



# Board of Supervisors of Northampton County

P.O. Box 66 • Eastville, Virginia 23347

BOARD OF SUPERVISORS  
*H. Spencer Murray, Chairman*  
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*Katherine H. Nunez*  
County Administrator

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**TO:** Board of Supervisors  
**FROM:** Katie H. Nunez, County Administrator  
**DATE:** July 1, 2016  
**RE:** Bi-Monthly Report

**I. Projects:**

A. USDA Grant Obligation Update:

A packet of materials has been provided to USDA - a copy of all invoices, payments made as well as proof of insurance and title on all vehicles and items as required by USDA. USDA – Courtland Office has sent an approval package to the Richmond Office on Thursday, June 30, 2016. We are awaiting acceptance by USDA.

B. 2016 Legislative Summary:

As part of my last report, I provided a tracking of bills passed by the General Assembly for 2016 that affects local government. There were several pieces of legislation that requires potential amendment of a local ordinance or policy and input from the Board is needed.

- 1.) HB 367: Expands vested rights – states that if a use does not conform to the zoning prescribed in the district in which such use is situated, and if a business license was issued by the locality for the use and if 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. No additional action is needed; highlighted to ensure Board is aware of expansion of vested rights section of the Code of Virginia.
- 2.) HB 647/ SB 361: Allows a locality to adopt an ordinance allowing the posting of signs on private property that is proposed to be redeveloped with one single-family home to notify the public that an infill lot grading plan is pending before the locality. Board direction is needed if you would like to develop such an ordinance pursuant to §15.2-961.2; if so, it would need to be added to the zoning ordinance.

- 3.) HB 1011: Amends §36.105.1:1, Rental Inspections and Rental Inspection Districts to allow for the exemption of a residential rental unit from a rental inspection ordinance provided that such unit is managed by a person licensed under the provisions of §54.1-2106.1; or managed by a property manager or managing agent of a landlord as defined in §55-248.4; or any owner of a publicly traded entity that manages its own multifamily residential rental units; or any owner or managing agent has achieved a satisfactory designation as a professional property manager. Board direction is needed if you would like to amend our current ordinance relative to the rental inspection districts.
- 4.) SB 416: Adds a new section to the Code of Virginia §55-248.53 thru 55-248.56 called the Limited Residential Lodging Act. This allows any primary residence to provide a secondary use of the residence to rent rooms for a maximum of 30 consecutive days. No zoning ordinance can prohibit residences from being used in this fashion if residential use is an allowable use in the zoning district. A locality may adopt an ordinance addressing noise, health and safety, the quiet enjoyment of property, parking, litter, yard signs, and other related issues; establish a minimum provision of liability insurance for this type of use; and indicating applicability of the transient occupancy tax for this use. Certain elements of this law do not become effective until re-confirmed by the 2017 Session of the General Assembly. The zoning ordinance will need to be reviewed for compliance with this law; the Board may wish to defer further discussion of implementation of this law with the adoption of additional ordinance or local regulation as allowed by the law until the completion of a working group tasked with review of this law and to develop recommendations and draft legislation for the 2017 General Assembly.
- 5.) SB 407: Amends §15.2-2157 to include alternative onsite sewer systems and allows a locality to adopt an ordinance establishing civil penalties if operation and maintenance of alternative and conventional onsite sewage systems are not adhered to after notification by the local health department. Board direction is needed if you would like to develop such an ordinance pursuant to §15.2-2157.
- 6.) HB 954: Instructs local school divisions to develop a Return to Learn Protocol relative to concussions and student athletes, pursuant to §22.1-271.5 & 271.6. No action is required; provided as information only.
- 7.) SB 367: Amends §29.1-528 to expand the provisions of hunting with firearms and -what provisions a locality may contain in a local ordinance. I have enclosed a summary report from the Department of Game & Inland Fisheries that details what each locality has adopted relative to hunting ordinances to date. Board direction is needed if you would like to amend our local ordinance with the additional provisions contained in the additions from the 2016 General Assembly, shown in italics on the attached bill.
- 8.) HB 526: Existing law allows a locality to create by ordinance a separate tax classification for wetlands and riparian buffers that are subject to a perpetual

easement. The locality may set a reduced rate or exempt rate. As of this date, the county has not adopted an ordinance pursuant to this law. The law was amended under the 2016 General Session which expanded the definition of qualified property of any living shoreline project approved by the Virginia Marine Resources Commission or the local wetlands board and which has not been excluded as part of a local ordinance. Board direction is needed if you wish to develop an ordinance pursuant to §58.1-3666.

9.) SB 527: Existing law allows a locality to adopt an ordinance that allows for reimbursement of expenses incurred in responding to a terrorism hoax incident or bomb threat. As of this date, the county has not adopted an ordinance pursuant to this law. The law was amended under the 2016 General Session expanding the criminal citation section. Board direction is needed if you wish to develop an ordinance pursuant to §15.2-1716.1

10.) HB 1032: Existing law allows a locality to adopt an ordinance that allows the imposition of a penalty up to \$250 if a vehicle owner, who was registered in another state and has moved to Virginia, does not register the vehicle in Virginia within 30 days. As of this date, the county has not adopted an ordinance pursuant to this law. The law was amended under the 2016 General Session allowing the locality to impose said penalty annually for as long as the motor vehicle remains unregistered in Virginia. Board direction is needed if you wish to develop an ordinance pursuant to §46.2-662.

11.) SB 163: Allows a locality to adopt an ordinance prohibiting any person from operating a vehicle or watercraft on a flooded roadway. Board direction is needed if you wish to develop an ordinance pursuant to §46.2-800.3

C. Discussion of the Parameters of a Business, Professional Occupational License (BPOL):  
I am proposing that we earmark the August work session for a discussion of this potential ordinance and determine if the Board wishes to propose any changes to the draft and if you wish to send this proposed ordinance to public hearing. I have attached a cover memo and proposed draft ordinance for the Board's discussion.

D. Update of BOS Priorities & Goals:  
Enclosed is an update of the BOS Priorities & Goals.

E. Letter from Accomack County re: Library Capital Contribution  
Enclosed is a letter from Accomack County requesting Northampton County funding as a capital contribution for the proposed new Regional Library. Also enclosed is the regional library agreement which does not indicate a defined funding formula for capital contributions.

As additional information, if the Board is desirous of providing funding for this project, I would recommend that a reconsideration of the methodology be considered.

F. Update on DEQ & Stormwater Legislation:

I have enclosed a copy of HB1250 which is known as the DEQ Consolidation Bill which was passed in the 2016 General Assembly. As you will see towards the end of this lengthy bill, the Stakeholder Advisory Group (SAG) is instructed to report back to the 2017 General Assembly with its findings and studies on this matter. In addition, it states that the provisions of this act shall become effective July 1, 2017 or 30 days after the adoption by the State Water Control Board of the regulations required by the nine enactments of this act, whichever occurs later.

I have also enclosed correspondence from the Virginia Coastal Policy Center who will be assisting the SAG in their review of the Stormwater Legislation. Please note that Lewie Lawrence of the Middle Peninsula Planning District Commission has taken the lead in this effort for the Chesapeake Bay Act communities and Curt Smith from ANPDC has been involved as well.

B #1

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 584

*An Act to amend and reenact § 15.2-2307 of the Code of Virginia, relating to nonconforming uses.*

Approved March 29, 2016

[H 367]

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:**

**§ 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.

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.

B #2

2016 SESSION

REPRINT

CHAPTER 412

*An Act to amend the Code of Virginia by adding a section numbered 15.2-961.2, relating to tree conservation ordinance; notice.*

Approved March 11, 2016

[H 647]

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-961.2 as follows:**

**§ 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.*

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

B #3

CHAPTER 338

*An Act to amend and reenact § 36-105.1:1 of the Code of Virginia, relating to rental inspection programs; exemptions.*

[H 1011]

Approved March 11, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-105.1:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 36-105.1:1. Rental inspections; rental inspection districts; exemptions; penalties.**

A. For purposes of this section:

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown on the current real estate assessment books or current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

B. Localities may inspect residential rental dwelling units. The local governing body may adopt an ordinance to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens, in accordance with the following:

1. Except as provided in subdivision B 3, the dwelling units shall be located in a rental inspection district established by the local governing body in accordance with this section, and

2. The rental inspection district is based upon a finding by the local governing body that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed rental inspection district; and (iii) the inspection of residential rental dwelling units inside the proposed rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed rental inspection district. Nothing in this section shall be construed to authorize one or more locality-wide rental inspection districts and a local governing body shall limit the boundaries of the proposed rental inspection districts to such areas of the locality that meet the criteria set out in this subsection, or

3. An individual residential rental dwelling unit outside of a designated rental inspection district is made subject to the rental inspection ordinance based upon a separate finding for each individual dwelling unit by the local governing body that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

For purposes of this section, the local governing body may designate a local government agency other than the building department to perform all or part of the duties contained in the enforcement authority granted to the building department by this section.

C. 1. Notification to owners of dwelling units. Before adopting a rental inspection ordinance and establishing a rental inspection district or an amendment to either, the governing body of the locality shall hold a public hearing on the proposed ordinance. 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.

Upon adoption by the local governing body of a rental inspection ordinance, the building department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental inspection district, or their designated managing agents, and to any individual dwelling units subject to the rental inspection ordinance, not located in a rental inspection district, of the adoption of such ordinance, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

2. Notification by owners of dwelling units to locality. The rental inspection ordinance may include a provision that requires the owners of dwelling units in a rental inspection district to notify the building department in writing if the dwelling unit of the owner is used for residential rental purposes. The

building department may develop a form for such purposes. The rental inspection ordinance shall not include a registration requirement or a fee of any kind associated with the written notification pursuant to this subdivision. A rental inspection ordinance may not require that the written notification from the owner of a dwelling unit subject to a rental inspection ordinance be provided to the building department in less than 60 days after the adoption of a rental inspection ordinance. However, there shall be no penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of this subsection, unless and until the building department provides personal or written notice to the property owner, as provided in this section. In any event, the sole penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of up to \$50. For purposes of this subsection, notice sent by regular first class mail to 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 be deemed compliance with this requirement.

D. Initial inspection of dwelling units when rental inspection district is established. Upon establishment of a rental inspection district in accordance with this section, the building department may, in conjunction with the written notifications as provided for in subsection C, proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such property.

E. Provisions for initial and periodic inspections of multifamily dwelling units. If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two and not more than 10 percent of the dwelling units, of a multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce the Building Code, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in subsection H.

F. 1. Follow-up inspections. Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department has the authority under the Building Code to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the Building Code that affect the safe, decent and sanitary living conditions for the tenants.

2. Periodic inspections. Except as provided in subdivision F 1, following the initial inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

G. Exemptions from rental inspection ordinance.

1. Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance for compliance with the Building Code, provided that there are no violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided in subdivision F 2, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of the Building Code during the exemption period, the building department may revoke the exemption previously granted under this section.

2. *The local governing body may exempt a residential rental unit otherwise subject to a rental inspection ordinance provided such unit is managed by (i) any person licensed under the provisions of § 54.1-2106.1; (ii) any (a) property manager or (b) managing agent of a landlord as defined in § 55-248.4; (iii) any owner of a publicly traded entity that manages its own multifamily residential rental units; or (iv) any owner or managing agent who, in the determination of the local governing body, has achieved a satisfactory designation as a professional property manager.*

H. A local governing body may establish a fee schedule for enforcement of the Building Code, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

I. The provisions of this section shall not, in any way, alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2

(§ 55-248.2 et seq.) of Title 55.

J. The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 to enforce the Building Code.

K. Unless otherwise provided in this section, penalties for violation of this section shall be the same as the penalties provided in the Building Code.

B #4

CHAPTER 674

An Act to amend the Code of Virginia by adding in Title 55 a chapter numbered 13.4, consisting of sections numbered 55-248.53 through 55-248.56, relating to establishing the Limited Residential Lodging Act; penalty.

[S 416]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 13.4, consisting of sections numbered 55-248.53 through 55-248.56, as follows:

CHAPTER 13.4

LIMITED RESIDENTIAL LODGING ACT.

§ 55-248.53. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Applicable taxes" means any state or local tax imposed on a booking transaction pursuant to § 15.2-1104, Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, § 58.1-1742, Article 6 (§ 58.1-3819 et seq.) of Chapter 38 of Title 58.1, § 58.1-3840, or any other transaction tax imposed by a city or town charter.

"Booking transaction" means any transaction in which there is a charge to an occupant by an operator for the occupancy of any dwelling, sleeping, or lodging accommodations.

"Department" means the Department of Taxation.

"Hosting platform" means any person or entity that is not an operator and that facilitates reservations or collects payments for any booking transaction on behalf of an operator through an online digital platform.

"Limited lodger" means a person who occupies a residential dwelling unit for the purpose of limited residential lodging.

"Limited residential lodging" means the accessory or secondary use of a residential dwelling unit or a portion thereof by a limited residential lodging operator to provide 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, provided only that (i) the primary use of the residential dwelling unit shall remain residential, (ii) any applicable taxes required to be collected and remitted by state and local law for each booking transaction are collected and remitted by a registered hosting platform pursuant to the provisions of this chapter or directly by the limited residential lodging operator, and (iii) such accessory or secondary use does not regularly include simultaneous occupancy by more than one party under separate contracts.

"Limited residential lodging operator" means an operator who is the primary resident of a residential dwelling unit offered for limited residential lodging purposes.

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered for a charge to occupants, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity, and includes a limited residential lodging operator.

"Primary resident" means either (i) the owner of the residential dwelling unit who occupies the dwelling unit as his principal place of residence and domicile or (ii) a tenant who has lived in the residential dwelling unit for at least 60 days and who treats the residential dwelling unit as his principal place of residence and domicile.

"Registered hosting platform" means a hosting platform that has registered with the Department for the collection and remittance of applicable taxes pursuant to this chapter.

"Residential dwelling unit" means a residence where one or more persons maintain a household, including a manufactured home. "Residential dwelling unit" does not include:

1. Residence at a public or private institution, if incidental to detention or the provisions of medical, geriatric, educational, counseling, religious, or similar services;
2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
3. Occupancy in a hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar lodging where the occupant does not reside in such lodging as a primary resident;
4. Occupancy under a rental agreement covering premises used by the occupancy primarily in connection with business, commercial, or agricultural purposes; or
5. Occupancy in a campground as defined in § 35.1-1.

§ 55-248.54. Preemption of certain laws; authorized local ordinances.

A. Notwithstanding any other law, general or special, and except as expressly provided in this chapter, no local ordinance or other law shall:

1. Prohibit or restrict any residential dwelling unit from being used for limited residential lodging. Any such limited residential lodging shall (i) be deemed to be consistent with residential use; (ii) be authorized in any zoning district established pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 allowing residential use; and (iii) not require the residential dwelling unit or the owner or primary resident of the residential dwelling unit to adhere to any zoning or licensing requirements applicable to hotels, motels, bed and breakfast inns, lodging houses, or other commercial enterprises;

2. Impose or purport to impose any additional regulation or obligation on a limited residential lodging operator based on the use of such operator's residential dwelling unit for limited residential lodging purposes; or

3. Prohibit, impose additional regulations or obligations on, or otherwise restrict the operation of a hosting platform that collects and remits any taxes pursuant to this chapter.

B. Any local tax or fee authorized by law to be imposed upon (i) operators or (ii) occupants of any dwelling, lodging, or sleeping accommodations offered for a charge shall be applied in a uniform manner upon all operators, including a limited residential lodging operator, or occupants, including a limited lodger.

C. For purposes of the imposition of any local tax imposed pursuant to the provisions of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1, neither the conduct of limited residential lodging by a limited residential lodging operator for fewer than 45 days in a calendar year, nor the conduct of a hosting platform pursuant to this chapter, shall constitute a business or be subject to taxes or fees pursuant to Chapter 37 of Title 58.1.

D. Nothing in this section shall be construed to prohibit a locality from:

1. Adopting and enforcing ordinances and regulations generally applicable to residential use and zoning including those related to noise, health and safety, the quiet enjoyment of property, parking, litter, yard signs, and other related issues, so long as such ordinances shall not be drawn or applied in such a manner as to create burdens or restrictions on limited residential lodging not placed on other authorized uses of residential property; or

2. Adopting and enforcing an ordinance requiring that any limited residential lodging operator maintain a minimum of \$500,000 of liability insurance specifically covering the limited residential lodging use of property held out for such use. Such requirement by an ordinance shall be deemed to have been met by an operator that conducts the limited residential lodging through a hosting platform that provides a minimum of \$500,000 of liability insurance for such use. The penalty for the violation of such ordinance shall not exceed \$200 per violation; or

3. Adopting and enforcing an ordinance that (i) prohibits or restricts any residential dwelling unit from being used for limited residential lodging due to a failure to make timely payment of applicable taxes by either a registered hosting platform or directly by the limited residential lodging operator, (ii) provides that any limited residential lodging operator not utilizing a registered hosting platform may be subject to audit by the commissioner of the revenue, director of finance, or other similar local tax official to demonstrate the payment of any applicable taxes, or (iii) requires any limited residential lodging operator operating within the locality to register his name and address through an online portal maintained by the locality.

**§ 55-248.55. Inapplicability of chapter to contracts.**

Nothing in this chapter 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 Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Virginia Property Owners' Association Act (§ 55-508 et seq.).

**§ 55-248.56. Registration of hosting platform; collection and remittance of certain taxes; audit.**

A. A hosting platform shall register with the Department for the collection and remission of applicable taxes on any booking transactions facilitated by the hosting platform on behalf of operators within any one or more localities within the Commonwealth, and shall enter into any agreement with the Department related to such collection and remission. Such agreement shall not constitute confidential tax information pursuant to § 58.1-3 and shall be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. A registered hosting platform shall, with respect to each booking transaction facilitated by the hosting platform on behalf of an operator within any locality for which such hosting platform has registered to collect and remit applicable taxes, collect any applicable taxes and remit the total amount so collected to the Department on a monthly basis along with a schedule, on an aggregate basis, listing the total amounts owed to the Commonwealth and to each applicable locality for the relevant period. After the direct costs of administering this section are recovered by the Department, the remaining revenues shall be distributed by the Tax Commissioner in the same manner as the applicable taxes are distributed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, § 58.1-1742, and Articles 6 (§ 58.1-3819 et seq.) and 8 (§ 58.1-3840 et seq.) of Chapter 38 of Title 58.1, *mutatis mutandis*.

C. Any registered hosting platform shall provide notice to any operator utilizing the hosting platform of such registration and advising the operator that such operator should review any applicable state and local laws prior to listing a limited residential lodging unit for occupancy.

D. No operator utilizing a registered hosting platform shall be responsible for collecting or remitting any applicable taxes on any booking transaction when it has received notice pursuant to subsection C that such hosting platform will be collecting and remitting such applicable taxes. Any such notice shall itself be proof sufficient regarding the absence of any operator liability for such applicable taxes for the time period covered by the notice, and the hosting platform shall be liable for any such taxes.

E. Information provided to or obtained by the Department by a registered hosting platform shall be confidential pursuant to § 58.1-3. However, notwithstanding any provisions of § 58.1-3 to the contrary, such information shall not be provided to any other agency of the Commonwealth or political subdivision or officer thereof.

F. Applicable taxes payable by a registered hosting platform in accordance with this section shall be subject to audit only by the Department or its authorized agent. Any such audit shall be conducted on the basis of returns and supporting documents filed by the registered hosting platform with the Department and shall not be conducted directly or indirectly on any individual operator or occupant to whom rooms, lodgings, dwellings, or accommodations were furnished in exchange for a charge for occupancy. Audits of a registered hosting platform for applicable taxes shall be conducted on an anonymous numbered account basis and shall not require the production of any personally identifiable information relating to any booking transaction or individual operator or occupant. No commissioner of the revenue, director of finance, or other similar local tax official may conduct any audit of applicable taxes paid by a registered hosting platform.

