

(ii) Describe the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.

(iii) Indicate the following:

A. Disturbance or destruction of wetlands and justification for such action.

B. Disruptions or reduction in the supply of water to wetlands, streams, lakes, rivers or other water bodies.

C. Disruptions to existing hydrology, including wetlands and stream circulation patterns.

D. Source location and description of proposed fill material.

E. Location of dredge material and location of dumping area for such material.

F. Location of and impacts on shellfish beds, submerged aquatic vegetation and fish spawning areas.

G. Estimation of predevelopment and postdevelopment pollutant loads in runoff.

H. Estimation of the percent increase in impervious surface on the site and types of surfacing materials used.

- I. Percent of site to be cleared for the project.
  - J. Anticipated duration and phasing schedule of the construction project.
  - K. Listing of all requisite permits from all applicable agencies necessary to develop the project.
- (iv) Describe the proposed mitigation measures for the potential hydrological impacts. Potential mitigation measures include:
- A. Proposed erosion and sediment control steps. Steps may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the schedule and personnel for site inspection.
  - B. Proposed stormwater management system.
  - C. Creation of wetlands to replace those lost.
  - D. Minimizing cut and fill.

*(Code 1980, § 9-4(a), (b); Code 1995, § 10-35; Ord. No. 1017, § 1, 8-14-2001; Ord. No. 1056, § 3, 11-12-2003; Ord. No. 1083, § 2, 12-13-2005)*

**Sec. 10-31. - Submission of plan; certification of compliance.**

(a) To obtain the approval of land disturbing activity required in section 10-29, the applicant must execute an agreement in lieu of a plan or submit a minimum of ten copies of the erosion and sediment control plan to the director. The submitted plan shall be in the form set forth in section 10-30. Prior to plan approval, the person responsible for carrying out the plan must certify that he will properly perform the conservation measures included in the plan and that he will conform to the provisions of Code of Virginia, title 10.1, ch. 5, art. 4 (Code of Virginia, § 10.1-560 et seq.), the state erosion and sediment control law and the erosion and sediment control regulations of the Virginia Soil and Water Conservation Board. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the county who will be in charge of and responsible for carrying out the land disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in section 10-39.

(b) A certificate of competence shall not be required for persons carrying out an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this section.

*(Code 1980, § 9-5; Code 1995, § 10-36; Ord. No. 896, § 1, 5-24-1995; Ord. No. 1017, § 2, 8-14-2001; Ord. No. 1056, § 4, 11-12-2003)*

**Sec. 10-32. - Action on plan by director; criteria for approval.**

(a) Any erosion and sediment control plan submitted under the provisions of this article shall be acted on by the director within 45 days from receipt of the plan by approving or disapproving the plan. If the plan is disapproved, or if the plan is returned because of insufficient information, the specific reasons for disapproval or return shall be given in writing, and the director shall specify the modifications, additions, terms and conditions that will permit approval of the plan. If no formal action has been taken by the director within 45 days after receipt of the plan, the plan shall be deemed approved.

(b) The director shall not approve an erosion and sediment control plan unless he determines that erosion

will be controlled during and after land disturbing activities as required by this article.

*(Code 1980, § 9-6; Code 1995, § 10-37)*

**Sec. 10-33. - Variances.**

The director may waive or modify any of the requirements of this article that are deemed inappropriate or too restrictive under the following conditions:

- (1) An applicant may request a variance by explaining the reasons in writing. Specific variances which are allowed shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the director. The director shall respond in writing either approving or disapproving such a request. If the director does not approve a variance within ten days of receipt of the request, the request is denied. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (3) The director shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage. Variances shall be the minimum necessary to afford relief, and reasonable conditions shall be imposed as necessary to protect water quality in Chesapeake Bay Preservation Areas as intended by the Chesapeake Bay Preservation Act.

*(Code 1980, § 9-4(c); Code 1995, § 10-38)*

**Sec. 10-34. - Amendment of plan; reevaluation of plan when work is interrupted.**

(a) The director shall review field work under the erosion and sediment control plan, and the plan may be amended by the director if on-site inspection indicates that the plan is inadequate to satisfy state or county requirements or if, because of changed circumstances, the approved plan cannot be carried out, provided that such amendments are agreed to by the persons responsible for carrying out the plan and the amendments are consistent with state law.

(b) If the land disturbing activity ceases for more than 180 days, the director shall evaluate the approved plan to determine whether the plan still satisfies county and state erosion and sediment control requirements and to verify that all requirements are still appropriate. If the director finds the previously filed plan to be inadequate, a modified plan must be submitted and approved prior to the resumption of the land disturbing activity.

*(Code 1980, § 9-7; Code 1995, § 10-39)*

**Sec. 10-35. - Bond.**

(a) All control measures required by the provisions of this article shall be undertaken at the expense of the owner or his agent. Approval as required in section 10-29 shall not be given until the owner or permittee executes and files with the director an erosion and sediment control agreement and cash escrow or irrevocable letter of credit in an amount determined by the director equal to the approximate total cost of providing erosion and sediment control and water quality improvements and in a form approved by the county attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken. The final plan shall be approved only after the agreement has been signed.

(b) Upon completion of the land disturbing activity and achievement of adequate stabilization of the land in the project or any section thereof, the owner or permittee must provide written notification to the director. Upon verification of adequate stabilization of land disturbing activity in the project or any section thereof, the director shall reduce or return the required bond, cash escrow or irrevocable letter of credit to the owner or permittee within 30 days based upon the percentage of stabilization accomplished in the

project or section thereof.

*(Code 1980, § 9-8; Code 1995, § 10-40; Ord. No. 1017, § 3, 8-14-2001)*

**Sec. 10-36. - Inspections; notice to comply.**

(a) The person responsible for carrying out the plan shall monitor the land disturbing activity and maintain records of his inspections and maintenance in order to determine whether the measures required in the plan are effective in controlling erosion and sedimentation and to ensure compliance with the approved plan.

(b) Inspection and enforcement under this article shall be the responsibility of the director and his designees, who shall make periodic inspections of the land disturbing activity in accordance with VESCR 4VAC50-30-60B. The owner, permittee or person responsible for carrying out the plan or agreement shall be given notice of the inspection. If the director determines that the owner or permittee has failed to comply with the plan or agreement in lieu of a plan, then the director or his designee shall serve a notice to comply upon the owner or permittee by either:

(1) Registered or certified mail to the address specified by the owner or permittee in his application or plan certification; or

(2) Delivery at the site of the land disturbing activities to the agent or employee supervising such activities.

(c) The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.

*(Code 1980, § 9-10(a); Code 1995, § 10-41; Ord. No. 896, § 1, 5-24-1995; Ord. No. 1056, § 5, 11-12-2003)*

**Sec. 10-37. - Performance of work by county; payment of costs.**

If the measures required by the plan or agreement in lieu of a plan are not completely constructed, or, if constructed, fail through overload or inadequate maintenance, then the county may, if the owner or permittee does not, install ground cover, plants, stabilizing devices or other material to the minimum extent necessary to achieve erosion and sediment control and protect water quality equal to that which would have been furnished by the approved plans or agreement in lieu of a plan. The cost of any such temporary measures taken by the county shall be borne by the owner or permittee and shall be a charge against the security required under section 10-40. The county may collect any amounts expended which exceed the security provided. Within 30 days of the achievement of adequate stabilization of the land disturbing activity, the security, or the unexpended portion thereof, shall be refunded to the applicant or terminated.

*(Code 1980, § 9-10(b); Code 1995, § 10-42; Ord. No. 896, § 1, 5-24-1995)*

**Sec. 10-38. - Adherence to approved plans and specification; stop work order.**

(a) No person may engage in a land disturbing activity without an approved plan or agreement in lieu of a plan or in violation of an approved plan or agreement in lieu of a plan.