G. Notwithstanding any other provision of law, general or special, any registered hosting platform that fails to file a required return or pay the full amount of the applicable taxes due shall be subject to:

1. A penalty in the amount of \$500 for failure to file a return within one month of the due date, with an additional penalty of \$1,000 for each additional month, or fraction thereof; thereafter during the period in which the failure continues, a penalty not to exceed the lesser of five percent of the taxes due on such return or \$10,000 in the aggregate. Such penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Department, such return with or without remittance may be accepted exclusive of penalties;

2. A penalty in the amount of three percent of the underpayment if the failure to pay the full amount of applicable tax due is for not more than one month, with an additional three percent of the underpayment for each additional month, or fraction thereof, during which the failure continues, not to exceed 15 percent of the underpayment in the aggregate; and

3. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any applicable tax due pursuant to this section, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of 50 percent of the difference between the amount reported and the amount of the tax actually due.

H. All penalties and interest imposed by this section shall be payable by the hosting platform and collectible and distributable by the Department in the same manner as if they were part of the tax imposed. Interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until the same is paid.

I. The Department shall develop regulations for the implementation of this chapter. Initial regulations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but any updates or amendments to the regulations shall be subject thereto.

**2. That nothing in this act shall be construed to subject any taxpayer to any additional taxes not currently imposed by law, nor shall this act be construed to relieve any taxpayer from any tax liability except as expressly set forth therein.**

**3. That the provisions of the first and second enactment clause of this act shall not become effective unless reenacted by the 2017 Session of the General Assembly.**

**4. That the Housing Commission shall convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners, and other interested parties to explore issues related to expansion of the framework set forth in this act related to the registration, land use, tax, and other issues of public interest associated with the short-term rental of dwelling and other units. The work group shall take into consideration existing structures governing the activities of bed and breakfast inns, vacation rentals, and other transient occupancy venues. The work group shall complete its work by December 1, 2016, with the goal of developing recommendations and draft legislation for consideration by the 2017 Session of the General Assembly.**

B #5

**VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION**

**CHAPTER 721**

*An Act to amend and reenact § 15.2-2157 of the Code of Virginia, relating to onsite sewage systems.*

[S 407]

Approved April 8, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2157 of the Code of Virginia is amended and reenacted as follows:**

**§ 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.

B #6

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 151

*An Act to amend and reenact §§ 22.1-271.5 and 22.1-271.6 of the Code of Virginia, relating to local school divisions; "Return to Learn Protocol" for students who have suffered concussions or other head injuries.*

[H 954]

Approved March 1, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-271.5 and 22.1-271.6 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-271.5. Guidelines and policies and procedures on concussions in student-athletes.**

A. The Board of Education shall develop and distribute to each local school division guidelines on policies to inform and educate coaches, student-athletes, and their parents or guardians of the nature and risk of concussions, criteria for removal from and return to play, risks of not reporting the injury and continuing to play, and the effects of concussions on student-athletes' academic performance.

B. Each local school division shall develop policies and procedures regarding the identification and handling of suspected concussions in student-athletes. Such policies shall require:

1. ~~It~~ *Require that in* order to participate in any extracurricular physical activity, each student-athlete and the student-athlete's parent or guardian shall review, on an annual basis, information on concussions provided by the local school division. After having reviewed materials describing the short- and long-term health effects of concussions, each student-athlete and the student-athlete's parent or guardian shall sign a statement acknowledging receipt of such information, in a manner approved by the Board of Education; ~~and~~

2. *Require a* student-athlete suspected by that student-athlete's coach, athletic trainer, or team physician of sustaining a concussion or brain injury in a practice or game ~~shall to~~ be removed from the activity at that time. A student-athlete who has been removed from play, evaluated, and suspected to have a concussion or brain injury shall not return to play that same day nor until (i) evaluated by an appropriate licensed health care provider as determined by the Board of Education and (ii) in receipt of written clearance to return to play from such licensed health care provider.

The licensed health care provider evaluating student-athletes suspected of having a concussion or brain injury may be a volunteer; ~~and~~

3. *Include a "Return to Learn Protocol" with the following requirements:*

a. *School personnel shall be alert to cognitive and academic issues that may be experienced by a student who has suffered a concussion or other head injury, including (i) difficulty with concentration, organization, and long-term and short-term memory; (ii) sensitivity to bright lights and sounds; and (iii) short-term problems with speech and language, reasoning, planning, and problem solving; and*

b. *School personnel shall accommodate the gradual return to full participation in academic activities of a student who has suffered a concussion or other head injury as appropriate, based on the recommendation of the student's licensed health care provider as to the appropriate amount of time that such student needs to be away from the classroom.*

C. Each non-interscholastic youth sports program utilizing public school property shall either (i) establish policies and procedures regarding the identification and handling of suspected concussions in student-athletes, consistent with either the local school division's policies and procedures developed in compliance with this section or the Board's Guidelines for Policies on Concussions in Student-Athletes, or (ii) follow the local school division's policies and procedures as set forth in subsection B. In addition, local school divisions may provide the guidelines to organizations sponsoring athletic activity for student-athletes on school property. Local school divisions shall not be required to enforce compliance with such policies.

D. As used in this section, "non-interscholastic youth sports program" means a program organized for recreational athletic competition or recreational athletic instruction for youth.

**§ 22.1-271.6. School division policies and procedures on concussions in students.**

The Board of Education shall amend its guidelines for school division policies and procedures on concussions in student-athletes to include a "Return to Learn Protocol" with the following requirements:

1. School personnel shall be alert to cognitive and academic issues that may be experienced by a ~~student-athlete~~ *student* who has suffered a concussion or other head injury, including (i) difficulty with concentration, organization, and long-term and short-term memory; (ii) sensitivity to bright lights and sounds; and (iii) short-term problems with speech and language, reasoning, planning, and problem solving; and

2. School personnel shall accommodate the gradual return to full participation in academic activities

B #7

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 64

An Act to amend and reenact § 29.1-528 of the Code of Virginia, relating to hunting of coyotes; county or city ordinances.

[S 367]

Approved February 29, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-528 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-528. Board to develop model ordinances for hunting with firearms; counties or cities may adopt.

A. The Board shall promulgate adopt regulations establishing model ordinances for hunting with firearms that may be adopted by counties or cities. Such model ordinances developed by the Board shall address such items as, but are not limited to, including firearm caliber; type of firearm (e.g., including rifle, shotgun, or muzzleloader); and ; type of ammunition; and the hunting of groundhogs or coyotes.

B. The governing body of any county or city may, by ordinance, (i) prohibit hunting in such county or city with a shotgun loaded with slugs, or with a rifle of a caliber larger than .22 rimfire. However, such ordinance may; (ii) permit the hunting of groundhogs with a rifle of a caliber larger than .22 rimfire between March 1 and August 31. Such ordinance may also; (iii) permit the use of muzzle-loading rifles during the prescribed open seasons for the hunting of game species. Any such ordinance may also; (iv) specify permissible type types of ammunition to be used for such hunting in the county or city; or (v) permit the hunting of coyotes with a rifle of a caliber larger than .22 rimfire.

C. No such ordinance shall be enforceable unless the governing body notifies the Director by registered mail prior to May 1 of the year in which the ordinance is to take effect.

D. In adopting an ordinance pursuant to the provisions of this section, the governing body of any county or city may provide that any person who violates the provisions of the ordinance shall be is guilty of a Class 3 misdemeanor.



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## Local Firearms Ordinances

The following counties and cities have regulations concerning the use and transportation of firearms. The number or numbers following that county name indicate the regulations listed below for that particular county. In addition, certain counties have ordinances other than

those listed, primarily pertaining to possession of firearms near parks or schools, hunting or discharging firearms near populated areas, residences, or buildings, and age limitations for possession of loaded firearms on public roads. Before hunting in a county or city, hunters

should become familiar with all ordinances particular to that county or city by contacting the county or city directly. If a locality is not listed, state firearms restrictions apply (see Legal Use of Firearms and Archery Tackle on page 22).

COUNTY	#
Accomack	43
Albemarle	16, 54
Amherst	18
Arlington	59
Buckingham	12, 60
Caroline	17, 83
Campbell	11
Charles City	7, 33, 42
Chesapeake	29, 46
Chesterfield	7, 14, 21, 22, 37, 54, 70
Clarke	25, 54
Culpeper	18, 22, 54
Cumberland	5, 17, 27, 74
Danville	54
Dinwiddie	12, 13, 38
Essex	7, 42, 49
Fairfax	2, 25, 45
Fauquier	14, 18, 22, 36, 54
Franklin	26
Fredericksburg (city)	2, 18, 30, 51, 54, 64
Gate City	55
Gloucester	14
Goochland	9, 10, 23, 33, 77
Greensville	15, 22
Halifax	33, 61, 75
Hampton (city)	31, 45
Hanover	7, 20, 46, 53
Isle of Wight	8, 12, 35
James City	40, 54
King and Queen	39, 42
King George	6, 17, 22, 26, 54
King William	17, 18, 28

COUNTY	#
Lancaster	6, 12, 26
Loudoun	18, 22, 54, 62, 63, 64, 65
Louisa	17, 27, 68
Lunenburg	17
Madison	22, 25, 54
Mecklenburg	27
Middlesex	26
Nelson	22
New Kent	8, 12, 25, 54
Newport News	1
Northampton	7, 53
Northumberland	17, 26, 42, 54
Orange	18, 22, 34
Petersburg	54
Pittsylvania	26
Poquoson (city)	22, 69, 71, 72
Prince George	4, 7, 32, 43
Prince William	2, 12, 18
Rappahannock	18
Richmond	7, 66, 67, 68
Richmond (city)	1, 54
Roanoke	25, 54, 64, 77, 79
Southampton	3, 8, 19, 41, 80
Stafford	81, 82
Suffolk	44, 52, 76
Surry	7, 53, 54
Sussex	7, 48, 73
Virginia Beach	2, 7, 54, 56, 57, 58
Warren	54
Westmoreland	50
Williamsburg	1, 54
York	46, 47

1. No discharge of firearms except on approved ranges.
2. No rifles larger than .22 for hunting.
3. It is unlawful to hunt with a muzzleloading shotgun loaded with slugs or sabot slugs.
4. Deer hunting with a rifle of a caliber larger than .22 rimfire is prohibited in the county. However, hunting of groundhogs with a rifle of a caliber larger than a .22 rimfire between March 1 and August 31 is permitted, and a rifle of a caliber larger than a .22 rimfire may be used for hunting all other game, bird, and varmint species as allowed by state law and regulations. Deer hunting with a shotgun loaded with slugs is permitted so long as such hunting is conducted from a stand located at least ten feet in elevation above the ground.
5. It is lawful to hunt groundhogs with rifles of a caliber larger than .22 rimfire during the season between March 1 and August 31.
6. No rifles larger than .22 for hunting except groundhogs outside of the regular hunting season.
7. No rifles for deer hunting.
8. No rifles for big game hunting.
9. It shall be unlawful to hunt in the county with a rifle, pistol, or revolver of a caliber larger than .22 caliber or with a shotgun loaded with slugs, except that rifles of a larger caliber and pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater may be used to hunt from a stand elevated at least 10 feet from the ground, provided that no cartridge shall be used with a bullet of less than .23 caliber.
10. It shall be unlawful to have in immediate possession any hunting firearm other than a muzzleloading rifle while hunting with a muzzleloading rifle during the early muzzleloader season.
11. It shall be unlawful to hunt with a firearm on or within the ditch line of any primary or secondary highway.
12. It is lawful to use muzzleloading rifles for game animals in the regular hunting season.
13. It is lawful to hunt deer with muzzleloading rifles only from stands elevated 10 feet.
14. It is unlawful to hunt from the road with firearms.
15. It is unlawful to hunt with firearms from the road and within 10 feet of the ditch bank.
16. It is unlawful to hunt within 100 feet of the road.
17. Muzzleloading rifles are permitted during any authorized deer season where firearms are permitted.
18. It is unlawful to hunt with a firearm within 100 yards of a road.
19. It is unlawful to transport, possess or carry a loaded rifle in any vehicle while on the road from October 1 through February 15.
20. It shall be unlawful to discharge or shoot any firearm or other weapon in or along any public road or street or within 100 yards thereof or within 100 yards of any building occupied or used as a dwelling or place where the public gathers, not his own dwelling or residence.
21. Except for target shooting, no person shall shoot an arrow from a bow with a peak draw weight of 10 pounds or more within 150 feet of a business, public building, public gathering, public meeting place, or dwelling of another unless they have the permission of the dwelling owner or occupant.
22. It is unlawful to possess a loaded firearm on the road except when permission to hunt is obtained from landowners on each side.
23. It is unlawful to transport, possess, or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within the county during the time between sunset and sunrise.
24. No rifles over .22 caliber for hunting except for groundhogs between March 1 and August 31.
25. No hunting with firearms of game species from within 100 yards of a road.
26. No hunting with firearms of any game animal from the road right-of-way.
27. No hunting with firearms from the road including ditch to ditch.
28. No hunting with a rifle larger than .22 caliber during the deer season.

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29. When 100 yds. from a road and elevated from a stand 15 ft. above ground a rifle may be used to hunt big game east of the Dismal Swamp line.
30. It shall be unlawful for any person to hunt any bird or game animal using a muzzle-loading rifle or a shotgun loaded with slugs, except from a stand elevated at least 10 feet above the ground.
31. All hunting within the City of Hampton is prohibited, with the exception of shotgun hunting from a licensed blind. No shot larger than 00 buckshot may be used, and no shot shall be discharged landward within 500 feet of the shoreline.
32. It is lawful to hunt deer with muzzleloading rifles only from stands elevated at least 10 feet above the ground; however, this requirement shall be expressly inapplicable to all legally handicapped persons.
33. The use of a muzzleloading rifle shall be permitted during the early muzzleloading season and during the entire regular firearms season for deer hunting.
34. It is unlawful to transport or possess a loaded shotgun or rifle in a vehicle on a road during open deer season.
35. It shall be unlawful to possess outside of a vehicle, or shoot or hunt with a rifle, muzzleloader, pistol, or shotgun loaded with slugs, or to possess shotgun slugs on Ragged Island Wildlife Management Area in Isle of Wight County. In addition, it shall be unlawful to discharge any firearm within 100 yards of the boardwalk or nature trail on Ragged Island Wildlife Management Area.
36. It is unlawful to discharge a firearm from or across any sidewalk, highway or on public land.
37. It is unlawful for minors to carry firearms on public highways or public lands unless accompanied by certain adults.
38. It shall be unlawful to use a rifle of a caliber larger than .22 rimfire except that groundhogs may be hunted with a rifle of a caliber larger than .22 rimfire between March 1 and August 31 and coyotes may be hunted for the entire year.
39. It shall be lawful to use muzzleloading rifles for deer and squirrels during the regular seasons.
40. It shall be unlawful to discharge a rifle larger than .22 caliber, a muzzleloader larger than .36 caliber, or a shotgun loaded with slugs except from stands elevated at least 10 feet above the ground, except for groundhogs in certain areas between March 1 and September 1.
41. It shall be unlawful to hunt with a muzzle-loading rifle at any time.
42. It shall be unlawful to use a rifle of a caliber larger than .22 rimfire except that groundhogs may be hunted with a rifle of a caliber larger than .22 rimfire between March 1 and August 31.
43. It shall be unlawful to hunt with a firearm on or within 50 feet of the center of any primary and secondary highway.
44. Rifles are permitted for bear and deer hunting when used from stands elevated at least 15 feet above the ground (except legally handicapped hunters are exempt from tree stand requirements).
45. All rifles, pistols, or shotguns loaded with slugs are prohibited for any hunting.
46. It is unlawful to discharge any firearms, spring propelled rifle or pistol, or air-propelled rifle or pistol from, on, across or within 150 yards of any city building, dwelling, street, sidewalk, alley, roadway or public place within the city limits: check local county/city ordinances.
47. No discharge of rifles larger than .22 except on approved ranges.
48. Muzzleloading rifles are permitted during the special muzzleloading season.
49. Muzzleloading rifles are permitted during any authorized firearms season for the hunting of game animals except for the hunting of turkeys during the spring gobler season.
50. It shall be unlawful for any person to hunt in the county with a shotgun loaded with slugs or a muzzleloading rifle other than during the prescribed open season for the hunting of big game species or with a rifle of a caliber larger than .22 caliber.
51. It shall be unlawful to shoot an arrow from a bow 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.
52. It shall be unlawful to discharge a firearm within any densely populated area: within 200 yards from any structure or within 100 yards from any public street, secondary road, or highway within the city, except on a permitted firing range or at or upon the property of another without permission.
53. It is lawful to hunt deer with muzzleloading rifles.
54. It is unlawful to transport, possess, or carry a loaded rifle or shotgun in any vehicle on any public street, road or highway.
55. It shall be unlawful for any person in the town, except a duly authorized officer in the course of his duty, to fire or discharge any gun, pistol, or other firearms of any kind.
56. No discharge of firearms across or within 150 yards of any building, dwelling, street, sidewalk, alley, roadway, public land, or public place.
57. No discharge of firearms north or west of a line from the Chesapeake-Virginia Beach boundary; thence northwardly along North Landing Road; thence eastwardly along Indian River Road; thence northeastwardly along New Bridge Road; thence eastwardly along Sandbridge Road to the Atlantic Ocean, or across any land north of False Cape Park and east of Shippys Bay and Point Creek. No discharge of rifles larger than .22 south of this line except muzzleloading rifles may be used to hunt deer during the firearms deer season.
58. Shotguns firing pellets are lawful on certain agricultural lands of 50 contiguous acres or more, and on certain lands south of a line from the Chesapeake-Virginia Beach boundary, thence northeastwardly along Elbow Road; thence southeastwardly along Salem Road; thence northeastwardly along North Landstown Road; thence southeastwardly along Princess Anne Road; thence eastwardly along Sandbridge Road to the Atlantic Ocean. The property must be permitted by the City Manager for this purpose.
59. It shall be unlawful for any person to discharge or shoot off a firearm in the county. It shall be unlawful for any person to discharge or shoot or throw any dangerous missiles by mechanical, explosive, air- or gas-propelled means, or similar method or device onto or across any public sidewalk, path, or roadway, at any public structure or building, or at or onto the property of another. It is unlawful for any person to shoot a compound bow, crossbow, longbow, or recurve bow at or upon the property of another without permission. It shall be unlawful to discharge a projectile from any of the aforementioned bows within 100 yards of any public road, public building or structure, private residence or structure, or property of another. Nothing in this ordinance shall be construed to prohibit the use of firearms or other instruments or missiles or compound bows, crossbows, longbows, or recurve bows in lawful self defense or in the lawful defense of property, or to prohibit the use of firearms or other missiles or compound bows, crossbows, longbows, or recurve bows in supervised sport, recreation, or training conducted on safety-inspected and approved ranges and courses, provided the same is not contrary to existing law.
60. It shall be lawful to hunt deer and bear from a stand elevated at least 10 feet from the ground or within a ten (10) foot perimeter from a stationary, pre-identified and marked point, such point having been established by an easily visible fixed marker, with a .23 or larger caliber. However such rifles can only be loaded while the hunter is in the elevated tree stand, within the 10 feet of the stationary pre-identified and marked point, if ground hunting, or while attempting to recover wounded game within a 300 yard perimeter of the elevated stand or the pre-identified and marked point from which the game was shot.
61. It is unlawful to hunt or attempt to hunt on a primary or secondary state maintained highway, and within the side ditches of such highways.
62. Discharging firearms is prohibited within certain areas (check local county ordinance for area description), except deer hunting is permitted with handguns, shotguns, or muzzleloading rifles using a single projectile and all other hunting is allowed with rifles

**Local firearms ordinances are established by individual counties/cities. Please contact the appropriate locality for more information.**

of .22 caliber rimfire or less, handguns, shotguns, and muzzleloading rifles using single or multiple projectiles.