(b) Upon receipt of a sworn complaint of a substantial violation of this chapter from the director's designee charged with enforcement of its provisions, the director or his designee may, in conjunction with or subsequent to a notice to comply described in section 10-36, issue a stop work order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. If land disturbing activities have commenced without an approved plan or agreement in lieu of a plan, a stop work order may be issued requiring that all land disturbing activities be stopped until an approved plan, an agreement in lieu of a plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the state, or where the land disturbing activities have

commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether or not the owner or permittee has been issued a notice to comply.

(c) Where the alleged noncompliance is not causing or is not in imminent danger of causing harmful erosion or sediment deposition in waters within the watersheds of the state, a stop work order may be issued only after either the owner or permittee has failed to comply with a notice to comply. The stop work order shall be served in the same manner as a notice to comply.

(d) The order shall remain in effect for a period of seven calendar days from the date of service pending application by the director or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation is alleged to have occurred. If the alleged violator has not obtained an approved plan, agreement in lieu of a plan or any required permits within seven days from the date of service of the order, the director may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan, agreement in lieu of a plan or any required permits have been obtained. The order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county. The owner may appeal the issuance of an order to the circuit court. Any person violating or failing, neglecting or refusing to obey an order issued by the director may be compelled to comply with the order by injunction, mandamus or other appropriate remedy. Upon completion of the corrective action, the stop work order shall immediately be lifted. Nothing in this section shall prevent the county manager from taking additional enforcement action permitted by this article and by state law.

*(Code 1980, § 9-11; Code 1995, § 10-43; Ord. No. 896, § 1, 5-24-1995)*

#### **Sec. 10-39. - Appeals, penalties and other legal actions.**

(a) Decisions of the director of public works under this article may be appealed to the county manager within 15 working days of the decision being appealed. The county manager's decision shall be the final decision of the county.

(b) Upon the request of the director, the commonwealth's attorney shall take legal action to enforce the criminal provisions of this article. The county attorney shall bring all civil actions for equitable or other relief.

(c) An appeal may be filed in the circuit court of the county within 30 days of a final decision affecting the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities.

(d) Violations of this article shall be a misdemeanor.

*(Code 1980, § 9-12; Code 1995, § 10-44; Ord. No. 896, § 1, 5-24-1995; Ord. No. 1017, § 4, 8-14-2001)*

#### **Secs. 10-40—10-66. - Reserved.**

### **ARTICLE III. - NOISE**

\***Cross reference**—Amusements, ch. 4; buildings, ch. 6; offenses, ch. 13; traffic and vehicles, ch. 22; unnecessary noise in operation of vehicle, § 22-36; zoning, ch. 24.

\***State law reference**—Applicability of local noise ordinances to certain sport shooting ranges, Code of Virginia, § 15.2-917; locality may regulate motorcycle noise, Code of Virginia, § 15.2-919.

#### **Sec. 10-67. - Penalty and enforcement.**

(a) No person shall be charged with a violation of the provisions of section 10-68 unless:

- (1) A complainant appears before a magistrate and requests a summons to be issued; or
- (2) A violation is committed in the presence of a police officer.

- (b) Any person convicted of violating any of the provisions of section 10-68 shall be punished by a fine not to exceed \$500.00. Any person convicted of a second offense within less than five years after a first offense under this article shall be punished by a fine not to exceed \$1,000.00. Any person convicted of a third offense within less than ten years after a first offense under this article shall be punished by a fine not to exceed \$2,500.00.
- (c) Each day a violation continues unabated shall constitute a separate offense.
- (d) Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.  
(Code 1980, § 15-10; Code 1995, § 10-71; Ord. No. 1141, § 1, 2-23-2010)

**Sec. 10-68. - Prohibited noises enumerated.**

It shall be unlawful for any person to cause or permit to be caused any of the following prohibited sounds or noises:

- (1) *Social gatherings and parties.* Allowing any noise between 11:00 p.m. and 7:00 a.m. generated from a gathering of ten or more people that is plainly audible:
- Inside the confines of the dwelling unit, house or apartment of another person; or
  - In a residential area, at 100 or more feet from the gathering.
- (2) *Sound-producing and sound-reproducing devices.* Except for commercial establishments located in areas zoned for urban mixed use, the use, operation or playing of any radio, phonograph, television, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing machine or device is located inside of a structure or outside of or on a structure, in such a manner or with such volume or duration that it is plainly audible between 11:00 p.m. and 7:00 a.m.:
- Inside the confines of the dwelling unit, house or apartment of another person; or
  - In residential areas, at 50 or more feet from the device.
- (3) *Noisy animals.* Allowing any animal to cause any sound or noise such that it is plainly audible
- Inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten consecutive minutes; or
  - At 100 or more feet from the animal at least once a minute for ten consecutive minutes.
- (4) *Trash and recycling collection.* The creation of any sound or noise between 12:00 midnight and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.
- (5) *Street cleaning and construction.* The creation of any sound or noise between 11:00 p.m. and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with:
- The cleaning of streets or parking lots; or
  - Construction or demolition activities.
- (6) *Peddlers and hawkers.* Yelling, shouting, whistling, screaming or crying for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 11:00 p.m. and 7:00 a.m. on any public street, sidewalk or parking lot or any privately owned street, sidewalk or

parking lot open to the public, except to summon aid in an emergency.

(7) *Amplified sound from vehicles.* Playing, using or operating, or permitting the playing, use or operation of, any radio, stereo, tape player, compact disc player, loudspeaker or other electronic device or mechanical equipment used for the amplification of sound, which is located on or within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more. The provisions of this subsection shall not apply to the playing of music or jingles by an ice cream truck or similar mobile food service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 a.m. and 9:00 p.m.

(8) *Lawn care activities.* Creating any sound or noise plainly audible in residential areas between 11:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities. The provisions of this subsection shall not apply to sound or noise generated by the maintenance of recreational facilities such as golf courses and ball or playing fields.

*(Code 1980, § 15-9; Code 1995, § 10-73; Ord. No. 908, 10-11-1995; Ord. No. 1141, § 3, 2-23-2010)*

#### **Sec. 10-69. - Exemptions.**

The prohibitions of section 10-68 shall not apply to any sound or noise generated by any of the following:

- (1) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.
- (2) Sound or noise which is necessary for the maintenance or construction of roads and highways.
- (3) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.
- (4) Parades, fireworks displays, school-related activities and other such public special events or public activities.
- (5) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.
- (6) Athletic contests and other officially sanctioned activities in county parks.
- (7) Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.
- (8) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs which are part of such service, event, activity or expression.
- (9) Locomotives and other railroad equipment, and aircraft.
- (10) Military activities of the state or of the United States of America.
- (11) Agricultural operations, as defined in Code of Virginia, § 3.2-300, provided such operations comply with all applicable laws, regulations and ordinances.
- (12) Amateur and professional motorsports competitions and competition-related events such as time trials and practices, provided the competition is sanctioned by a nationally recognized motorsports racing organization and complies with all applicable laws, regulations and ordinances, including permit terms and conditions, if any.
- (13) Political gatherings and other activities protected by the First Amendment to the United States Constitution.
- (14) Activities for which the regulation of noise has been preempted by federal law.

(Ord. No. 1141, § 4, 2-23-2010)

**Secs. 10-70–10-96. - Reserved.**

**ARTICLE IV. - TRASH, GARBAGE, REFUSE AND LITTER**

\***Cross reference**—Dumping wastes on premises other than sanitary landfills, § 17-25; putting glass or other hazardous material on streets, § 22-38; depositing refuse on highway, right-of-way or private property, § 22-39

\***State law reference**—Litter control and recycling, Code of Virginia, § 10.1-1414 et seq.

**Sec. 10-97. - Definitions.**

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

*Litter* means all waste material, disposable packages or containers, but does not include the properly disposed waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

*Litter receptacle* means a container with a capacity of not less than ten gallons, constructed and placed for use as a depository for litter.