63. The discharge of firearms is prohibited within 50 yards of a highway in the primary or secondary system of state roads.
64. Discharge of firearms is prohibited within 100 yards of any public park or school.
65. Discharge of firearms is prohibited within 100 yards of a building with a current occupancy permit unless the owner or authorized agent has given permission.
66. Muzzleloaders shall be legal firearms during any firearms season.
67. Shotgun slugs shall be permitted for deer hunting.
68. It shall be unlawful to hunt with a rifle larger than .22 caliber, except rifles of a larger caliber may be used for hunting groundhogs and coyotes outside the general firearms deer season.
69. It shall be unlawful for any person to discharge an air gun, spring gun, or firearm from, along, across or toward, or within 300 yards of any paved public street, highway or road, or any building in the city.
70. It shall be lawful to hunt game species with a muzzleloading rifle during the prescribed open seasons.
71. The discharge or use of a rifle, except for a .22 caliber rim fire is prohibited within the city limits.
72. The use of muzzleloading rifles during the prescribed open seasons for the hunting of game species is permitted in the city; provided, however, that the use of such muzzleloading rifle shall be only from a stand located at least 10 feet above the ground.
73. No rifles for turkey hunting.
74. It is unlawful to hunt deer during the regular hunting season with a rifle of .23 caliber or larger either on public lands or in the area of the county bordered to the north by the James River, to the west by Route 602 from the Willis River, and to the south by Route 45 and Route 684 to the county line (generally known as Cartersville Historic District); except from a tree stand elevated at least 10 feet above the ground. It shall be lawful to hunt with a muzzleloading rifle from the ground or from a tree stand elevated to any height.
75. No person shall hunt using a rifle larger than a .22 caliber rimfire within 100 yards of any residence or occupied building without the written approval of the owner or lessee of the property. It shall be unlawful to discharge a rifle larger than .22 caliber rimfire from an elevated stand within 100

yards of an adjoining property line without first obtaining written permission of the owner or, if different than the owner, the occupant of the adjoining property or within 100 yards of any public street or primary or secondary state-maintained highway.

76. Muzzleloading rifles are permitted during the open seasons for hunting game species from stands elevated at least 10 feet above the ground (except legally handicapped hunters are exempt from tree stand requirements). No early muzzleloader season east of the Dismal Swamp Line.
77. It shall be unlawful to engage in hunting with a firearm within the right-of-way of any primary or secondary highway.
78. It shall be unlawful for any person to engage in hunting with a firearm or to discharge a firearm within 100 yards of a dwelling house or occupied building not his or her own.
79. It shall be unlawful for any person to engage in hunting with a bow or to discharge arrows from bows within 100 yards of a dwelling house or occupied building not his or her own. A "bow" includes all compound bows, crossbows, longbows, and recurves that have a peak draw weight of 10 pounds or more. The term "arrow" means a shaft-like projectile intended to be shot from a bow.
80. It shall be unlawful to hunt with a rifle larger than .22 caliber rimfire, except rifles of a larger caliber may be used for hunting groundhogs and coyotes between March 1 and August 31.
81. It shall be unlawful to shoot or hunt within 100 yards of any regularly occupied structure without written permission of its owner or occupant or within 100 yards of any private road located in a subdivision where lots are 10 acres or more without written permission of the owner or occupant.
82. It shall be unlawful to shoot or hunt on any county property including, but not limited to, schools, parks, pools, the courthouse and other county offices.
83. It shall be unlawful to hunt with a rifle larger than a caliber of .22 caliber in the county, except in the hunting of groundhogs, coyotes, and feral hogs outside the general firearms deer season.

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b #8

**VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION**

**CHAPTER 610**

*An Act to amend and reenact § 58.1-3666 of the Code of Virginia, relating to living shorelines.*

[H 526]

Approved April 1, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3666 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3666. Wetlands and riparian buffers; living shorelines.**

Wetlands, as defined herein, that are subject to a perpetual easement permitting inundation by water, and riparian buffers, as defined herein, that are subject to a perpetual easement permitting inundation by water, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation. *In addition, any living shoreline project approved by the Virginia Marine Resources Commission or the applicable local wetlands board and not prohibited by local ordinance that satisfies the definition of a living shoreline consistent with § 28.2-104.1 shall qualify for full exemption from such taxation by local governments.*

"Riparian buffer" means an area of trees, shrubs or other vegetation, subject to a perpetual easement permitting inundation by water, that is (i) at least thirty-five feet in width, (ii) adjacent to a body of water, and (iii) managed to maintain the integrity of stream channels and shorelines and reduce the effects of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals.

"Wetlands" means an area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water.

B #9

**VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION**

**CHAPTER 213**

*An Act to amend and reenact § 15.2-1716.1 of the Code of Virginia, relating to reimbursement of expenses; response to bomb threat.*

Approved March 1, 2016

[S 527]

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1716.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident or bomb threat.**

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 or of a felony violation of § 18.2-83 or 18.2-84, 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 \$1,000 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 or 18.2-84 as set forth herein.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

B #10

CHAPTER 131

*An Act to amend and reenact § 46.2-662 of the Code of Virginia, relating to vehicle registration.*

Approved March 1, 2016

[H 1032]

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-662 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-662. Temporary exemption for new resident operating vehicle registered in another state or country.**

A. A resident owner of any passenger car, pickup or panel truck, moped, auticycle, or motorcycle, other than those provided for in § 46.2-652, that has been duly registered for the current calendar year in another state or country and that at all times when operated in the Commonwealth displays the license plate or plates issued for the vehicle in the other state or country, may operate or permit the operation of the passenger car, pickup or panel truck, moped, auticycle, or motorcycle within or partly within the Commonwealth for the first 30 days of his residency in the Commonwealth without registering the passenger car, pickup or panel truck, moped, auticycle, or motorcycle or paying any fees to the Commonwealth.

B. In addition to any penalty authorized under this title, any locality may adopt an ordinance imposing a penalty of up to \$250 upon the resident owner of any motor vehicle that, following the end of the 30-day period provided in subsection A, is required to be registered in Virginia but has not been so registered. *The locality may impose the penalty upon the resident owner annually for as long as the motor vehicle remains unregistered in Virginia.* The ordinance shall set forth a reasonable method for assessing and collecting the penalty, whether by civil, criminal, or administrative process, and shall identify the employees or agents of the locality who are to execute such assessment and collection.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

B #11

CHAPTER 249

*An Act to amend the Code of Virginia by adding a section numbered 46.2-800.3, relating to local regulation driving in flooded areas; no wake.*

Approved March 7, 2016

[S 163]

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-800.3 as follows:**

**§ 46.2-800.3. Driving in flooded areas prohibited.**

*The governing body of any locality may by ordinance prohibit any person from operating a motor vehicle or watercraft on a flooded highway, street, alley, or parking lot, regardless of whether such highway, street, alley, or parking lot is publicly or privately owned in such a manner as to increase the level of floodwaters to a level that causes or could reasonably be expected to cause damage to any real or personal property.*

*Such ordinance shall not apply to any law-enforcement officer, firefighter, or emergency medical services personnel engaged in the performance of his duties nor to the operator of any vehicle owned or controlled by the Department of Transportation or a public utility company as defined in § 56-265.1. Any locality adopting such an ordinance shall provide for adequate notice, including signs that, at a minimum, warn operators of motor vehicles and watercraft of the prohibition and penalties.*

*A violation of such ordinance shall constitute a Class 4 misdemeanor.*



Board of Supervisors of Northampton  
P.O. Box 66 • Fastville, Virginia 23347

MEM  
C

Katherine H. Nunez  
County Administrator

PHONE: 757-678-0440  
FAX: 757-678-0483

BOARD  
H. Spe  
Larry  
Oliver  
Robert  
Granvil

MEMORANDUM

**TO:** Board of Supervisors  
**FROM:** Katie H. Nunez, County Administrator *Katie H. Nunez*  
**DATE:** July 5, 2015  
**RE:** Proposed revisions to the Business, Professional, Occupational License (BPOL) Ordinance

Pursuant to the Board of Supervisors' direction to consider a full implementation of the Business, Professional, Occupational License (BPOL) Ordinance, I have included a proposed amended ordinance for the Board's consideration. Currently, the County requires that the applicable businesses obtain a license in the amount of \$30 annually from the Commissioner of Revenue. This proposed amended ordinance would institute the imposition of a tax based on gross receipts for qualifying businesses.

The Board would need to determine the rate structure as well as to determine certain options allowed in the Code of Virginia as follows:

**OPTIONS**

1. Impose the tax on either gross receipts of the Virginia taxable income of the business.
2. Do you want to provide relief from the BPOL tax by exempting new business from the tax for up to two years?
3. Do you want to exempt unprofitable businesses from the tax?

**RATE STRUCTURE**

- Maximum license fee based upon our population is \$30
- Determine if there is a minimum tax (range is \$10 to \$30); and what thresholds would the minimum tax suffice based upon either a fixed threshold or a tiered threshold approach.
- There are five categories for which a rate can be set for imposition of the BPOL Tax.
  - a. Contracting – maximum rate is \$.16 per \$100;

- b. Retail – maximum rate is \$.20 per \$100;
- c. Repair, Personal & Business Services – maximum rate is \$.36 per \$100
- d. Financial, Real Estate & Prof. Services – maximum rate is \$.58 per \$100
- e. Wholesale Gross Receipts or Gross Purchases – maximum rate is \$.05 per \$100

I have enclosed information on the BPOL from the Weldon Cooper Center Survey on Tax Rates for Virginia Localities, 2015 listing various localities and what options and rates they have imposed.

**BUSINESS, PROFESSIONAL, OCCUPATIONAL LICENSE FEE**

**§ 110.15 T I T L E .**

This subchapter shall be known as a "Business, Professional, Occupational License Fee **and Tax** for Northampton County, Virginia," and may be so cited. The purpose of this subchapter is to impose a license fee on all persons engaged in the businesses, professions, occupations and trades conducted in the county, to require a license to be obtained therefore, provide for the collection thereof, and to impose penalties for failure to comply with the provisions hereof.

(Ord. passed 10-13-2009)

**§ 110.16 DEFINITIONS **AND REQUIREMENTS.****

**A.** For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AFFILIATED GROUP.***

- (1) One or more chains of corporations subject to inclusions connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:
  - (a) Stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is directly by one or more the other corporations subject to inclusion; and
  - (b) The common parent corporation directly owns stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this division, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or county of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
  - (a) At least 80% of the total combined voting power of all classes of stock entitled to vote

or at least 80% of the total value of shares of all classes of the stock of each corporation; and

- (b) More than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% of the total value of shares of all classes of stock of each corporation, **taking into account the stock ownership of each such person only to the extent of such stock ownership is identical with respect to each such corporation**

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

- (3) Two or more entities if such entities satisfy the requirements in divisions (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

**ASSESSING OFFICER or ASSESSING OFFICIAL.** The Commissioner of the Revenue of Northampton County.

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

**BASE YEAR.** The calendar year preceding the license year, except for contractors subject to the provisions of Va. Code §58.1-3715 or for a different period measuring the gross receipts of a business, such as for beginning businesses, filing estimated license applications pursuant to Section       .

**BUSINESS.** A course of dealing which requires the time, attention and labor of the person or engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

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

**DEFINITE PLACE OF BUSINESS.** An office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A **DEFINITE PLACE OF BUSINESS** for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to a **DEFINITE PLACE OF BUSINESS** if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant m e r c h a n t .

**ENTITY.** A business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

**FINANCIAL SERVICES.** The buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities or other investments.

**FUEL SALE or FUEL SALES.** Retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Va. Code §58.1-2201.

**GAS RETAILER.** A person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Va. Code §58.1-2201.

**GROSS RECEIPTS.** The whole, entire, total receipts, without deduction.

**INDEPENDENT REGISTERED REPRESENTATIVE.** An independent contractor registered with the United States Securities and Exchange Commission.

**LICENSE YEAR.** The calendar year for which the license is issued for the privilege of engaging in business.

**PERSON.** Individual, firm, corporation, copartnership, company, association or joint stock association. Such term shall include any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation, but shall not include a court appointed trustee, receiver or personal representative, in the liquidation of assets for immediate distribution, or sergeant or sheriff or any deputy, selling under authority of process of writ of a court of justice. Such term shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities and facilities for the welfare of the residents of the area.

**PROFESSIONAL SERVICES.** Services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the department of taxation may list in the BPOL

guidelines promulgated pursuant to Va. Code § 58.1-3701, as amended. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

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

**REAL ESTATE SERVICES.** Providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

**SECURITY BROKER.** A broker is defined under the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

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

**B. SPECIAL DEFINITIONS, EXCLUSIONS AND PROVISIONS.** The general definitions provided by the Article shall be subject to the following limitations, unless a different meaning clearly is required by the context:

(1) Exclusions from the definition of gross receipts:

- (a) Gross receipts do not include those receipts excluded by Virginia law pursuant to *Code of Virginia*, Section 58.1-3703(C).
- (b) Gross receipts do not include revenues that are attributable to taxable business activity conducted in another jurisdiction within the Commonwealth of Virginia and the volume attributable to that business activity is deductible pursuant to Va. Code §§58.1-3708 and 58.1-3709.
- (c) Pursuant to Va. Code §58.1-3732, gross receipts do not include those amounts not derived from the exercise of the license privilege to engage in a business or profession in the ordinary course of business.
- (d) Gross receipts do not include revenues that are attributable to business activity with a taxable situs in another jurisdiction not within the Commonwealth of Virginia which shall include any amount attributable to business conducted in another state or foreign county in which the taxpayer is liable for an income or other tax based upon income.
- (e) Gross receipts do not include those receipts which are subject to a license tax on the

same business activity imposed by a town government in accordance with Va. Code §58.1-3711.

- (f) Gross receipts do not include any amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.
- (g) Gross receipts do not include any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it not resold to a state or federal government entity in accordance with the original contract obligation.
- (h) Gross receipts do not include licenses, admission taxes or pari-mutual wagering pools established under Va. Code §59.1-391 or 59.1-393 in accordance with the provisions of Va. Code §58.1-3732.1.
- (i) Gross receipts do not include any amounts received by a real estate broker which arise from real estate sales transactions to the extent that such amounts are paid to a real estate agent as a commission and the agent is subject to a business license tax on such gross receipts in accordance with the provisions of Va. Code §58.1-3732.2. Real estate brokers must include all such receipts within their taxable gross as individual real estate agents are not licensed separately pursuant to Article \_\_\_\_\_. In addition, gross receipts, when used in connection with Section \_\_\_\_ of this Article, means all commissions received by real estate brokers with respect to the purchase and the sale or purchase and sale of any real estate paid by real estate agents to real estate brokers as established in accord with a contractual agreement between the brokers and the agents of that broker.
- (j) Gross receipts do not include the value of any trade-in vehicle accepted in trade by a motor vehicle dealer who accepts a trade-in as part of a sale of a motor vehicle pursuant to Va. Code §58.1-3734.1.
- (k) Gross receipts do not include all amounts received in the course of conducting the state lottery by a lottery sales agent licensed by the State Lottery Board, but gross receipts do include the compensation actually paid to a lottery sales agent in

accordance with the provisions of Va. Code §58.1-4011.

- (l) Gross receipts do not include membership dues collected by trade, business, professional, service or civic associations, or other similar non-profit organizations.
- (m) Gross receipts do not include amounts paid by advertising agents and agencies for any customer for advertising space, radio time, television time, electrical transcription, pressing, art work, engraving, plate, mats, printing stock, and postage.
- (n) Gross receipts do not include income which is exempt from the federal income tax pursuant to §501(c)(6) of the United States Internal Revenue Code, as amended. However, this exclusion pertaining to organizations which are exempt from the federal income tax pursuant to §501 (c)(6) of the United States Internal Revenue Code does not exempt unrelated business income received by those organizations which is taxable pursuant to §501 (b) of the United State Internal Revenue Code, as amended.
- (o) Gross receipts do not include:
  - (i) The income of a charitable nonprofit organization except to the extent an organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code §511 et seq. For the purpose of this subsection, “charitable nonprofit organization” means an organization which is described in Internal Revenue Code §501 (c) (3) and to which contributions are deductible by the contributor under Internal Revenue Code §170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.
  - (ii) On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration which are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subsection, “nonprofit organization” means an organization exempt from federal income tax under Internal Revenue Code §501, other than charitable nonprofit organizations.
- (p) Gross receipts do not include receipts which are the proceeds of a loan transaction in which the licensee is the obligator, or the return of principal of a loan transaction in which the licensee is the creditor. Gross receipts also do not include the return of principal or basis upon the sale of a capital asset. Gross receipts, when used in connection with or in respect to financial transactions involving the sale of notes, stocks, bonds, or other securities or the loan, collection or advance of money or the discounting of notes, bills or other evidence of debt, mean the gross interest, gross discount, gross commission or other gross receipts earned by means of, or resulting from such financial transactions, but gross receipts do not include any amount

received as payment of debt.

- (q) Gross receipts do not include the pass-through funds of any money lender duly organized, registered and doing business as a cooperative association under the Virginia Cooperative Association Act or any corresponding cooperative association act of any other state or the District of Columbia. However, all funds used for operating expenses, retained margins and reserves of any such cooperative association are gross receipts which are taxable in accordance with Section \_\_\_\_\_ of this Article. Any cooperative money lender whose gross receipts are subject to taxation in accordance with this subparagraph shall submit such documentary proof as required by the Commissioner that the cooperative money lender is duly organized, registered and doing business as a cooperative association in the manner provided herein.
  - (r) Gross receipts do not include donations, gifts or contributions made without consideration to a non-profit organization described in Internal Revenue Code §501.
  - (s) Gross receipts do not include any amounts received from the sale of capital assets or from dividends, interest or the investment income except in the case of a person engaged in a money lending or other financial services business the receipts of which are directly attributable to the exercise of the licensed privilege.
  - (t) Gross receipts do not include general and administrative intra-company receipts or intra-company reimbursements or transfer payments.
- (2) Other special provisions: Notwithstanding the provisions of Section \_\_\_\_\_, every person conducting or engaging in the occupation, business, trade or calling of leasing aircraft shall be taxed on the gross receipts of that activity at the annual license tax rate imposed on wholesale merchants by Section \_\_\_\_\_.
- C. The calculation of gross purchases and gross receipts for annual license tax purposes shall be on a cash, a modified accrual or an accrual basis used for the preceding calendar year, but the basis used for such calculation of gross receipts for each person shall be the same system of accounts used by that person for federal income tax purposes.
  - D. Any person claiming the benefit of any exclusion, exemption, restriction or limitation to the taxes imposed by this Article shall bear the burden of showing that the exclusion, exemption, restriction or limitation is applicable to their claim.