(Code 1980, § 12.1-2; Code 1995, § 10-101)

**State law reference**—Definition of litter, Code of Virginia, § 10.1-1414.

**Sec. 10-98. - Securing or covering loads.**

(a) *Required.* No person shall transport gravel, sand, coal or other nonagricultural and nonforestry products in a truck, trailer or semitrailer along streets, roads or highways of the county, unless the load is secured to the vehicle or is covered by a tarpaulin or other suitable cover, securely fastened to the body of the vehicle, and of such size and shape as necessary to cover the entire load.

(b) *Exceptions.* This section shall not apply to pickup trucks, public service company vehicles, or emergency snow removal equipment while engaged in snow removal operations.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed \$200.00.

(Code 1980, § 11-5; Code 1995, § 10-102; Ord. No. 976, § 1, 5-27-1998)

**Cross reference**—Definitions and rules of construction, § 1-2.

**State law reference**—Similar provisions, Code of Virginia, § 46.2-1156(B).

**Sec. 10-99. - Allowing escape of load material.**

(a) *Prohibited.* No vehicle shall be operated or moved on any highway unless it is constructed, maintained and loaded to prevent its contents from dropping, sifting, leaking or otherwise escaping.

(b) *Exceptions.* This section shall not apply to any:

- (1) Motor vehicle which is used exclusively for agricultural purposes as provided in Code of Virginia, § 46.2-698, and is not licensed in any other state;
- (2) Agricultural vehicle, tractor or other vehicle exempted from registration and licensing

requirements under state law; or

(3) Motor vehicle transporting forest products, poultry or livestock.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed \$200.00.

(Code 1980, § 12.1-4; Code 1995, § 10-103; Ord. No. 976, § 2, 5-27-1998)

**State law reference**— Similar provisions, Code of Virginia, § 46.2-1156(A).

**Sec. 10-100. - Unlawful storage or accumulation of refuse.**

(a) *Prohibited storage or accumulation.* It shall be unlawful for any owner of property to allow the storage or accumulation of trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county.

(b) *Use of containers required.* All garbage, trash, refuse and litter shall be placed in watertight containers and be kept covered until transported to the county landfill or until taken from the premises by trash or garbage collectors or otherwise disposed of as permitted by law.

(c) *Penalty.* Violation of this section shall be a class 4 misdemeanor.

(Code 1980, §§ 11-8, 12.1-5; Code 1995, § 10-104)

**State law reference**— Authority to remove trash, weeds, etc., Code of Virginia, § 15.2-901.

**Sec. 10-101. - Notice of violation; summons or warrant.**

County inspectors shall commence enforcement of section 10-100 by issuing a written notice to the owner in person or by mail at his last known address, informing him of the date and nature of the violation. All other violations of this article shall be enforced by summons or warrant.

(Code 1980, § 12.1-10; Code 1995, § 10-105)

**Sec. 10-102. - Cleanup of premises by county; lien for unpaid charges.**

If the owner refuses or fails to clean up the property after receiving the notice required by section 10-101, the county inspector may issue a summons and the county's agents or employees may remove trash, garbage, refuse, litter or other substances which might endanger the health of other residents of the county, and the cost and expenses of removal shall be charged to the owner. Such costs and expenses may be collected by the county as taxes and levies are collected. Every charge to the owner and lienholder under this section which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid taxes.

(Code 1980, § 12.1-8; Code 1995, § 10-106)

**State law reference**— Similar provisions, Code of Virginia, § 15.2-901(B).

**Sec. 10-103. - Violations of article; penalty.**

The imposition of punishment for violation of any provision of this article shall not excuse the violation or permit it to continue, and appropriate proceedings may be instituted to prevent continuation of the violation.

(Code 1980, § 11-13; Code 1995, § 10-107)

**Secs. 10-104 – 10-134. - Reserved.****ARTICLE V. - WEEDS AND GRASS**

\***Cross reference** – Buildings, ch. 6; zoning, ch. 24.

\***State law reference** – Locality may provide for cutting of grass and weeds, Code of Virginia, §§ 15.2-901, 15.2-1215; local authority to control certain noxious weeds, Code of Virginia, § 15.2-902.

**Sec. 10-135. - Definitions.**

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

*Owner* means the principal occupants and persons holding title to any land in the county.

*Weeds* means grass, weeds, bushes, poison ivy, poison oak or any other foreign growth other than trees, ornamental shrubbery, flowers and garden vegetables.

*(Code 1980, § 11-15; Code 1995, § 10-151)*

**Sec. 10-136. - Penalty.**

(a) Any owner who violates section 10-137(a) or any other provisions of this article pertaining to section 10-137(a) shall be deemed guilty of a class 4 misdemeanor.

(b) Any owner who violates section 10-137(b) or any other provisions of this article pertaining to section 10-137(b) shall be subject to a civil penalty not to exceed \$100.00.

*(Code 1980, § 11-20; Code 1995, § 10-152)*

**Cross reference** – Definitions and rules of construction, § 1-2.

**State law reference** – Penalty in subsection (b) authorized, Code of Virginia, § 15.2-1215; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

**Sec. 10-137. - Cutting of weeds and grass required.**

(a) It shall be unlawful for any owner of any vacant developed or undeveloped property, including such property upon which buildings or other improvements are located, within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use, to permit weeds of more than 12 inches in height within 250 feet of property developed for residential use.

(b) The owner of occupied residential real property shall cut the grass or lawn area of less than one-half acre on such property when growth of such grass or lawn area exceeds 12 inches in height.

*(Code 1980, § 11-16; Code 1995, § 10-153)*

**State law reference** – Authority to prohibit weeds, Code of Virginia, § 15.2-901, authority for subsection (b), Code of Virginia, § 15.2-1215.

**Sec. 10-138. - Report of violation.**

Any person aggrieved by the presence of weeds or grass in violation of section 10-137 may report such presence to the director of community revitalization.

*(Code 1980, § 11-17; Code 1995, § 10-154; Ord. No. 942, § 1, 4-10-1997)*

**Sec. 10-139. - Inspection of site of violation; notice to cut.**

Upon receipt of a report as referred to in section 10-138, the director of community revitalization shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the director of community revitalization has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner of the land upon which the violation exists to cut or cause to be cut the weeds or grass complained of within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant if different from the owner, and shall be complied with by such owner.

*(Code 1980, § 11-18; Code 1995, § 10-155; Ord. No. 942, § 1, 4-10-1997)*

**Sec. 10-140. - Performance of work by county; collection of costs.**

If such weeds or grass are not cut within the required time as provided for in the notice under section 10-139, the director of community revitalization shall cause such weeds or grass to be cut and the cost and expense thereof to be assessed against the owner of such property. The assessment shall be collected by the county as taxes and levies are collected. Every charge for cutting grass on property which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid taxes.

*(Code 1980, § 11-19; Code 1995, § 10-156; Ord. No. 915, § 1, 4-24-1996; Ord. No. 942, § 1, 4-10-1997)*

**State law reference** – Assessment and collection of charges, Code of Virginia, §§ 15.2-901(B), 15.2-1215.

**Secs. 10-141 – 10-163. - Reserved.**

**ARTICLE VI. - RATS**

**\*Cross reference** – Animals, ch. 5; buildings, ch. 6.

**Sec. 10-164. - Purpose.**

It is the purpose of this article to control rats in the county by declaring unlawful certain acts which cause the proliferation of rats and by providing penalties for violations. This article is intended to add to and not supersede existing laws governing or prohibiting litter, weed and garbage control and the disposal of waste.

*(Code 1980, § 12.2-1; Code 1995, § 10-181)*

**Sec. 10-165. - Definitions.**

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

*Building* means that which is built or constructed, including, without limitation, buildings for any occupancy or use whatsoever, or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

*Owner* means the principal occupants or persons holding title to any land or building in the county.

*Premises* means a lot, plot or parcel of land, including the buildings or structures thereon.

*Rat.* The term "rat" or any term including the term "rat" shall include mice.

*Rat eradication* means the elimination or extermination of rats within and without buildings and from rat harborages of any kind by any or all of the accepted measures, such as baiting, fumigation, trapping, clubbing, etc., so that such buildings and rat harborages are completely freed of rats and there is no evidence of rat infestation remaining.