## § 110.17 ADMINISTRATION .

### (A) License and Tax requirements.

(1) Every person shall apply annually for a license for each business or profession when engaging in a business or profession in the county if:

- (a) The person has a definite place of business in the county;
- (b) There is no definite place of business anywhere and the person resides in the county; or
- (c) There is no definite place of business in the county but the person operates amusement machines or is classified as an itinerant merchant, peddler, contractor subject to VA Code § 58.1-3715, as amended, operates a carnival, or circus or is a public service corporation.

(2) A separate license shall be required for each definite place of business and for each business.

(3) A person engaged in two or more businesses or professions earned at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(a) Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the county; and

(b) All of the businesses or professions are subject to the same license fee.

(4) The collection and enforcement of the license tax imposed in this ordinance are made in compliance with the Code of Virginia §58.1-3700 et seq. for the assessment, levy, and collection of taxes for the current license year, and for fixing their powers, right, duties, and obligations, the provisions of the Code of Virginia §58.1-3700 et seq. so far as applicable, are hereby adopted without being specifically quoted in this section.

### (B) Due dates and penalties.

(1) Each person subject to a license fee and tax shall apply for the license prior to beginning business, or no later than March 1 of the license year if he or she had been issued a license of the preceding year. The application shall be on forms prescribed by the Commissioner of Revenue.

(2) The tax and the administrative fee referred to in division (C) of this section shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1.

(3) The Commissioner of Revenue may grant an extension of time in which to file an application for a license for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is subject to adjustment to the correct tax at the end of the extension, in addition to interest from the due date until the date

paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of portion paid after the due date.

(4) A penalty of 10% of the fee may be imposed upon the failure to file an application or the failure to pay the fee tax by the appropriate date. Only the late filing penalty shall be imposed by the Commissioner of Revenue if both the application and payment are late; however, both penalties may be assessed by the Commissioner of Revenue determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the Commissioner of Revenue, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the Commissioner of Revenue is not paid within 30 days, the Treasurer may impose a ten percent late payment penalty. If the failure to pay or file was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the Commissioner of Revenue. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that failure was due to events beyond his control. The term "acted responsibly" shall mean that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business, and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed, or the failure was discovered. The term "events beyond the taxpayer's control" include but are not limited to the unavailability of records due to fire or other casualty; the unavoidable absence (e.g. due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the Commissioner of Revenue who was aware of the relevant facts relating the taxpayer's business when he provided the erroneous information.

(5) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of an additional or omitted tax by the Commissioner of Revenue is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax from the date of payment or due date, whichever is later, whether or attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under the Code of Virginia §58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of the base year. No interest shall be paid on a refund or charged on a late payment provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax,

whichever is later.

(6) Under the authority of VA Code § 15.2-1429, as amended, operating a business without a business license shall constitute a misdemeanor, punishable by a fine of not more than \$500.

(C) *Fee for issuing license. Rate of license fee.* Unless identified in this article as paying a “flat rate”: ~~The fee for the issuance of a business license shall be \$30 each year.~~

- 1) No person having gross receipts from a business, profession or occupation subject to licensure under this article whose gross receipts are less than \$50,000 in any license year shall be required to pay any license tax in order to receive such license; provided, however, that any such person shall be required to apply for the license elsewhere required by this ordinance and pay an administrative fee of \$30.00 for such license. No business license under this ordinance shall be issued until the applicant has produced satisfactory evidence that all delinquent business license fees, personal property, meals, transient occupancy, severance and admissions (if applicable) taxes owed by the business to the county have been paid which have been properly assessed against the applicant by the county.
- 2) Any person engaged in the business of designing, developing or other creation of computer software for lease, sale, or license shall be exempt from the license tax described in this ordinance but shall pay the administrative fee upon application for the license, as described in subsection(1) above.

(D) *License tax on beginners; when tax measured by gross receipts, gross sales, gross purchases, gross commissions, gross contracts or orders.* For the purpose of ascertaining the tax to be paid by any person beginning a new business, employment, profession, or activity and whose license tax shall be based on gross receipts, gross sales, gross purchases, gross commission, gross contracts or orders, the licensee shall estimate the basis for measuring the license tax between the date of issuance of the license and December 31 following. If such estimate shall be less than the amount prescribed in Section \_\_\_\_, the licensee shall pay the administrative fee therein described.

(E) *Exemptions.* No license fee and tax shall be required:

(1) On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in VA Code § 58.1-3731 or as permitted by other provisions of law;

(2) For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside the regular market houses and sheds of the County; provided, such products are grown or produced by the person offering such products for sale;

(3) Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter

or other publication issued daily or regularly at average intervals not exceeding three months; provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conduction of any radio or television broadcast station or service;

(4) On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacturer;

(5) On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in VA Code §§ 58.1-3712 and 58.1-3713, as amended, authorizing counties to levy a license tax on every person engaging in the business of severing coal, oil or gases from the earth;

(6) Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the county; this subdivision shall not be construed as prohibiting the county from imposing the license fee on a peddler at wholesale pursuant to VA Code § 58.1-3718;

(7) Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boarding houses;

(8) On or measured by receipts for management, accounting or administrative services provided on a group basis under nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of VA Code Title 13.1, Chapter 3, Article 2, §§ 13.1-312 *et seq.*, as amended, or a member or subsidiary or affiliated association thereof, to other members of the same group; this exemption shall not exempt any such corporation from such license requirements to be measured by receipts from outside the group;

(9) On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license fee on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license fee would be based upon purchases from an affiliated entity;

(10) On any insurance company subject to taxation under VA Code Chapter 25, §§ 58.1-2500 *et seq.*, as amended, or on any agent of such company;

(11) On any bank or trust company subject to taxation in VA Code, Chapter 12, §§ 58.1-1200 *et seq.*, as amended;

(12) Upon a taxicab driver, if the county has imposed a license fee upon the taxicab company for which the taxicab driver operates;

(13) On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the department, as set forth in VA Code § 51.5-98, as amended;

(14) On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination; "accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

(15) On or measured by receipts of a charitable nonprofit organizations exempt to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under the Internal Revenue Code §§ 511 *et seq.* For the purpose of this division, "charitable nonprofit organization" means an organization which is described in the Internal Revenue Code § 501(c)(3) and to which contributions are deductible by the contributor under the Internal Revenue Code § 170, except that educational institutions shall be limited to schools, colleges, and other similar institutions of learning;

(16) On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration which are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under the Internal Revenue Code § 501 other than charitable nonprofit organizations; or

(17) On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such business and rental of real estate;

(18) On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in VA Code § 55-79.41; or

(19) On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in VA Code § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§§ 56-556 *et seq.*) or similar federal law.

(F) *No contractor's license required except where principal office located; exceptions.* When a contractor has paid any local license tax required by the county, city or town in which his principal office and any branch office or offices are located, no further license or license tax shall be required by any such contractor except when the amount of business done in this county exceeds the sum of \$25,000. In such event, such contractor shall secure a license.

(G) *Limitation on county license tax or fee within towns.* Any county license tax or fee imposed pursuant to this subchapter shall not apply within the limits of any town located in Northampton County, where such town now, or hereafter, imposes a town license tax or fee on the same privilege. If the governing body of any town within the county, however, provides that a county license tax or fee shall apply within the limits of such town, then such license tax or fee may be imposed within such town.

(H) *Display of license.* Every person required to pay a license tax or obtain any license, tag, or sign under the provisions of this subchapter shall keep the license, tag, or sign in a convenient place; and, whenever required to do so, shall exhibit it to any member of the sheriff's department when detailed or authorized to inspect such licenses or to the Commissioner of the Revenue or his or her agent.

(I) *Effective date and repeal of other ordinances.*

(1) This Ordinance has been adopted pursuant to VA Code §§ 58.1-3700 *et seq.* and shall become effective on January 1, ~~2010~~2017.

(2) Any other ordinance related to merchant's capital tax, as defined in VA Code §§ 58.1-3509 and 58.1-3510, is repealed as of December 31, 2009 in accordance with VA Code § 58.1-3704.

(Ord. passed 10-13-2009; Am. Ord. passed 6-14-2011)

## Section 14

# Business, Professional, and Occupational License Tax, 2015

In fiscal year 2014, the most recent year available from the Auditor of Public Accounts, business license taxes, of which the business, professional, and occupational license tax (commonly referred to as the BPOL tax) makes up the largest part, accounted for 6.2 percent of tax revenue for cities, 3.7 percent for counties, and 12.8 percent for large towns. These are averages; the relative importance of the tax varies for individual cities, counties and towns. In fact, only slightly over half of the counties employ the tax. Others use the merchants' capital tax instead. Four counties (Amherst, Hanover, Louisa, and Southampton) reported using both taxes, maintaining the merchants' capital tax for retailers and the BPOL tax for other types of businesses. For information on individual localities, see Appendix C.

Localities are authorized to impose a local license tax on businesses, professions, and occupations operating within their jurisdictions unless they already levy a tax on merchants' capital. The BPOL tax is sanctioned by §§ 58.1-3700 through 58.1-3735 of the *Code of Virginia*. The *Code* establishes the dates between March 1 and May 1 as the time by which businesses must apply for a license. County BPOL taxes do not apply within the limits of an incorporated town unless the town grants the county authority to do so (§ 58.1-3711). Localities may charge a fee to each business for the issuance of a license. Each business classification such as retail or contracting, has a specific tax rate which cannot exceed maximums set by the state guidelines. Businesses pay the tax rate for the amount of gross receipts within each classification.

Although revised guidelines in January 1997 made administration of the BPOL tax more uniform in terms of due dates, penalties, interest, appeals, and definitions of situs, localities retained some flexibility. In 2000, the 1997 guidelines were updated. They are viewable on the internet site, [http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\161\GDoc\\_TAX\\_2537\\_v1.pdf](http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\161\GDoc_TAX_2537_v1.pdf).

In 2011 the General Assembly passed a law allowing localities the option of imposing the tax on either gross receipts or the Virginia taxable income of the business. This option did not apply to certain public service corporations required to pay the 1/2 of 1 percent utility tax, which is considered a form of BPOL (see Section 11). The legislature also permitted relief from the BPOL tax, allowing localities

to exempt new business from the tax for up to two years and second, allowing localities to exempt unprofitable businesses from the tax.

Localities may still determine how many separate licenses they issue to a business and whether to charge a fee for each business location or only one fee for a business with multiple locations. Some localities charge no fee or charge different fees depending on a firm's gross receipts. Some localities charge a minimum tax instead of a fee. For example, if a locality had a minimum license tax of \$30 then businesses with gross receipts below the threshold would pay \$30 instead of a smaller amount based on gross receipts. In addition, there are some localities that impose both a license fee and a tax rate on businesses with gross receipts above the threshold.

The BPOL tax is used by all cities and 48 of the 95 counties. The tax is also widely used by incorporated towns; 119 towns reported using the BPOL tax. The specific localities that impose the tax are listed in Table 14.1 along with information regarding due dates, license fees, and thresholds.

For most localities, the filing and payment dates are March 1st, though there is quite a bit of variance from that date. Of the cities, 19 reported requiring a license fee, either by business or by location. Twenty-seven counties and 66 towns also reported requiring license fees of some sort. Finally, 21 cities, 33 counties, and 17 towns reported having a tax threshold requirement based on gross receipts.

Table 14.2 lists the fees, minimum tax, and an explanation of the fee structures provided by the localities in the survey. Thirty-two cities reported having either a fee or a minimum tax, as did 40 counties and 101 towns.

Table 14.3 shows specific tax rates by business classification for each locality. All 38 cities, 44 counties, and 106 towns reported having a tax on at least one business classification. An overview of the general practices of Virginia localities is shown in the text table below. Combining data from tables 14.2 and 14.3, it lists the median license fee and median gross receipts tax rate for cities, counties, and towns. If a locality reported different fees due to differences in total gross receipts, the median figures were calculated using the highest fee amount given because that provides an estimate of the greatest impact on the payer.

For localities that base wholesalers' tax rates on gross

receipts rather than on purchases of goods for sale, the rate was multiplied by 1.22, based on the assumption that purchases are 82 percent of gross receipts.<sup>1</sup> Only the localities that reported a fee or a tax rate in a particular category were included in the calculation of the medians in the following text table.

**BPOL License Fee and Tax Rate Per \$100 in 2015**

Item	Cities	Counties	Towns	Cities, Counties & Towns
<b>License fee</b>				
Median	\$50.00	\$30.00	\$30.00	\$30.00
Number of localities	14	22	36	72
<b>Gross receipts tax rate per \$100</b>				
<b>Contracting</b>				
Median	\$0.16	\$0.13	\$0.13	\$0.14
Number of localities	38	44	103	185
<b>Retail</b>				
Median	\$0.20	\$0.15	\$0.15	\$0.16
Number of localities	38	40	106	184
<b>Repair, personal &amp; bus.</b>				
Median	\$0.36	\$0.20	\$0.18	\$0.20
Number of localities	38	42	106	186
<b>Financial, real est. &amp; prof.</b>				
Median	\$0.58	\$0.32	\$0.25	\$0.33
Number of localities	38	42	106	186
<b>Wholesale (purchases)</b>				
Median	\$0.12	\$0.05	\$0.05	\$0.05
Number of localities	38	40	95	173

The median tax rates for the cities matched the maximum rates permitted by the state—\$0.16 per \$100 of gross receipts for contracting; \$0.20 for retail; \$0.36 for repair, personal, and business services; and \$0.58 for financial, real estate,

and professional services. The median figures for counties and towns were less than those of the cities, indicating that counties and towns did not generally apply the maximum rates permitted by Virginia law.

The median rate of \$0.12 on wholesalers for cities was well above the state maximum of \$0.05 per \$100 of purchases. Cities are presumed to operate under grandfather clauses that allow them to impose higher rates. The median rate on wholesalers for counties and towns was \$0.05 per \$100.

One business classification not presented in Table 14.3 is that of rental property due to the small number of localities reporting it. Localities are permitted to charge a license fee, or levy a BPOL tax, on businesses renting real property. In 2015, only 23 localities reported taxing such businesses. They were the cities of Alexandria, Bristol, Fairfax, Falls Church, Fredericksburg, and Portsmouth; the counties of Albemarle, Arlington, Augusta, Fairfax, King George, Loudoun, Nelson, Pulaski, and Wythe; and the towns of Bridgewater, Chatham, Goshen, Haymarket, Narrows, Purcellville, Round Hill, and Vienna.

The median license fee, which is generally imposed only upon businesses below the gross receipts tax threshold, was \$50 for the cities and \$30 for counties and towns.

Table 14.4 lists taxes and fees on peddlers and itinerant merchants. All of the cities, 49 counties, and 99 towns reported some form of tax on peddlers. Annual fees charged by cities for retail peddling ranged anywhere from \$10 to \$500. Taxes on retail itinerant merchants and wholesale peddlers ranged from \$25 to \$500, with some cities charging according to gross receipts and other cities according to gross purchases. Annual charges by counties ranged from a \$1 minimum fee to \$500, while towns charged anywhere from \$10 to \$500 per year.



<sup>1</sup> The ratio was calculated from Internal Revenue Service national data for 2012 showing that wholesale corporations with net income reported the cost of goods sold was 82 percent of business receipts. See: Internal Revenue Service, *Statistics of Income, Corporation Returns with Net Income, 2012*, Table 7, <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Complete-Report>. For example, assuming purchases are 82 percent of gross receipts, then a firm with \$1,000,000 of purchases would have gross receipts of \$1,219,512. A tax of \$.04 per \$100 on gross receipts would yield \$48,780, an amount 1.22 times greater than the yield of a tax of \$0.04 per \$100 on purchases which would be \$40,000.

**Table 14.1**  
**BPOL Due Dates and Other Provisions, 2015**

Locality	Due Dates		License Fee Applied	Gross Receipts Tax Threshold	Threshold Amount	Separate Gross Receipts Tax Threshold for Each License
	Filing	Payments				
<b>Cities</b> (Note: All cities responded to the survey.)						
Alexandria	3/1	3/1	None	Yes		
Bristol	3/1	3/1	Per license	No	\$100,000	Yes
Buena Vista	3/1	3/1	None	No	N/A	No
Charlottesville	3/1	3/1	Per license	No	N/A	No
Chesapeake	3/1	3/1	Per license	Yes	\$50,000	Yes
Colonial Heights	3/1	3/1	None	Yes	\$100,000	Yes
Covington	3/1	3/1	None	No	N/A	No
Danville	3/1	3/1	None	No	N/A	No
Emporia	3/1	3/1	Per license	Yes	N/A	No
Fairfax	3/1	3/1	None	Yes	\$100,000	No
Falls Church	3/1	3/1	None	No	N/A	No
Franklin	3/1	3/1	None	Yes	\$10,000	No
Fredericksburg	3/1	3/15	None	Yes	\$50,001	Yes
Galax	3/1	3/1	None	No	N/A	No
Hampton	3/1	3/1	Per license	No	N/A	Yes
Harrisonburg	3/1	3/1	Per location	No	N/A	No
Hopewell	3/1	3/31	Per license	Yes	\$100,000	No
Lexington	3/1	3/1	Per license	Yes	\$50,000	Yes
Lynchburg	5/1	5/1	None	No	N/A	Yes
Manassas	3/1	3/1	Per license	No	N/A	Yes
Manassas Park	2/1	3/1	None	Yes	N/A	No
Martinsville	3/1	3/1	None	Yes	\$150,000	Yes
Newport News	3/1	3/1	None	Yes	\$50,000	No
Norfolk	3/1	3/1	Per license	No	N/A	No
Norton	3/1	3/1	Per license	Yes	\$100,001	Yes
Petersburg	3/1	3/1	None	Yes	\$100,000	Yes
Poquoson	3/1	3/1	None	No	N/A	No
Portsmouth	1/1	3/1	None	Yes	\$50,000	Yes
Radford	3/1	3/1	Per license	No	N/A	No
Richmond	3/1	3/1	None	Yes	\$100,000	Yes
Roanoke	3/1	3/1	Per license	No	N/A	No
Salem <sup>a</sup>	3/1	3/1	Per license	Yes	\$100,000	Yes
Staunton	3/1	3/1	Per license	Yes	\$100,000	Yes
Suffolk	3/1	3/1	Per license	Yes	\$1,000	Yes
Virginia Beach	1/1	3/1	Per license	No	N/A	Yes
Waynesboro	3/1	3/1	None	Yes	\$100,000	No
Williamsburg	1/31	3/1	Per location	No	N/A	Yes
Winchester	3/1	3/1	None	Yes	\$4,000	Yes
<b>Counties</b> (Note: Data for survey was obtained for all counties. Those that answered "not applicable" for all items in this table are excluded.)						
Accomack	3/1	3/1	Per license	Yes	\$50,000	Yes
Albemarle	3/1	6/15	Per location	No	N/A	No
Alleghany	3/1	3/1	Per license	Yes	\$100,000	Yes
Amelia	3/1	3/1	Per location	No	N/A	No
Amherst	5/1	5/1	None	Yes	\$2,500	No
Arlington	3/1	3/1	Per license	Yes	\$49,999	No
Augusta	3/1	3/1	Per license	No	N/A	No
Botetourt	3/1	3/1	None	No	N/A	No
Buchanan	1/20	1/20	None	No	N/A	Yes
Campbell	5/1	5/1	None	No	N/A	No
Caroline	3/1	3/1	Per license	Yes	N/A	No
Chesterfield	3/1	3/1	None	Yes	\$100,000	Yes
Clarke	1/31	1/31	Per license	Yes	\$150,000	Yes
Cumberland	3/1	3/1	Per license	Yes	\$200,000	Yes
Dinwiddie	3/1	3/1	Per license	No	N/A	Yes
			None	Yes	\$10,000	No
			Per license	Yes	\$10,000	Yes

N/A Not applicable.

<sup>a</sup> The city of Salem imposes the following thresholds on gross receipts: personal, repair, and business services: \$8,334; contractors: \$18,750; financial, real estate, professional: \$5,173; retail sales: \$15,000; wholesale: \$10,000.

**Table 14.1 BPOL Due Dates and Other Provisions, 2015 (continued)**

Locality	Due Dates		License Fee Applied	Gross Receipts Tax Threshold	Threshold Amount	Separate Gross Receipts Tax Threshold for Each License
	Filing	Payments				
<b>Counties (continued)</b>						
Fairfax <sup>b</sup>	3/1	3/1	Per license	Yes	\$10,000	Yes
Fauquier	3/1	7/1	None	Yes	\$200,000	No
Frederick	3/1	4/1	Per license	Yes	\$100,000	Yes
Gloucester	3/1	3/1	Per license	Yes	\$50,000	Yes
Goochland	3/1	3/1	None	Yes	\$4,000	No
Greene	3/1	3/1	None	No	N/A	Yes
Greensville	3/1	3/1	None	Yes	\$1,000	Yes
Halifax	4/1	4/1	None	Yes	\$200,000	No
Hanover	3/1	3/1	None	Yes	\$100,000	Yes
Henrico <sup>c</sup>	3/1	3/1	None	Yes	\$100,000	Yes
Henry	3/1	3/1	None	Yes	\$100,000	Yes
Isle of Wight	3/1	3/1	None	Yes	\$4,000	No
Isle of Wight	3/1	3/1	Per location	Yes	\$100,000	No
James City	3/1	4/5	Per location	No	N/A	No
King & Queen	1/1	1/1	Per location	Yes	\$2,500	No
King George	3/1	6/30	None	Yes	\$50,000	Yes
King William	3/1	3/1	None	Yes	\$200,000	Yes
Loudoun	3/1	3/1	None	Yes	\$200,000	No
Loudoun	3/1	4/1	Per license	No	N/A	No
Mathews	3/1	4/1	Per license	Yes	\$5,000	No
Middlesex	1/1	3/1	Per license	No	N/A	No
Nelson	5/1	5/1	Per license	Yes	\$9,999	Yes
New Kent	5/1	6/30	None	Yes	\$9,999	No
Northampton	3/1	3/1	Per location	No	N/A	No
Northampton	3/1	3/1	Per location	No	N/A	No
Nottoway	3/1	3/1	Per location	No	N/A	No
Nottoway	3/1	3/1	Per license	No	N/A	No
Page	3/1	3/1	None	No	N/A	No
Powhatan	3/1	3/1	None	Yes	\$1,000	Yes
Prince George	3/1	3/1	Per license	Yes	\$1,000	Yes
Prince George	3/1	3/1	None	Yes	\$250,000	Yes
Prince William	3/1	3/1	None	No	N/A	No
Pulaski	3/1	3/1	None	No	N/A	No
Pulaski	3/1	3/1	Per license	Yes	\$100,000	Yes
Roanoke	3/1	3/1	Per license	Yes	\$100,000	No
Roanoke	3/1	3/1	Per location	No	N/A	No
Rockbridge	3/1	3/1	Per location	No	N/A	No
Rockbridge	3/1	3/1	None	No	N/A	No
Southampton	3/1	3/1	None	Yes	\$750,000	Yes
Southampton	3/1	4/15	None	Yes	\$750,000	Yes
Spotsylvania	3/1	4/15	None	Yes	\$50,000	Yes
Spotsylvania	3/1	3/1	Per license	Yes	\$50,000	No
Surry	3/1	3/1	Per license	Yes	\$18,750	Yes
Sussex	3/1	3/1	Per license	Yes	\$50,001	Yes
Sussex	3/1	3/1	Per license	Yes	\$50,001	Yes
Warren	3/1	3/1	Per license	Yes	\$100,000	Yes
Warren	3/1	3/1	Per license	Yes	\$100,000	Yes
York	3/1	3/1	Per license	Yes	\$100,000	Yes
<p><b>Towns</b> (Note: Towns that answered "not applicable" for all items in this table have been excluded. For a listing of town respondents and non-respondents, see Appendix B.)</p>						
Abingdon	3/1	3/1	None	Yes	\$40,000	No
Abingdon	3/1	3/1	None	No	N/A	Yes
Altavista	5/1	5/1	Per license	No	N/A	No
Altavista	5/1	5/1	Per location	No	N/A	No
Appomattox	3/1	3/1	Per license	Yes	\$100,000	Yes
Appomattox	3/1	3/1	Per license	Yes	\$20,000	Yes
Ashland	5/1	5/1	Per license	Yes	\$20,000	Yes
Ashland	5/1	5/1	Per license	Yes	\$20,000	Yes
Berryville	3/1	3/1	Per license	No	N/A	No
Berryville	3/1	3/1	Per license	No	N/A	No
Big Stone Gap	1/1	5/1	Per license	No	N/A	Yes
Blacksburg	3/1	3/1	None	No	N/A	No
Blacksburg	3/1	3/1	Per license	No	N/A	No
Blackstone	3/1	3/1	None	No	N/A	No
Blackstone	3/1	3/1	None	No	N/A	No
Bluefield	3/1	4/15	None	No	N/A	No
Boones Mill	1/31	1/31	None	No	N/A	No
Boones Mill	1/31	1/31	Per location	No	N/A	No
Boyce	12/5	12/5	Per location	No	N/A	No
Boyce	12/5	12/5	Per location	No	N/A	No
Boykins	1/15	2/15	Per license	No	N/A	No
Boykins	1/15	2/15	Per license	No	N/A	No
Bridgewater	3/1	3/1	Per license	No	N/A	No
Bridgewater	3/1	3/1	Per location	No	N/A	No
Broadway	3/1	3/1	Per location	No	N/A	No
Broadway	3/1	3/1	Per license	No	N/A	No
Brookneal	2/1	2/1	Per license	No	N/A	No

N/A Not applicable.

<sup>b</sup> Fairfax County imposes a \$30 license fee on businesses with gross receipts from \$10,000 to \$50,000, and a \$50 fee on those with gross receipts from \$50,001 to \$100,000. It imposes a license tax on businesses with gross receipts over \$100,000.

<sup>c</sup> Henrico County does not impose a license fee on any business. It has a minimum tax of \$30 after the first \$100,000 in sales. After that, the applicable rates for each business category are charged if the resulting taxes are greater than the \$30 minimum.

**Table 14.1** BPOL Due Dates and Other Provisions, 2015 (continued)

Locality	Due Dates		License Fee Applied	Gross Receipts Tax Threshold	Threshold Amount	Separate Gross Receipts Tax Threshold for Each License
	Filing	Payments				
<b>Towns (continued)</b>						
Buchanan	2/15	2/15	None	No	N/A	No
Cape Charles	1/31	4/15	Per license	No	N/A	Yes
Cedar Bluff	3/1	3/1	None	No	N/A	No
Chase City	3/1	3/1	Per license	No	N/A	No
Chatham	3/1	3/1	Per license	No	N/A	No
Cheriton	3/15	6/1	None	No	N/A	No
Chilhowie	3/1	3/1	Per license	No	N/A	No
Christiansburg	3/1	3/1	Per location	No	N/A	No
Claremont	3/1	3/1	Per license	No	N/A	No
Clarksville	3/1	3/1	None	No	N/A	No
Clifton Forge	3/1	3/1	Per license	No	N/A	No
Clintwood	3/1	3/1	None	No	N/A	No
Coeburn	5/1	5/1	None	No	N/A	Yes
Colonial Beach	3/1	4/1	None	No	N/A	No
Courtland	4/1	4/15	Per license	Yes	\$1,000	No
Culpeper	3/1	5/1	None	No	N/A	No
Damascus	5/1	5/1	Per license	No	N/A	No
Dayton <sup>d</sup>	3/1	3/1	Per location	No	N/A	No
Dillwyn	3/1	3/1	None	No	N/A	No
Dublin	3/1	4/15	None	No	N/A	No
Edinburg	3/1	3/1	Per license	No	N/A	No
Elkton	3/1	3/1	Per license	No	N/A	No
Farmville	3/1	3/1	Per license	No	N/A	No
Fincastle	3/1	3/1	None	No	N/A	No
Floyd	3/1	3/1	Per license	No	N/A	No
Front Royal	3/1	3/1	Per license	No	N/A	No
Gate City	7/1	7/1	Per location	No	N/A	No
Glade Spring	2/28	4/1	Per license	No	N/A	No
Glasgow	5/1	5/1	Per license	No	N/A	No
Gordonsville	3/1	3/1	Per license	No	N/A	Yes
Gretna	3/1	3/1	None	Yes	N/A	No
Grottoes	7/1	7/1	None	No	\$23,100	Yes
Grundy	3/1	3/10	None	No	N/A	Yes
Hamilton <sup>e</sup>	3/1	3/1	Per license	Yes	\$100	No
Haymarket	4/30	4/30	None	No	N/A	No
Haysi	3/31	3/31	Per location	No	N/A	No
Herndon	3/1	3/1	None	No	N/A	No
Hillsboro	3/1	3/1	None	No	N/A	No
Hillsville <sup>f</sup>	5/1	5/1	Per location	No	N/A	No
Honaker	3/1	4/15	Per location	Yes	\$49,425	No
Independence	5/15	7/15	None	No	N/A	No
Iron Gate	1/31	1/31	Per license	No	N/A	No
Ivor	7/1	7/1	Per license	No	N/A	No
Kenbridge	3/1	3/1	None	No	N/A	No
Keysville	3/1	3/1	None	No	N/A	No
Kilmarnock <sup>g</sup>	3/1	3/1	Per license	No	N/A	No
La Crosse	4/30	4/30	None	No	N/A	No
Lawrenceville	3/1	3/1	Per location	No	N/A	No
Lebanon	3/1	3/1	Per license	Yes	\$2,000	No
Leesburg <sup>h</sup>	3/1	3/1	Per license	Yes	\$50,000	Yes
Louisa	3/1	6/30	Per location	No	N/A	No
Lovettsville	3/1	3/1	None	No	N/A	Yes
Luray	3/1	3/1	None	No	N/A	No
Marion	1/31	1/31	Per location	No	N/A	No
McKenney	3/1	3/1	None	No	N/A	No

N/A Not applicable.

<sup>d</sup> For the town of Dayton, the imposed license fee is credited against the license tax.

<sup>e</sup> The town of Hamilton requires a \$4,000 gross receipts threshold for home-based businesses. For commercial businesses the threshold is \$250,000.

<sup>f</sup> The town of Hillsville imposes the greater of \$30 or the tax rate set forth.

<sup>g</sup> The town of Kilmarnock imposes the greater of \$30 or the tax rate set forth.

<sup>h</sup> The town of Leesburg imposes the greater of \$20 or the tax rate set forth.

**Table 14.1** BPOL Due Dates and Other Provisions, 2015 (continued)

Locality	Due Dates		License Fee Applied	Gross Receipts Tax Threshold	Threshold Amount	Separate Gross Receipts Tax Threshold for Each License
	Filing	Payments				
<b>Towns (continued)</b>						
Middleburg	3/1	3/1	None	No	N/A	No
Middletown	1/31	1/31	Per license	Yes	\$15,000	No
Mineral	3/1	6/30	Per license	No	N/A	No
Montross	3/1	3/1	Per license	No	N/A	No
Mount Jackson	3/2	3/2	Per license	No	N/A	No
Narrows	3/1	3/31	Per location	Yes	\$15,000	No
New Market	3/1	3/1	None	Yes	\$10,000	No
Occoquan	3/1	3/1	None	No	N/A	No
Onancock	5/1	5/1	Per license	No	N/A	No
Pamplin	3/1	3/1	Per license	No	N/A	No
Pearisburg	1/31	3/30	Per location	No	N/A	No
Pembroke	1/1	3/15	Per location	No	N/A	No
Pennington Gap	3/1	3/1	None	No	N/A	Yes
Pocahontas	4/15	4/15	None	No	N/A	No
Pound	1/1	5/1	Per location	Yes	\$30,000	No
Pulaski	3/1	3/1	None	No	N/A	No
Purcellville	3/1	3/1	None	No	N/A	No
Remington	3/1	3/1	None	No	N/A	No
Richlands	3/1	3/1	Per license	No	N/A	Yes
Rocky Mount	5/31	5/31	None	No	N/A	No
Round Hill	4/15	4/15	Per location	No	N/A	Yes
Saint Paul	2/1	3/1	None	Yes	\$18,000	No
Saltville	1/31	1/31	Per location	No	N/A	No
Scottsville	3/1	3/1	None	No	N/A	No
Smithfield	1/1	4/15	None	No	N/A	Yes
South Boston	3/1	3/1	Per license	No	N/A	Yes
South Hill	3/1	3/15	None	No	N/A	Yes
Stanley	1/31	3/1	None	No	N/A	Yes
Stephens City	1/1	3/1	None	No	N/A	Yes
Strasburg	2/28	3/1	None	Yes	\$12,000	No
Surry	5/1	5/1	Per license	No	N/A	No
Tappahannock	3/1	3/1	Per license	No	N/A	Yes
Tazewell	3/1	3/1	Per license	No	N/A	No
Timberville	3/1	3/1	None	No	N/A	No
Urbanna	7/1	7/1	Per license	No	N/A	No
Victoria	1/1	2/28	Per location	No	N/A	Yes
Vienna	3/1	3/1	None	Yes	\$50,000	Yes
Vinton	1/31	3/1	None	Yes	\$15,000	No
Virgilina	3/1	3/1	Per license	No	N/A	No
Wachapreague	1/1	3/1	Per license	No	N/A	No
Wakefield	1/2	3/2	Per license	No	N/A	No
Warrenton	3/1	6/30	Per location	No	N/A	No
Warsaw	3/1	3/1	None	No	N/A	No
Waverly	3/1	4/1	None	No	N/A	No
West Point	3/1	3/1	None	No	N/A	No
Windsor	1/1	3/1	None	No	N/A	No
Wise	5/1	5/1	None	No	N/A	No
Woodstock	3/1	3/1	Per license	No	N/A	No
Wytheville	3/1	3/1	None	No	N/A	No

N/A Not applicable.

**Table 14.2  
Specific BPOL Fees and Minimum Taxes, 2015**

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Cities (Note: All cities responded to the survey.)</b>			
Alexandria	N/A	\$50	There is a threshold for all categories except for wholesale of \$10,000 to \$100,000, below which there is a flat tax of \$50.
Bristol	\$30	N/A	The fee is applied on all gross receipts under \$50,000. The fee is applied on all gross receipts under \$100,000. The fee is applied up to a threshold of \$15,000 to \$20,000 depending on the category. Above that, the category tax rate applies.
Buena Vista	N/A	\$30	
Charlottesville	\$35	N/A	
Chesapeake	\$50	N/A	
Colonial Heights	\$30	N/A	
Covington	N/A	\$30	
Danville	\$50	N/A	There is no tax for gross receipts under \$10,000. Above that amount, the category tax rate applies to the full amount. If gross receipts < \$10K then no tax, but need a license; if \$10K to \$50K then a flat fee of \$30; if over \$50K in gross receipts, then the tax is whatever rate applies for a given category.
Emporia	N/A	\$30	
Fairfax	N/A	N/A	
Falls Church	N/A	N/A	There is a \$25 tax on all gross receipts < \$100K. Receipts between \$100K and \$350K are taxed at \$25 plus the applicable tax rate. If gross receipts are > \$350K, the the applicable rate is applied to the total gross receipts.
Franklin	N/A	N/A	
Fredericksburg	N/A	\$25	The category tax rate is applied in full at \$100K gross receipts. Otherwise, just the \$50 fee applies. There is no fee for gross receipts less than \$10,000. There is a \$25 fee for gross receipts between \$10,001 and \$25,000. There is a \$50 fee for gross receipts between \$25,001 and \$50,000. Except for the wholesale category, businesses grossing \$50,000 or more are subject only to the category tax rate.
Galax	N/A	\$30	
Hampton	\$50	N/A	
Harrisonburg	\$0/\$25/\$50	N/A	Businesses grossing over \$100K are subject to the category tax rate on the whole amount. Below that amount, there is no charge.
Hopewell	N/A	\$30	
Lexington	N/A	\$30	
Lynchburg	N/A	N/A	
Manassas	N/A	N/A	Each business must pay the greater amount of either the \$30 license tax or the category tax rate. The city charges a \$30 fee if total gross receipts are between \$0-\$50K. It charges a \$50 fee if receipts are between \$50,001-\$100K. For gross receipts greater than \$100K, the applicable tax rate is charged.
Manassas Park	N/A	N/A	
Martinsville	N/A	\$30	
Newport News	\$30/\$50	N/A	The category rate tax is not applied until \$100,000 in gross receipts is reached. Before that, only the fee applies.  A tax of \$40 for all gross receipts applies between \$0-\$25K. A \$50 tax applies for gross receipts from \$25,001 to \$100K. Anything over \$100K is charged according to the applicable category tax rate. A tax of \$30 applies for all gross receipts between \$4K-\$15K. Above \$15K the category tax rate applies.
Norfolk	\$50	N/A	
Norton	N/A	\$30	
Petersburg	\$50	\$50	
Poquoson	N/A	\$30	
Portsmouth	N/A	\$50	
Radford	N/A	\$30	
Richmond	\$30	N/A	
Roanoke	\$50	N/A	
Salem	N/A	\$30	
Staunton	N/A	\$30	
Suffolk	\$50	N/A	
Virginia Beach	N/A	\$40	
Waynesboro	N/A	\$30	The fee is applied on gross receipts under \$50,000.
Williamsburg	N/A	\$30	
Winchester	\$50	N/A	

Note: See last page of Table 14.2 for abbreviations.  
N/A Not applicable.