*Rat harborage* means any condition which provides shelter, nutrition or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a building of any kind.

*Ratproofing* means a form of construction preventing the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of treating or closing all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground, by climbing or by burrowing, with material or equipment which is impervious to rat gnawing.

(Code 1980, § 12.2-2; Code 1995, § 10-182)

**Cross reference** – Definitions and rules of construction, § 1-2.

**Sec. 10-166. - Penalty for refusal to implement rat eradication or eliminate rat harborages.**

If, after receipt of the written notice or an order from the director of community revitalization under this article, the owner, occupant or other person responsible refuses to implement rat eradication or eliminate rat harborages, such owner or individual shall, upon conviction, be guilty of a class 4 misdemeanor. Each day that the violation continues shall constitute a separate offense.

(Code 1980, § 12.2-8; Code 1995, § 10-183; Ord. No. 942, § 2, 4-10-1997)

**Sec. 10-167. - Control of rats required.**

It shall be the duty of each owner or occupant to keep his building and premises ratproofed, freed of rats, and maintained in a ratproof and rat-free condition and to eradicate any rat harborage.

(Code 1980, § 12.2-3; Code 1995, § 10-184)

**Sec. 10-168. - Maintenance of ratproofing devices.**

It shall be unlawful for the owner, occupant, contractor, public utility company, plumber, any repairman or any other person to remove and fail to restore in like condition the ratproofing from any building for any purpose, or to make any new openings that are not closed or sealed against the entrance of rats.

(Code 1980, § 12.2-4; Code 1995, § 10-185)

**Sec. 10-169. - Report of violation.**

Any person aggrieved by the presence of rats in violation of this article may report such presence to the director of community revitalization.

(Code 1980, § 12.2-5; Code 1995, § 10-186; Ord. No. 942, § 2, 4-10-1997)

**Sec. 10-170. - Inspection of site of violation; notice to control rats.**

Upon receipt of a report under section 10-169, the director of community revitalization shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the director of community revitalization has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner or the occupant of the building or premises to take immediate steps to ratproof the building and eliminate rat harborages on the premises within such reasonable time as specified in the notice. Such notice shall be given in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant, if different from the owner, and shall be complied with by such owner.

*(Code 1980, § 12.2-6; Code 1995, § 10-187; Ord. No. 942, § 2, 4-10-1997)*

**Sec. 10-171. - Performance of work by county; payment of costs.**

If the owner or occupant fails to implement rat eradication and ratproofing or eliminate rat harborages within the time required in the notice provided for in section 10-170, the director of community revitalization shall cause reasonable steps to be taken to implement rat eradication and ratproofing or eliminate rat harborages from the building or premises. If the owner, occupant or other person responsible denies free access for such purposes, the director of community revitalization may proceed after obtaining a warrant. Costs and expenses incurred by the county in implementing rat eradication or eliminating rat harborages on private property shall be assessed against the owner or occupant of the building or premises or any other person responsible for the condition on the property. The assessment shall be collected as taxes and levies are collected.

*(Code 1980, § 12.2-7; Code 1995, § 10-188; Ord. No. 942, § 2, 4-10-1997)*

**State law reference** – Authority to collect costs of nuisance abatement, Code of Virginia, § 15.2-900.

**Secs. 10-172 – 10-195. - Reserved.****ARTICLE VII. - STORMWATER MANAGEMENT**

**\*Cross reference** – Buildings, ch. 6; culverts, § 18-4.

**\*State law reference** – Locality may adopt stormwater control ordinance consistent with state law, Code of Virginia, § 15.2-2114; local stormwater ordinances, Code of Virginia, § 10.1-603.14:1.

**Sec. 10-196. - Definitions.**

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

*Director* means the director of public works or his designee.

*Discharge* means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

*Illicit discharge* means any discharge to a storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES permit or discharges resulting from firefighting activities. This definition shall not include the discharges listed in section 10-199(b) unless such discharges are identified by the county as sources of pollutants to waters of the United States.