**Table 14.2** Specific BPOL Fees and Minimum Taxes, 2015 (continued)

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Counties</b> (Note: All counties responded to the survey. Those that answered "not applicable" for all items in this table are excluded.)			
Accomack	\$50	N/A	
Albermarle	\$50	N/A	
Alleghany	\$15	N/A	
Amelia	N/A	\$15	Minimum tax applies only to contractors and retailers.
Amherst	\$10	N/A	
Arlington	N/A	N/A	
Augusta	N/A	N/A	
Botetourt	N/A	\$10	
Buchanan	N/A	N/A	
Campbell	\$20/\$30/\$40	N/A	License fees are as follows: less than \$15K=\$20; \$15K-\$29,999=\$30; \$30K-\$99,999=\$40.
Caroline	N/A	N/A	
Chesterfield	N/A	\$10	There is a tax exclusion on the first \$200K of gross receipts. Above that the business must pay the category tax rate or \$10, whichever is larger.
Clarke	\$30	N/A	
Cumberland	N/A	\$30	A minimum tax of \$30 is applied to receipts up to \$60K. Any receipts over \$60K are subject to the applicable tax rate.
Dinwiddie	N/A	\$25	A minimum tax of \$25 applies to all categories except contracting, for which the county applies a \$30 minimum tax.
Fairfax	\$0/\$30/\$50	N/A	The county applies a tiered fee structure. For gross receipts from \$10,000 to \$50,000, the fee is \$30. For gross receipts from \$50,001 through \$100,000 the fee is \$50.
Fauquier	N/A	N/A	
Fluvanna	\$0/\$30/\$50	N/A	A fee of \$30 is imposed on businesses with gross receipts from \$10,000 to \$50,000. A fee of \$50 is imposed for gross receipts from \$50,001 to \$100,000. Above \$100,000 the category tax rate applies. See Table 14.3 for the specific rates by category.
Frederick	\$0/\$30/\$50	N/A	The fee is based on a tiered system of gross receipts. For receipts from \$0 to \$3,999, the fee is \$0; for receipts from \$4,000 to \$14,999, the fee is \$30; for receipts from \$15,000 to \$99,999, the fee is \$50. If gross receipts are \$100,000 or more, the BPOL category tax rate is applied. See Table 14.3 for the specific rates by category.
Gloucester	\$50	N/A	
Goochland	N/A	\$25	
Greene	N/A	\$20	
Greensville	N/A	\$30	The minimum tax of \$30 applies for gross receipts up to \$18,750. Receipts above that are figured at the category tax rate. See Table 14.3 for the specific rates by category.
Halifax	\$30	N/A	
Hanover	N/A	N/A	A minimum tax of \$100 applies to contractors only.
Henrico	N/A	\$30	
Henry	N/A	\$30	The \$30 tax applies to gross receipts under \$100,000.
Isle of Wight	N/A	\$30	
James City	\$30/\$50	N/A	License renewals with gross receipts less than \$4,000 are not charged a fee. Businesses with gross receipts of \$4,000 up to \$49,999 are assessed a fee of \$30. Businesses with gross receipts of \$50,000 up to \$99,999 are assessed a fee of \$50. If gross receipts are \$100,000 or more, the BPOL category tax rate is applied. See Table 14.3 for the specific rates by category.
King George	N/A	\$25	The minimum tax applies to gross receipts from \$2,500 through \$25,000 (except \$21,500 for the contracting category). Above that, the category tax rate applies. See Table 14.3 for the specific rates by category.
King William	N/A	\$30	If gross receipts are less than \$50K, a flat tax of \$30 is paid.
Loudoun	N/A	N/A	A \$30 fee applies to contractors and home-based businesses with receipts greater than \$4,000.
Louisa	N/A	N/A	A \$25 fee applies to contractors.
Mathews	\$30	N/A	
Middlesex	\$30	N/A	

Note: See last page of Table 14.2 for abbreviations.  
N/A Not applicable.

**Table 14.2 Specific BPOL Fees and Minimum Taxes, 2015 (continued)**

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Counties (continued)</b>			
Nelson	\$30	N/A	Businesses must pay the greater of the license tax or the category tax rate based on gross receipts.  The fee is tiered. A \$25 fee is applied if the business has gross receipts between \$1,001 and \$25,000. For gross receipts from \$25,001 to \$50,000 a \$50 fee applies. For gross receipts over \$50,000, the category tax rate is applied. There is no fee if gross receipts are over \$50,000. See Table 14.3 for the specific rates by category. The category tax rate is applied only when gross receipts reach \$100K. Above \$100K, the category tax rate is applied to all gross receipts. See Table 14.3 for the specific rates by category. The \$30 tax is applied when gross receipts are less than \$100K. If gross receipts are above \$100K, the category tax rate applies. See Table 14.3 for the specific rates by category. The license fee applies when gross receipts are less than \$100K.  Fees are as follows: \$0-\$4K=\$0; \$4,001-\$10K=\$10; \$10,001-\$25K=\$30; \$25,001-\$50K=\$50; \$50,001 & over category tax rate applies. See Table 14.3 for the specific rates by category.
New Kent	N/A	\$30	
Northampton	\$30	N/A	
Nottoway	\$10	N/A	
Page	N/A	\$20	
Powhatan	\$50	N/A	
Prince George	\$25/\$50	N/A	
Prince William	N/A	N/A	
Pulaski	N/A	\$30	
Roanoke	\$50	N/A	
Rockbridge	\$30	N/A	
Southampton	N/A	\$30	
Spotsylvania	N/A	N/A	
Surry	\$30	N/A	
Warren	\$0/\$10/ \$30/\$50	N/A	
York	N/A	N/A	
<b>Towns (Note: Towns that answered "not applicable" for all items in this table are excluded. For a listing of town respondents and non-respondents, see Appendix B.)</b>			
Abingdon	N/A	Varies	The minimum taxes are: C, RP, PE, B: \$25; R, RE, F, PR: \$20; and W: \$30.
Altavista	\$30	\$30	
Appomattox	N/A	N/A	Fee is not required if tax is greater than \$20.  The fee is based on a tiered system of gross receipts: \$0-\$30K is \$30; \$30,001-\$40K is \$35; \$40,001-\$45K is \$40; \$45,001-\$50K is \$50. If gross receipts are greater than \$50K, the category tax rate is applied. See Table 14.3 for the specific rates by category.
Ashland	N/A	\$30	
Berryville	\$20	N/A	
Big Stone Gap	\$30	N/A	
Blacksburg	\$30/\$35/ \$40/\$50	N/A	
Blackstone	N/A	N/A	
Bluefield	N/A	\$10	
Boones Mill	N/A	\$30	
Boyce	\$30	N/A	
Boykins	\$30	N/A	
Bridgewater	N/A	\$20	
Broadway	N/A	\$25	
Brookneal	N/A	\$30	
Buchanan	N/A	\$25	
Cape Charles	\$30	N/A	
Cedar Bluff	N/A	\$30	The town charges the greater of \$30 or the percentage of gross receipts based on the category tax rate. See Table 14.3 for the specific rates by category.
Chase City	N/A	\$30	
Chatham	N/A	\$30	The tax is the greater of the category tax rate times gross receipts or \$30. See Table 14.3 for the specific rates by category. The fee is for first year licenses.
Cheriton	\$60	N/A	
Christiansburg	\$30	\$30	
Claremont	\$25	N/A	
Clarksville	N/A	\$30	
Clifton Forge	\$28.50	N/A	

Note: See last page of Table 14.2 for abbreviations.  
N/A Not applicable.

**Table 14.2 Specific BPOL Fees and Minimum Taxes, 2015 (continued)**

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Towns (continued)</b>			
Clinchport	N/A	N/A	For gross receipts up to \$1,000 the minimum tax applies. After that, the category tax rate is added to the minimum. The minimum tax is \$30 for the F, RE, and PR categories. See Table 14.3 for the specific rates by category.
Clintwood	N/A	\$30	
Coeburn	NA	\$30	
Colonial Beach	N/A	N/A	
Courtland	N/A	\$10	
Craigsville	N/A	N/A	The \$20 license fee is credited against the license tax. If the fee is greater than the tax, no tax is due. The \$20 fee is credited against the tax. No tax is charged until the gross receipts cause collection from category tax rate to be greater than fee. See Table 14.3 for the specific rates by category.
Culpeper	N/A	\$24	
Damascus	\$50	N/A	
Dayton	\$20	N/A	
Dillwyn	\$20	N/A	
Drakes Branch	N/A	N/A	If gross receipts are less than \$15,000 then the minimum \$18 tax applies. The category tax rate is applied on the following schedule of gross receipts: \$15,001-\$50,000: \$0.13/\$100 tax; \$50,001-\$150,000: \$0.11/\$100 tax; if over \$150,000 then \$0.09/\$100 tax. See Table 14.3 for the specific rates by category.
Dublin	N/A	\$30	
Duffield	N/A	N/A	
Dumfries	N/A	\$30	
Edinburg	N/A	\$18	
Elkton	N/A	\$30	Businesses that don't exceed \$5,000 in gross receipts may purchase license; otherwise, category tax rate applies at rate of \$0.20/\$100 for the first \$100,000 in gross receipts and \$0.10/\$100 for anything over \$100,000. See Table 14.3 for the specific rates by category.
Farmville	\$10	N/A	
Fincastle	N/A	\$10	
Floyd	\$30	N/A	
Front Royal	N/A	N/A	
Gate City	N/A	N/A	
Glade Spring	N/A	\$30	
Gordonsville	N/A	N/A	
Goshen	N/A	N/A	
Gretna	N/A	\$30	
Grottoes	N/A	\$25	
Grundy	\$15	N/A	
Hamilton	N/A	\$30	
Haymarket	N/A	\$35	
Haysi	\$30	N/A	
Herndon	N/A	\$30	
Hillsboro	\$30	N/A	Businesses are require to pay a \$30 fee or the given category tax rate, whichever is greater. See Table 14.3 for the specific rates by category.
Hillsville	\$30	N/A	
Honaker	\$25	N/A	Fee is credited against receipts from the category tax rate. See Table 14.3 for the specific rates by category.
Independence	N/A	\$30	
Irvington	N/A	N/A	
Ivor	\$25	N/A	
Kenbridge	N/A	N/A	
Keysville	N/A	\$30	
Kilmarnock	\$30	\$30	

Note: See last page of Table 14.2 for abbreviations.  
N/A Not applicable.

**Table 14.2 Specific BPOL Fees and Minimum Taxes, 2015 (continued)**

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Towns (continued)</b>			
La Crosse	N/A	N/A	Fee is \$30 for contractors and \$25 for retailers and wholesalers. If receipts are over \$50,000, then the tax is based on the category rate. See Table 14.3 for the specific rates by category.
Lawrenceville	\$30	N/A	
Lebanon	\$30	N/A	
Leesburg	\$20	N/A	
Louisa	\$30	N/A	If gross receipts are \$20,000 or less (\$25,000 for contracting), the business must pay a \$34 minimum tax. Once above the threshold, the business must pay the category rate for total gross receipts. See Table 14.3 for the specific rates by category.
Lovettsville	N/A	\$34	
Luray	N/A	\$30	If gross receipts are below \$10,000, a minimum tax of \$10 is charged. Above \$10,000 the category tax rate is applied to receipts exceeding the threshold. See Table 14.3 for the specific rates by category.
Madison	N/A	N/A	
Marion	N/A	\$30	
McKenney	N/A	\$25	
Mineral	\$25	N/A	
Monterey	N/A	N/A	
Montross	\$30	N/A	
Narrows	N/A	\$32.25	
Nassawaddox	N/A	N/A	
New Market	N/A	\$10	
Occoquan	N/A	\$30	
Pearisburg	N/A	\$30	
Pembroke	\$30	N/A	
Pennington Gap	N/A	\$30	
Pound	\$30	N/A	
Pulaski	\$30	N/A	
Purcellville	N/A	\$20	
Remington	N/A	\$30	
Rocky Mount	N/A	\$10	
Round Hill	N/A	\$30	
Saint Paul	N/A	\$30	
Saltville	N/A	\$30	
Scottsville	\$30	N/A	
Smithfield	N/A	\$30	
South Boston	N/A	\$30	
South Hill	N/A	\$30	
Stanley	N/A	\$30	
Stephens City	N/A	\$15	
Strasburg	N/A	\$15	
Surry	\$30	N/A	
Tappahanock	N/A	\$25	A \$30 fee applies to contractors, retailers, and wholesalers.
Tazewell	N/A	\$20	
Timberville	N/A	\$50	Gross receipts under \$12,000 require a minimum fee of \$15. The license fee for contracting is \$28; for retailing \$25; for RP, PE, B, F, RE, and PR \$30.
Urbanna	Varies	N/A	
Victoria	N/A	\$30	
Vienna	N/A	\$30	
Vinton	N/A	\$30	There is a \$50 fee for \$0-\$99,999 in gross receipts; a \$75 fee for \$100K-\$200K in gross receipts; and a \$100 fee for gross receipts above \$200K.
Virgilina	\$30	\$30	
Wachapreague	\$30	N/A	

Note: See last page of Table 14.2 for abbreviations.  
N/A Not applicable.

**Table 14.2 Specific BPOL Fees and Minimum Taxes, 2015 (continued)**

Locality	Fee	Minimum Tax	Description of Tax and Fee Classifications
<b>Towns (continued)</b>			
Wakefield	\$30	N/A	The category tax rate for contractors doesn't apply if the office is located in Warsaw or until a threshold of \$25,000 is reached. See Table 14.3 for the specific rates by category.
Warrenton	N/A	\$30	
Warsaw	N/A	N/A	
Waverly	N/A	\$25	
West Point	N/A	\$30	
Windsor	N/A	\$30	
Wise	N/A	\$30	
Woodstock	N/A	N/A	
Wytheville	N/A	\$30	

N/A Not applicable.

Key to abbreviations:

B: Business Service	MO: Mail Order	R: Retail
C: Contractors	M: Millions	RE: Real Estate
F: Financial	P: Based on Purchases for Sale	RP: Repair
GR: Based on Gross Receipts	PE: Personal Service	W: Wholesale
K: Thousands	PR: Professional	

**Table 14.3**  
**Specific BPOL Tax Rates per \$100 by Business Category, 2015**

Locality	Contracting	Retail	Repair, Personal, & Business Svcs.†	Financial, Real Estate & Prof. Svcs.†	Wholesale Gross Receipts or Gross Purchases
<b>Cities</b> (Note: All cities responded to the survey.)					
Alexandria	\$0.16				
Bristol	\$0.16	\$0.20	\$0.35		
Buena Vista	\$0.16	\$0.20	\$0.20	\$0.35/ \$0.58 PR	\$0.05 P
Charlottesville	\$0.16	\$0.20	\$0.36	\$0.20/ \$0.50 F	\$0.05 P
		\$0.20	\$0.36 PE	\$0.58	\$0.05 P
Chesapeake	\$0.16		\$0.30 RP	\$0.58 RE	\$0.25 P
Colonial Heights	\$0.15	\$0.20	\$0.36 <sup>a</sup>	\$0.50 F	
Covington	\$0.16	\$0.20	\$0.35	\$0.58 <sup>b</sup>	\$0.12 P
Danville	\$0.16	\$0.20	\$0.36	\$0.57	\$0.05 P
Emporia	\$0.16	\$0.20	\$0.36	\$0.58	\$0.12 GR
Fairfax	\$0.16	\$0.20	\$0.36	\$0.58	\$0.15 P
Falls Church	\$0.16	\$0.20	\$0.27*	\$0.58	\$0.05 P
Franklin	\$0.15	\$0.19	\$0.36*	\$0.40	\$0.05 P
Fredericksburg	\$0.16	\$0.20	\$0.30*	\$0.52	\$0.08 GR
Galax	\$0.16	\$0.20	\$0.36	\$0.58	\$0.10 P
Hampton	\$0.16	\$0.20	\$0.20	\$0.58/ \$0.46 F	\$0.05 P
Harrisonburg	\$0.16	\$0.20	\$0.36*	\$0.58	\$0.05 P
Hopewell	\$0.16	\$0.20	\$0.20	\$0.58	\$0.15 P
Lexington	\$0.16	\$0.20	\$0.36*	\$0.58	\$0.17 GR
Lynchburg	\$0.16	\$0.20	\$0.36	\$0.58	\$0.25 GR
Manassas	\$0.10	\$0.12	\$0.36	\$0.58	\$0.05 P
Manassas Park	\$0.10	\$0.15	\$0.22*	\$0.58	>\$100K=\$0.28 P
Martinsville	\$0.10	\$0.20	\$0.18	\$0.33/ \$0.35 F	\$0.05 GR
Newport News	\$0.15	\$0.20	\$0.36*	\$0.35	>\$10K=\$0.05 P
Norfolk	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
Norton	\$0.16	\$0.20	\$0.36	\$0.58	>\$10K=\$0.20 P
Petersburg	\$0.16	\$0.20	\$0.36	\$0.58	\$0.15 P
Poquoson	\$0.16	\$0.20	\$0.32*	\$0.50	\$0.25 P
Portsmouth	\$0.16	\$0.20	\$0.36	\$0.58	\$0.25 P <sup>c</sup>
Radford	\$0.125	\$0.20	\$0.36	\$0.58	\$0.05 P
Richmond	\$0.19	\$0.135	\$0.14	\$0.58	\$0.15 P
Roanoke	\$0.16	\$0.20	\$0.36	\$0.365	\$0.07 P
Salem	\$0.16	\$0.20	\$0.36	\$0.58	\$0.22 P
Staunton	\$0.16	\$0.20	\$0.36	\$0.58	\$0.26 P
Suffolk	\$0.16	\$0.20	\$0.36*	\$0.58	\$0.13 P
Virginia Beach	\$0.16	\$0.20	\$0.36 RP, PE	\$0.40	\$0.50 P <sup>d</sup>
Waynesboro	\$0.16	\$0.20	\$0.36	\$0.58	\$0.09 P
Williamsburg	\$0.16	\$0.20	\$0.36	\$0.58	\$0.12 P
Winchester	\$0.16	\$0.20	\$0.36* RP, PE	\$0.58	\$0.15 P
		\$0.20	\$0.36*	\$0.58 F, RE	\$0.05 GR
					\$0.20 P
<b>Counties</b> (Note: All counties responded to the survey. Those that answered "not applicable" for all items in this table are excluded.)					
Albemarle	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
Alleghany	\$0.08	\$0.10	\$0.18 RP, PE	\$0.29	\$0.05 P
Amelia	\$0.16	\$0.05	\$0.09	\$0.15	\$0.05 GR
Amherst	\$0.13	N/A	\$0.31*	\$0.50	N/A
Arlington	\$0.16	\$0.20	\$0.35	\$0.36	>\$100K=\$0.08 GR

Note: See last page of Table 14.3 for abbreviations.  
 N/A Not applicable.

- \* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are taxed in the retail category or they are not taxed.
- † If a lone general rate is shown, it applies to the three categories. If a general rate is shown, followed by one or more categories, the general rate applies except for the listed categories. If no general rate is shown, but category rates are shown, then only categories listed are taxed.
- <sup>a</sup> In the city of Chesapeake for gross receipts exceeding \$500,000, the tax rate is \$0.30/\$100.
- <sup>b</sup> In the city of Chesapeake the rate for P and RE is always \$0.58/\$100. F is charged a rate of \$0.58/\$100 on the first \$1M gross receipts. For receipts greater than \$1M, the rate is \$0.12/\$100.
- <sup>c</sup> The city of Petersburg uses a tier structure for its wholesale rate. If purchases are less than \$100,000 the rate is \$0.25/\$100. For purchases from \$100,001 to \$200,000 the rate is \$0.15/\$100. For purchases over \$200,000 the rate is \$0.10/\$100.
- <sup>d</sup> The city of Staunton uses a minimum tax/tier structure combination. For purchases up to \$10,000 there is a \$100 minimum tax. For purchases between \$10,001 and \$50,000 the tax is \$100 plus a rate of \$0.50/\$100 for those purchases exceeding the first \$10,000. For purchases above \$50,000, the tax is \$300 plus a rate of \$0.12/\$100 for those purchases exceeding \$50,000.

**Table 14.3** Specific BPOL Tax Rates per \$100 by Business Category, 2015 (continued)

Locality	Contracting	Retail	Repair, Personal, & Business Svcs. <sup>†</sup>	Financial, Real Estate & Prof. Svcs. <sup>†</sup>	Wholesale Gross Receipts or Gross Purchases
<b>Counties (continued)</b>					
Augusta	\$0.16	\$0.20	\$0.30*	\$0.30	\$0.05 GR
Botetourt	\$0.08	\$0.10	\$0.18	\$0.29	\$0.05 P
Campbell	\$0.16	\$0.20	\$0.35	\$0.50	\$0.05 P
Caroline	\$0.12	\$0.15	\$0.19	\$0.49	\$0.05 P
Chesterfield	\$0.14	\$0.19	\$0.20	\$0.20	\$0.10 P
Cumberland	\$0.05	\$0.05	\$0.05	\$0.10	\$0.05 GR
Dinwiddie	\$0.14	\$0.16	\$0.30	\$0.45	\$0.05 GR
Fairfax	\$0.11	\$0.17	\$0.19	\$0.31	\$0.04 P
Fauquier	\$0.085	\$0.10	\$0.187	\$0.2975	\$0.04 P
Frederick	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
Gloucester	\$0.10	\$0.10 <sup>e</sup>	\$0.10	\$0.12	\$0.05 P
Goochland	\$0.10	\$0.05	\$0.10 B, PE \$0.05 RP	\$0.15	\$0.02 P
Greene	\$0.12	\$0.15	\$0.27	\$0.44	\$0.04 P
Greensville	\$0.16	\$0.16	\$0.30	\$0.40	\$0.05 P
Halifax	\$0.11	\$0.14	\$0.24	\$0.39	\$0.03 GR
Hanover	\$0.10	N/A	N/A	N/A	N/A
Henrico	\$0.15	\$0.20	\$0.20	\$0.20	Varies P <sup>f</sup>
Henry <sup>g</sup>	\$0.025	\$0.15	\$0.15	\$0.25	\$0.05 P
Isle of Wight	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
James City	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
King George	\$0.12	\$0.10	\$0.10	\$0.25	\$0.05 P
King William	\$0.16	\$0.20	\$0.16	\$0.38	\$0.05 GR
Loudoun	\$0.13	\$0.17	\$0.16 R \$0.17 B \$0.23 PE	\$0.33	\$0.05 P
Louisa	\$0.16	N/A	N/A	N/A	N/A
Mathews	\$0.05	\$0.15	\$0.05*	\$0.15	\$0.05 GR
Middlesex	\$0.05	\$0.07	\$0.12	\$0.19	\$0.02 P
New Kent	\$0.12	\$0.15	\$0.27	\$0.44	\$0.04 GR
Nottoway	\$0.04	\$0.05	\$0.09	\$0.15	\$0.02 P
Page	\$0.10	\$0.10	\$0.20	\$0.30	\$0.05 GR
Prince George	\$0.16	\$0.15	\$0.20	\$0.20	N/A
Prince William	\$0.13	\$0.17	\$0.21	\$0.33	> \$100K = \$0.05 P
Pulaski	\$0.14	\$0.20	\$0.15	\$0.07	\$0.05 P
Roanoke	\$0.16	\$0.20	\$0.36	\$0.58	\$0.05 P
Rockbridge	\$0.10	\$0.13	\$0.23	\$0.38	\$0.05 GR
Southampton	\$0.10	N/A	\$0.25*	\$0.58	\$0.05 P
Spotsylvania	\$0.08	\$0.10	\$0.18*	\$0.29	\$0.02 P
Surry	\$0.10	\$0.15	\$0.20*	\$0.30	\$0.05 GR
Warren	\$0.13	\$0.16	\$0.27*	\$0.41	\$0.03 P
York	\$0.16	\$0.20	\$0.36*	\$0.58	\$0.05 P

Note: See last page of Table 14.3 for abbreviations.

N/A Not applicable.

\* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are assessed a tax based on the retail category or they are not assessed.

† If a lone general rate is shown, it applies to the three categories. If a general rate is shown, followed by one or more categories, the general rate applies except for the listed categories. If no general rate is shown, but category rates are shown, then only categories listed are taxed.

<sup>e</sup> In Gloucester County, retail businesses are taxed at \$0.10/\$100 on the first \$200,000 in gross receipts. Receipts over that are taxed at \$0.20/\$100.

<sup>f</sup> Henrico County uses a minimum tax/tiered rate combination. For gross purchases up to \$10,000, the tax is \$25. For more than 10K to \$5M the rate is \$0.20/\$100. For greater than \$5M to \$15M, the rate is \$0.15/\$100. For greater than \$15M to \$25M, the rate is \$0.10/\$100. For greater than \$25M to \$50M, the rate is \$0.05/\$100. For greater than \$50M to \$100M, the rate is \$0.025/\$100. Any gross purchases over \$100M are taxed at \$0.0125/\$100.

<sup>g</sup> Henry County charges a tax of \$30 on gross receipts (purchases for wholesale businesses) up to \$100,000. Amounts over \$100,000 are subject to the given category tax.

**Table 14.3 Specific BPOL Tax Rates per \$100 by Business Category, 2015 (continued)**

Locality	Contracting	Retail	Repair, Personal, & Business Svcs.†	Financial, Real Estate & Prof. Svcs.†	Wholesale Gross Receipts or Gross Purchases
Towns (Note: Towns that answered "not applicable" for all items in this table are excluded. For a listing of town respondents and non-respondents, see Appendix B.)					
Abingdon	\$0.10	\$0.20			
Altavista	\$0.06	\$0.085	\$0.18	\$0.20	\$0.05 P
Appomattox	\$0.10	\$0.10	\$0.12	\$0.085	\$0.04 P
Ashland	\$0.07	\$0.07	\$0.10	\$0.10	\$0.05 GR
Berryville	\$0.12	\$0.12	\$0.07	\$0.07	\$0.05 GR
Big Stone Gap	\$0.16	\$0.20	\$0.15/\$0.10 RP	\$0.25/\$0.20 F	\$0.05 P
Blacksburg	\$0.10	\$0.20	\$0.20	\$0.40	\$0.13 P
Blackstone	\$0.11	\$0.11	\$0.23	\$0.37	\$0.05 P
Bluefield	\$0.15	\$0.16	\$0.20	\$0.20	\$0.05 P
Boones Mill	\$0.16	\$0.125	\$0.21	\$0.41	\$0.05 P
Boykins	\$0.05	\$0.03	\$0.15	\$0.45	N/A
Bridgewater	\$0.12	\$0.15	\$0.03	\$0.03	N/A
Broadway	\$0.08	\$0.08	\$0.15	\$0.435	\$0.05 P
Brookneal	\$0.13	\$0.13	\$0.08	\$0.20	\$0.03 P
Buchanan	\$0.10	\$0.10	\$0.13	\$0.13	\$0.05 P
Cape Charles	\$0.16	\$0.20	\$0.10	\$0.15	N/A
Cedar Bluff	\$0.15	\$0.15	\$0.36 RP, PE	\$0.58 F, RE	\$0.05 P
Chase City	\$0.14	\$0.14	\$0.15	\$0.15	\$0.05 P
Chatham	\$0.16	\$0.20	\$0.22	\$0.30	\$0.05 P
Chilhowie	\$0.155	\$0.155	\$0.20	\$0.20	\$0.05 GR
Christiansburg	\$0.13	\$0.175	\$0.155	\$0.155	\$0.05 P
Claremont	\$0.08	\$0.15	\$0.28	\$0.39	\$0.05 P
Clarksville	\$0.16	\$0.15	\$0.15	\$0.15	\$0.05 P
Clifton Forge	\$0.15	\$0.19	\$0.17/ \$0.22 RP	\$0.32/ \$0.27 F	\$0.05 GR
Clintwood	\$0.15	\$0.15	\$0.34	\$0.55	\$0.05 GR
Coeburn	N/A	\$0.15	\$0.15	\$0.20	N/A
Colonial Beach	\$0.16	\$0.20	\$0.20 RE, PE	\$0.20 F, RE	N/A
Courtland	\$0.02	\$0.02	\$0.02	\$0.35 F, RE	N/A
Culpeper	\$0.08	\$0.10	\$0.18	\$0.55	N/A
Damascus	\$0.20 <sup>h</sup>	\$0.20	\$0.20	\$0.29	\$0.04 P
Dayton	\$0.12	\$0.15	\$0.20	\$0.20	\$0.05 P
Dillwyn	\$0.08	\$0.08	\$0.20*	\$0.30	\$0.05 P
Dublin	\$0.14	\$0.16	\$0.08	\$0.08	\$0.05 P
Dumfries	\$0.102	\$0.135	\$0.07	\$0.15	\$0.05 P
Edinburg	\$0.13 <sup>i</sup>	\$0.13 <sup>i</sup>	\$0.19 RP, PE	\$0.30 F, RE	\$0.05 GR
Elkton	\$0.08	\$0.10	\$0.13 <sup>i</sup>	\$0.15	\$0.05 GR
Farmville	\$0.16	\$0.20	\$0.18	\$0.29	\$0.05 GR
Fincastle	\$0.06	\$0.08	\$0.36	\$0.45	\$0.05 GR
Floyd	\$0.10	\$0.12	\$0.14	\$0.23	\$0.20 P
Front Royal	\$0.08	\$0.12	\$0.23	\$0.23	\$0.04 P
Gate City	\$0.11	\$0.14	\$0.20	\$0.36	\$0.05 GR
Glade Spring	\$0.16	\$0.20	\$0.25	\$0.41	\$0.08 GR
Gordonsville	\$0.16	\$0.20	\$0.22	\$0.25	\$0.05 GR
Gretna	\$0.13	\$0.13	\$0.36	\$0.40	\$0.13 GR
Grottoes	\$0.12	\$0.12	\$0.13	\$0.13	\$0.05 P
Grundy	\$0.20 <sup>j</sup>	\$0.20	\$0.20	\$0.30	\$0.13 GR
Hamilton	\$0.09	\$0.17	\$0.20	\$0.20	\$0.05 P
Haymarket	\$0.15	\$0.10	\$0.23	\$0.33	\$0.05 GR
Haysi	\$0.16	\$0.20	\$0.10	\$0.30	\$0.05 P
Herndon	\$0.13	\$0.21	\$0.20	\$0.30	\$0.05 P
			\$0.21	\$0.40	\$0.05 P

Note: See last page of Table 14.3 for abbreviations.

N/A Not applicable.

\* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are assessed a tax based on the retail category or they are not assessed.

† If a lone general rate is shown, it applies to the three categories. If a general rate is shown, followed by one or more categories, the general rate applies except for the listed categories. If no general rate is shown, but category rates are shown, then only categories listed are taxed.

<sup>h</sup> This number was confirmed by the town of Damascus.

<sup>i</sup> For the town of Edinburg the tax rate breaks down as follows: If gross receipts are less than \$15K, then the tax is \$15; \$15,001-\$50K, then rate is \$0.13/\$100; \$50,001-\$150K, then rate is \$0.11/\$100; if greater than \$150K, then rate is \$0.09/\$100.

<sup>j</sup> The town of Grundy charges \$0.20/\$100 on the first \$100,000 of receipts and \$0.10/\$100 thereafter.

**Table 14.3 Specific BPOL Tax Rates per \$100 by Business Category, 2015 (continued)**

Locality	Contracting	Retail	Repair, Personal, & Business Svcs.†	Financial, Real Estate & Prof. Svcs.†	Wholesale Gross Receipts or Gross Purchases
<b>Towns (continued)</b>					
Hillsville <sup>k</sup>	\$0.15	\$0.15	\$0.15	\$0.15	\$0.05 P
Honaker	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10 GR
Independence	Varies <sup>l</sup>	\$0.15	\$0.15	\$0.20	\$0.15 GR
Iron Gate	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15 GR
Kenbridge	\$0.10	\$0.12	\$0.20	\$0.25	\$0.05 P
Keysville	\$0.04	\$0.04	\$0.04	\$0.04	\$0.02 P
Kilmarnock	\$0.12	\$0.12	\$0.12/ \$0.18 PE	\$0.35	\$0.02 P
La Crosse	\$0.15	\$0.12	\$0.20	\$0.30	\$0.03 P
Lawrenceville	\$0.08	\$0.10	\$0.18	\$0.30	\$0.08 GR
Lebanon	N/A	\$0.10	\$0.10	\$0.25	\$0.05 GR
Leesburg	\$0.10	\$0.10	\$0.20/ \$0.15 RP	\$0.20	\$0.08 GR
Louisa	\$0.15	\$0.175	\$0.175	\$0.175	\$0.05 GR
Lovettsville	\$0.17	\$0.17	\$0.17	\$0.17	\$0.05 GR
Luray	\$0.10	\$0.12	\$0.25*	\$0.25	\$0.05 P
Marion	\$0.16	\$0.20	\$0.20	\$0.40	\$0.05 P
McKenney	\$0.06	\$0.06	\$0.06	\$0.06	\$0.06 P
Middleburg	\$0.12	\$0.15	\$0.22	\$0.23	\$0.05 GR
Middletown	\$0.16	\$0.20	\$0.20	\$0.20	N/A
Mineral	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14 GR
Narrows	\$0.17	\$0.28	\$0.20	\$0.215	N/A
New Market	\$0.10	\$0.10	\$0.10	\$0.10	\$0.05 P
Occoquan	\$0.16	\$0.20	\$0.20	\$0.33	\$0.05 P
Pearisburg	\$0.16	\$0.20	\$0.36	\$0.28	\$0.05 GR
Pembroke	\$0.16	\$0.20	\$0.30	\$0.58	\$0.15 GR
Pennington Gap	\$0.15	\$0.15	\$0.15	\$0.15	\$0.13 GR
Pound	\$0.08	\$0.10	\$0.18	\$0.25	\$0.05 GR
Pulaski	\$0.16	\$0.16	\$0.20	\$0.40	\$0.13 GR <sup>m</sup>
Purcellville	\$0.14	\$0.17	\$0.17	\$0.17	\$0.05 P
Remington	\$0.125	\$0.125	\$0.125/ \$0.14 PE	\$0.29/ \$0.10 RE	\$0.05 GR
Rocky Mount	\$0.16	\$0.13	\$0.30	\$0.50	\$0.05 P
Round Hill	\$0.16	\$0.16	\$0.24/ \$0.16 RP	\$0.24	\$0.05 GR
Rural Retreat	\$0.10	\$0.10	\$0.10	\$0.10	\$0.05 GR
Saint Paul	\$0.16	\$0.17	\$0.17	\$0.30	\$0.13 GR
Saltville	\$0.08	\$0.20	\$0.18	\$0.29	N/A
Scottsville	\$0.15	\$0.20	\$0.36 RP, PE	\$0.58 F, RE	\$0.05 P
Smithfield <sup>n</sup>	\$0.10	\$0.12	\$0.20	\$0.35	\$0.05 P
South Boston	\$0.08	\$0.10	\$0.18	\$0.29	\$0.10 P
South Hill	\$0.16	\$0.14	\$0.30	\$0.40	\$0.05 P
Stanley	\$0.10	\$0.17	\$0.25	\$0.25	\$0.05 GR
Stephens City	\$0.15	\$0.15	\$0.15	\$0.15	\$0.05 GR

Note: See last page of Table 14.3 for abbreviations.

N/A Not applicable.

\* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are assessed a tax based on the retail category or they are not assessed.

† If a lone general rate is shown, it applies to the three categories. If a general rate is shown, followed by one or more categories, the general rate applies except for the listed categories. If no general rate is shown, but category rates are shown, then only categories listed are taxed.

<sup>k</sup> The town of Hillsville taxes at the greater of a \$30 minimum tax or the given category tax rate.

<sup>l</sup> The town of Independence assigns a flat tax based on the amount of gross receipts using the following schedule: \$1K-\$5K: \$5; \$5,001-\$10K: \$10; \$10,001-\$20K: \$15; \$20,001-\$50K: \$20; \$50,001-\$100K: \$50; \$100,001-\$150K: \$100; \$150,001-\$300K: \$150; over \$300K: \$250.

<sup>m</sup> The town of Pulaski charges a tiered rate of \$0.013/\$100 for the first \$2 million of gross receipts, \$0.05/\$100 for the next million, and \$0.01/\$100 for any receipts above \$3 million.

<sup>n</sup> In the town of Smithfield, the contracting rate is \$0.10 per \$100 up to \$1.5M. Add an additional \$0.0666 per \$100 for gross receipts over \$1.5M. The retail rate is \$0.12 per \$100 up to \$1.5M in gross receipts. Add an additional \$0.08 per \$100 for gross receipts over \$1.5M. The repair, business, and personal rate is \$0.20 per \$100 up to \$1.5M. Add an additional \$0.133 per \$100 for gross receipts over \$1.5M. The financial, real estate, and professional rate is \$0.35 per \$100 up to \$1.5M. Add an additional \$0.233 per \$100 for gross receipts over \$1.5M.

**Table 14.3 Specific BPOL Tax Rates per \$100 by Business Category, 2015 (continued)**

Locality	Contracting	Retail	Repair, Personal, & Business Svcs.†	Financial, Real Estate & Prof. Svcs.†	Wholesale Gross Receipts or Gross Purchases
<b>Towns (continued)</b>					
Strasburg	\$0.11	\$0.13	\$0.13		
Surry	\$0.10	\$0.10	\$0.15	\$0.19	\$0.05 P
Tappahannock	\$0.15	\$0.20 <sup>o</sup>	\$0.35	\$0.25	\$0.03 P
Tazewell	\$0.15	\$0.15	\$0.15 RP, PE	\$0.54	\$0.05 GR
Timberville	\$0.13	\$0.13	\$0.13	\$0.15 F, RE	\$0.15 GR
Victoria	\$0.16	\$0.15	\$0.20	\$0.35	\$0.06 P
Vienna	\$0.12	\$0.17	\$0.22	\$0.20	\$0.05 GR
Vinton	\$0.16	\$0.20	\$0.30*	\$0.52	\$0.10 GR
Warrenton	\$0.085	\$0.10	\$0.187	\$0.35	\$0.05 GR
Warsaw	\$0.07	\$0.08 <sup>p</sup>	\$0.15	\$0.2975	\$0.04 GR
				\$0.07 F	\$0.05 P
				\$0.15 RE	
Waverly	\$0.10	\$0.12	\$0.18	\$0.19 PR	
West Point	\$0.16	\$0.20	\$0.36 RP, PE	\$0.40	\$0.05 P
Windsor	< \$1.5M=\$0.10 ≥ \$1.5M=\$0.08	< \$1.5M=\$0.12 ≥ \$1.5M=\$0.08	< \$1.5M=\$0.20 ≥ \$1.5M=\$0.133	\$0.50 F, RE < \$1.5M=\$0.35 ≥ \$1.5M=\$0.223	\$0.05 GR \$0.05 P
Wise	\$0.15	\$0.20	\$0.25 RP, PE	\$0.32	\$0.05 P
Woodstock	\$0.10	\$0.13	\$0.13	\$0.18	\$0.05 GR
Wytheville	\$0.13	\$0.17	\$0.25	\$0.35	\$0.05 P

N/A Not applicable.

\* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are assessed a tax based on the retail category or they are not assessed.

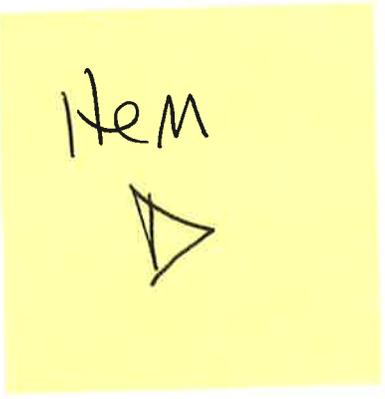
† If a lone general rate is shown, it applies to the three categories. If a general rate is shown, followed by one or more categories, the general rate applies except for the listed categories. If no general rate is shown, but category rates are shown, then only categories listed are taxed.

<sup>o</sup> The town of Tappahannock charges \$0.15/\$100 tax rate for mail order receipts.

<sup>p</sup> The town of Warsaw uses a tier structure to assess the retail tax. For receipts less than \$1M the rate is \$0.08/\$100. For receipts between \$1M and \$3M the rate is \$0.06/\$100. For receipts between \$3M and \$5M the rate is \$0.05/\$100. For receipts over \$5M the rate is \$0.03/\$100.