*Industrial discharge* means discharges from any conveyance which are used for collecting and conveying stormwater and which are directly related to manufacturing, processing or raw materials storage areas at an industrial plant, as defined by federal stormwater management regulations.

*Person* means any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof.

*Storm sewer system* means the system of roads, streets, catchbasins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the county which are designed or used for collecting, storing or conveying stormwater or through which stormwater is collected, stored or being conveyed.

*Stormwater* means runoff from rain, snow or other forms of precipitation and surface runoff and drainage.

(Code 1980, § 21.1-1; Code 1995, § 10-215)

**Cross reference** – Definitions and rules of construction, § 1-2.

#### **Sec. 10-197. - Enforcement of article; penalty for violation.**

(a) *Violations deemed misdemeanor; continuing violations; fine.* Any person who willfully or negligently violates any provision of this article shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500.00 nor more than \$32,500.00, either or both. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than \$10,000.00. Each day of violation of each requirement shall constitute a separate offense.

(b) *Liability for costs for testing, containment, etc.* Any person who, intentionally or otherwise, commits any of the acts prohibited by section 10-199 shall be liable to the county for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.

(c) *Civil penalty.* Any person who violates any provision of this article shall be subject to a civil penalty not to exceed \$32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The court assessing such penalties may, at its discretion, order such penalties to be paid into the treasury of the county for the purpose of abating, preventing or mitigating environmental pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(d) *Enjoinment.* The director may bring legal action to enjoin the continuing violation of this article and the existence of any other remedy shall be no defense to any such action.

(e) *Remedies cumulative.* The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action that one or more of the remedies set forth in this section has been sought or granted.

(Code 1980, § 21.1-4; Code 1995, § 10-216)

**State law reference** – Penalties, Code of Virginia, §§ 10.1-603.14, 10.1-602.14:1.

#### **Sec. 10-198. - Inspections and monitoring.**

- (a) The director shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the conditions of the county's VPDES permit, including the prohibition of illicit discharges to the storm sewer system. The director may monitor stormwater outfalls or other components of the storm sewer system as may be appropriate in the administration and enforcement of this article.
- (b) The director shall have the authority to require pollution prevention plans from any person whose discharges cause or may cause a violation of the county's VPDES permit.
- (Code 1980, § 21.1-3; Code 1995, § 10-217)*

**Sec. 10-199. - Discharges to storm sewer system.**

- (a) It shall be unlawful to:
- (1) Cause or allow illicit discharges to the county's storm sewer system;
  - (2) Discharge materials other than stormwater to the storm sewer system by spills, dumping or disposal without a VPDES permit;
  - (3) Cause or allow industrial discharges into the storm sewer system without a VPDES permit; or
  - (4) Violate any condition or provision of this article or any permit granted for stormwater discharges.
- (b) Subject to the provisions of subsection (c) of this section, the following activities shall not be unlawful as illicit discharges under this article:
- (1) Water line flushing;
  - (2) Landscape irrigation;
  - (3) Diverting stream flows or raising groundwater;
  - (4) Infiltration of uncontaminated groundwater;
  - (5) Pumping of uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs or water from crawl spaces or footing drains;
  - (6) Lawn watering;
  - (7) Individual car washing on residential properties;
  - (8) Dechlorinated swimming pool discharges; and
  - (9) Street washing.
- (c) If any of the activities listed in subsection (b) of this section are found to be sources of pollutants to waters of the United States, the director shall so notify the person performing such activities and shall order that such activities be stopped or conducted in such manner as to avoid the discharge of pollutants into such waters. The failure to comply with any such order shall constitute a violation of the provisions of this article.
- (Code 1980, § 21.1-2; Code 1995, § 10-218)*

**Sec. 10-200. - Compliance with county design standards.**

All stormwater management facilities, including best management practices (BMPs) for water quality and quantity management, shall comply with the current edition of the Stormwater Guidelines Manual maintained by the county engineer.

*(Code 1995, § 10-219; Ord. No. 972, § 1, 3-24-1998)*