Key to abbreviations:

- B: Business Service
- C: Contractors
- F: Financial
- GR: Based on Gross Receipts
- K: Thousands
- MO: Mail Order
- M: Millions
- P: Based on Purchases for Sale
- PE: Personal Service
- PR: Professional
- R: Retail
- RE: Real Estate
- RP: Repair
- W: Wholesale



**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING**

ADOPTED 2/22/2016

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Complete FY2017 Budget	6/30/2016	Completed	High	Yes	6/14/2016	Approved by BOS on 4/12/2016; proofing and integration of all approved changes is occurring now. Document finished and posted on-line on 6/15/2016.
Implement 2009 Zoning Ordinance and Amendments	3/28/2016	Completed	High	Yes	6/15/2016	
Finalize USDA Obligation	6/30/2016	Submitted for Approval	High	Awaiting Feedback	6/30/2016	All materials have been submitted to USDA; on 6/30/2016, USDA- Courtland Office has submitted the package to Richmond for approval; waiting on acceptance by USDA.
Finalize/Adopt Board Manual	2/28/2016	Completed	High	Yes	2/8/2016	DONE
EMS/Volunteer Agreement	6/30/2016	In Progress	High	No		Committee created at 2/22/2016 Work Session: Larry LeMond, Granville Hogg, Dr. Irvin Jones, Willie Randall, and Hollye Carpenter; committee on hold until ESS completes the EMS management study. Granville Hogg, KHN and Hollye Carpenter tasked to work on a site plan. Cert letter application has been submitted to Health Department on 6/28/2016.
EMS Garage Decision	6/30/2016	Planning	High	No		

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING**

**ADOPTED 2/22/2016**

**Status Report as of 6/30/2016 by Katie H. Nunez**

<b>Task</b>	<b>Due Date</b>	<b>Status</b>	<b>Priority</b>	<b>Completed</b>	<b>Delivered Date</b>	<b>Notes</b>
EMS Staffing/Equipment Plan and Funding	3/8/2016	In Progress	High	No		FY17 Adopted Budget contains funding for 4 new EMS positions as well as \$100,000 contingency funds that may be either be re-allocated for EMS staffing or for additional funding to the Capital Reserve Fund. EMS Management Study is due 7/1/2016. Extension of EMS Management Study Contract has been granted to 7/8/2016.
VA Department of Health Services Contract for FY17 & Building Needs	6/30/2016	Planning	Low	No		Murray tasked with this. KHN is scheduling a meeting with Dr. Matson, Scott Chandler, Spencer Murray & Larry LeMond in July or August - waiting to hear from Dr. Matson on availability.
Update Capital Plan needs	6/30/2016	Completed	Medium	Yes	6/14/2016	Adopted capital outlay as part of the FY2017 budget. KHN needs to work with Planning Commission to develop a long-range capital plan.

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING**

ADOPTED 2/22/2016

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Properties Owned by County	✔ 12/31/2016	In Progress	Medium	No		<p>Bennett will work on two old jails &amp; Machipongo School Building; Duer will work with staff on rest.</p> <p>Courthouse Green Ad-Hoc Committee formed on 6/14/2016 by BOS - LeMond and Murray selected to serve. First meeting scheduled for 7/19/2016.</p> <p>At the 6/27/2016, additional properties were earmarked for public hearing, either for lease or purchase. Staff is working on moving this to public hearing.</p>

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING**

ADOPTED 2/22/2016

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Cape Charles Access Road	12/31/2017	In Progress	High	Yes		KHN tasked with this. All Right of Way Acquisition has been concluded and accepted by VDOT. State cleared the project to be advertised for construction. Bids released in April 2016 with deadline at end of April. Project in state hands now.
Compensation and Classification Study	12/31/2016	Need to Begin	Low	No		KHN tasked with this
AFD Application Ranking System (Advisory Group)	6/1/2016	Need to Begin	Low	No		Murray tasked with this
Stronger Economies Together (SET) Grant	7/1/2016	Completed	High	Yes	6/1/2015.	

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING  
ADOPTED 2/22/2016**

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
E-911 System, Public Safety Communications (Southern)	12/31/2016	Planning	Medium	No		KHN tasked with this
Town of Eastville - Request for Boundary Adjustment	6/1/2016	Submitted for Approval	Medium	Awaiting Feedback		Received revised proposal from Town of Eastville at 2/22/2016 Work Session; discussed in closed session at 3/8/2016 & 4/12/2016 BOS Meeting. BOS provided a response to Eastville's counter-proposal; letter issued to Eastville on 6/15/2016 and, if acceptable by the Town, request to schedule joint public hearing.
Town of Cape Charles - Request for Historic Overlay District	12/31/2016	Sidelined	Low	No		Waiting available dates from Cape Charles to meet with BOS.
Appropriate Staffing - Code Compliance, Building, Parks and Recreation	7/1/2016	Completed	High	Yes	6/14/2016	Murray, KHN and John Andrzejewski tasked with this - part of FY17 budget; PT Code Compliance position has been retained in the proposed FY17 budget but not the restoration of the FT Code Compliance position; a PT Building Inspector and FT Parks Assistant have been included in the proposed FY17 budget.

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING  
ADOPTED 2/22/2016**

**Status Report as of 6/30/2016 by Katie H. Nunez**

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Restructure Quarterly Financial Statements	6/30/2016	Planning	Medium	No		Murray, KHN and John Andrzejewski tasked with this.
Review Financial Policies (update)	12/31/2016	Need to Begin	Low	No		KHN and John Andrzejewski tasked with this.
Review Personnel Policies Manual	12/31/2016	Planning	High	No		KHN and Bruce Jones tasked with this.
Centralization of all finance staff	12/31/2016	Need to Begin	Low	No		Hecate - SUP Approved and Tully executed Rural Health - SUP Approved
Rural Health, Hecate, Sunset Inn, Bay Storage	12/31/2016	In Progress	Medium	No		Sunset Inn - approval letters from VDOT and CBBT on engineered site plan review received. VDOT has conditional approved for Certificate of Occupancy with punchlist. Bay Storage - chose to re-apply for under the 2015 Zoning which did not require an SUP but only a zoning clearance since it was a use allowed by-right. Plans approved.
Follow Riverside Plans and actions in Nassawadox	12/31/2018	In Progress	Medium	No		Bennett will work with Riverside and Nassawadox for status reports
Review County Website content and updates	12/31/2016	In Progress	Low	No		Ongoing.
Identify Stormwater Management Facilities (pond	12/31/2016	In Progress	Low	No		Hogg is tasked with this.

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING  
ADOPTED 2/22/2016**

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Re-draft Residential Rental Ordinance (deal with vacant)	12/31/2016	Need to Begin	Low	No		Murray is tasked with this.
Consider/Plan session for review of Strategic Plan	6/1/2016	Need to Begin	Medium	No		Murray and KHN will work on this.
Track Legislative Agenda (VACO releases) like DEQ Stormwater	4/1/2016	In Progress	High	No	6/14/2016	KHN is tasked with this. General Assembly has completed the 2016 Session. Awaiting final report of all bills enacted to review to see what ordinances or policies of the County's need to be updated by July 1, 2016. Summary report provided to BOS on 6/14/2016
Elimination of paper through Automated Agenda Preparation and Delivery	12/31/2016	Completed	High	Yes		KHN and Janice Williams are working on this. Have received and executed contract with BoardDocs Software and scheduling training for May/June. Training on BoardDocs has been completed by office staff and BOS members; training for Planning Commission will be in July. Go Live Date for BOS on BoardDocs will be with the July 25, 2016 Work Session Agenda and PC on August 2, 2016 Regular Meeting.
Request Assistance from the Commissioner of Revenue on SLEAC Values	12/31/2016	Completed	Medium	Yes	6/14/2016	COR Charlene Gray met with members of Farm Bureau and various BOS members in the spring along with representatives from SLEAC Advisory Council to discuss the setting of SLEAC rates.

**BOARD OF SUPERVISORS  
PROJECTS AND ISSUES LISTING  
ADOPTED 2/22/2016**

Status Report as of 6/30/2016 by Katie H. Nunez

Task	Due Date	Status	Priority	Completed	Delivered Date	Notes
Update and maintain the Business Guide	12/31/2016	Need to Begin	Low	No		KHN and Janice Williams are tasked with this.
Develop/adopt Economic Development & Workforce Development Plan	12/31/2016	In Progress	Medium	No		Kris Tucker provided report to BOS on 4/12/2016.
Develop plan to address abandoned buildings	12/31/2016	Need to Begin	Medium	No		
Fish & Wildlife - Wise Point Dock - currently owned by the Feds - they are interested in either turning it over to County to run or manage	12/31/2016	In Progress	Medium	No		Raised by Spencer & Granville on 2/25/16; Meeting scheduled for 6/30/2016.



Steven B. Miner  
County Administrator

COUNTY OF ACCOMACK  
OFFICE OF THE COUNTY ADMINISTRATOR  
23296 COURTHOUSE AVENUE  
ROOM 203  
P. O. BOX 388  
ACCOMACK, VIRGINIA 23301  
(757) 787-5700  
(757) 824-5444  
(757) 787-2468 FAX

May 18, 2016

Administration Office

HEM  
E

Ms. Katie Nunez, County Administrator  
County of Northampton  
16404 Courthouse Road  
Post Office Box 66  
Eastville, Virginia 23447

**RE: Proposed Cost Allocation for New Regional Library**

Dear Katie:

Attached is a formal cost allocation regarding the new central library in Parksley. We had expected the library Board to make the request and they were willing, but I understand that your board prefers the request come from us. I hope this serves the purpose and is sufficient to explain the logic behind the request. It is presented as a cost allocation.

Cara Burton, our Regional Librarian, provided assistance from the architects to help us make an informed request. Though the facility serves local clientele, it also serves as the base of operations for the regional operations, serving Northampton libraries and citizens. It also will continue to house the regional history room - a true regional asset benefitting the entire shore and a new community room, as well.

We asked the architects to identify shared use areas then calculate costs related to them. Those areas included are:

1. Staff areas for materials procurement and processing; shipping & receiving
2. Center for the Eastern Shore History and Genealogy; public research room
3. Community Room for education, meetings, programs, etc.
4. Internet Equipment Area – Used for housing required internet and telecommunications systems

The project will result in 18,630 square feet of total space – 12,630 in the former grocery building and 6000 sq. ft. added. The architects show regional allocated spaces yielding a total area of 6705 square feet. The cost shares were then derived by utilizing a 25/75% split. This split approximates our relative populations.

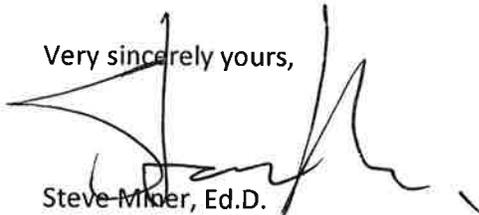
Factored at the anticipated square foot cost of \$264.65, Northampton's share of the proposed project, plus a proportionate share of the property cost and Architect's fees for the conceptual design amounts to \$480,847.00 on a total projected budget of \$4,948,928, or slightly less than 10% of the total.

We have pledged, but not yet funded, \$2,000,000 towards the project. We plan to borrow the funds when they are needed. Overall, the project seems viable and I am personally very optimistic it will be accomplished. Certainly, Northampton's assistance will help ensure the success. A strong commitment by Northampton will confirm the importance of regionalism in our Library System and the mutual benefits brought by cooperation. We hope our participation in the Nassawadox branch set a positive example and appreciate Northampton's full consideration.

Thank you. Please contact me or Cara Burton with any questions.

I am,

Very sincerely yours,

A handwritten signature in black ink, appearing to read 'Steve Miller', written over the typed name below.

Steve Miller, Ed.D.  
County Administrator

Attachment

Cc: Accomack County Board of Supervisors  
Colette Nelson, Chair, ESPL  
Cara Burton, Director, ESPL



**EASTERN SHORE PUBLIC LIBRARY**  
**REGIONAL LIBRARY AGREEMENT**  
**BETWEEN**  
**ACCOMACK COUNTY, VIRGINIA**  
**AND**  
**NORTHAMPTON COUNTY, VIRGINIA**

This Regional Library Agreement (this "Agreement") is made and is effective as of December 1, 2008 between Accomack County, Virginia ("Accomack") and Northampton County, Virginia ("Northampton") with respect to the Eastern Shore Public Library (the "Library").

**RECITALS**

The Accomack Board of Supervisors (the "Accomack Board") adopted a resolution on April 23, 1958, and the Northampton Board of Supervisors (the "Northampton Board") adopted a resolution on May 5, 1958, each agreeing to establish a regional free library system for the Eastern Shore of Virginia. Such resolutions were amended by the Accomack Board on January 21, 1987 and by the Northampton Board on February 9, 1987.

Section 42.1-37 of the Code of Virginia provides that the governing bodies of political subdivisions may join in establishing and maintaining a regional free library system under the terms of a contract between such political subdivisions. In the interest of assuring that library services are available to their citizens, Accomack and Northampton now wish to set forth the terms of their agreement.

**AGREEMENT**

1. Existence and Name. The regional free library system for the Eastern Shore of Virginia shall continue under the name "Eastern Shore Public Library".
2. Provision of Services. The Library shall provide free access to library services to all citizens of Accomack and Northampton, regardless of whether they seek services in the county of their residence.
3. Branches and Affiliated Libraries. The Library currently has two branches: the Library headquarters located in Accomack, Virginia and the Northampton Free Library located in Nassawadox, Virginia, whose real and personal property are owned by the Library Board (as defined below). In addition, the Library provides certain services to the Northampton Memorial Library in Cape Charles and to the Chincoteague Island Library, Inc. under contractual arrangements. The Library Board may enter into additional agreements with library groups for the delivery of library services when the Library Board deems that to be in the best interest of the citizens of Accomack and Northampton.
4. Board of Trustees. The management and control of the Library shall be vested in a Board of Trustees (the "Library Board") consisting of nine members. Six members of the Library Board shall be appointed by the Accomack Board, which may appoint a member or an employee of the Accomack Board to be a member of the Library



Board. Three members of the Library Board shall be appointed by the Northampton Board, which may appoint a member or an employee of the Northampton Board to be a member of the Library Board. Members of the Library Board shall be appointed for staggered four year terms, and may serve for two successive terms, as provided in the Code of Virginia. The Library Board shall have all the powers and authority described in Section 42.1-33 et seq. of the Code of Virginia, and otherwise allowed under applicable law, whether or not such powers are mentioned in this Agreement.

5. Funds and Expenses. The expenses of the Library shall be apportioned between Accomack and Northampton on the basis of population, as determined by the most recent population estimate available from the United States census. As of the date of this Agreement, Accomack shall be responsible for 75% of expenses and Northampton shall be responsible for 25% of expenses. The treasurer of the Library Board shall be the Accomack Treasurer, who shall have custody of the funds of the Library. The Northampton Treasurer shall transfer to the Accomack Treasurer quarterly all moneys collected or appropriated for the Library by Northampton, and such funds shall be expended only for library services as provided by the Code of Virginia.

6. Budget and Appropriations. The Library Board shall prepare a budget for the Library annually, which shall be delivered to the Accomack Board and the Northampton Board by the dates requested by the Accomack Board and the Northampton Board for their budgeting purposes. In no case shall funding provided by the Accomack Board and the Northampton Board fall below that required for the Library to be eligible for grants from the Commonwealth of Virginia, as provided in the Code of Virginia. Appropriations shall be made in proportion to the population as described in Section 5 above. The Accomack Board and the Northampton Board shall cooperate with each other in planning for capital expenditures and improvements for the Library.

7. Bylaws, Officers, and Contracts. The Library Board shall from time to time adopt such Bylaws and policies for operation of the Library as it shall deem to be in the best interest of the Library. The Library Board shall elect such officers as shall be prescribed in the Library Bylaws and by the Code of Virginia. The Library Board shall have the power to enter into contracts with third parties for the operation of the Library, and may purchase and sell Library assets in accordance with Virginia law.

8. Library Personnel. The Library Board shall hire a library director or directors to be responsible for the administration of the Library (the "Director"). The Director shall carry out the policies for the Library adopted by the Library Board and hire and manage Library personnel. The Director shall perform such duties as shall be usual for administrators of public libraries.

9. Term of Agreement. This Agreement shall remain in effect indefinitely. As provided in Section 42.1-42 of the Code of Virginia, neither Accomack nor Northampton may withdraw from the Library without two years' notice to the other county, unless the other county consents.

10. Miscellaneous. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and there are no oral agreements between the parties with respect hereto. This Agreement may be amended only by a written amendment signed by Accomack and Northampton. This Agreement shall be governed by Virginia law.



WITNESS the following signatures and seals.

EASTERN SHORE PUBLIC LIBRARY

By: Carol H. Vincent (SEAL)  
Name: Carol H. Vincent  
Title: Director of Administration

ACCOMACK COUNTY, VIRGINIA

By: [Signature] (SEAL)  
Name: Steven B. Miner  
Title: County Administrator

NORTHAMPTON COUNTY, VIRGINIA

By: Katherine H. Nunez (SEAL)  
Name: Katherine H. Nunez  
Title: County Administrator

VIRGINIA ACTS OF ASSEMBLY -- 2016 RECONVENED SESSION

Mem  
F

CHAPTER 758

An Act to amend and reenact §§ 10.1-2500, 15.2-2403.3, 62.1-44.3, 62.1-44.4, 62.1-44.15:24, 62.1-44.15:25, 62.1-44.15:27, 62.1-44.15:28, 62.1-44.15:29, 62.1-44.15:31, 62.1-44.15:33, 62.1-44.15:34, 62.1-44.15:35, 62.1-44.15:37, 62.1-44.15:40, 62.1-44.15:41, 62.1-44.15:46, 62.1-44.15:48 through 62.1-44.15:55, 62.1-44.15:58, 62.1-44.15:60, 62.1-44.15:62 through 62.1-44.15:65, 62.1-44.15:69, 62.1-44.15:74, 62.1-44.19:22, 62.1-44.22, 62.1-44.23, 62.1-44.25, 62.1-44.26, 62.1-44.29, 62.1-44.31, and 62.1-44.32 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 62.1-44.15:25.1, 62.1-44.15:27.1, 62.1-44.15:29.1, and 62.1-44.15:51.1; and to repeal §§ 62.1-44.15:26, 62.1-44.15:32, 62.1-44.15:36, 62.1-44.15:38, 62.1-44.15:42 through 62.1-44.15:45, 62.1-44.15:47, 62.1-44.15:56, 62.1-44.15:61, and 62.1-44.15:71 of the Code of Virginia, relating to State Water Control Law, Erosion and Sediment Control Law, and Chesapeake Bay Preservation Act.

[H 1250]

Approved April 20, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2500, 15.2-2403.3, 62.1-44.3, 62.1-44.5, 62.1-44.15, 62.1-44.15:24, 62.1-44.15:25, 62.1-44.15:27, 62.1-44.15:28, 62.1-44.15:29, 62.1-44.15:30, 62.1-44.15:31, 62.1-44.15:33, 62.1-44.15:34, 62.1-44.15:35, 62.1-44.15:37, 62.1-44.15:39, 62.1-44.15:40, 62.1-44.15:41, 62.1-44.15:46, 62.1-44.15:48 through 62.1-44.15:55, 62.1-44.15:57, 62.1-44.15:58, 62.1-44.15:60, 62.1-44.15:62 through 62.1-44.15:65, 62.1-44.15:69, 62.1-44.15:74, 62.1-44.19:22, 62.1-44.22, 62.1-44.23, 62.1-44.25, 62.1-44.26, 62.1-44.29, 62.1-44.31, and 62.1-44.32 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-44.15:25.1, 62.1-44.15:27.1, 62.1-44.15:29.1, and 62.1-44.15:51.1 as follows:

§ 10.1-2500. Virginia Environmental Emergency Response Fund established.

A. There is hereby established the Virginia Environmental Emergency Response Fund, hereafter referred to as the Fund, to be used (i) for the purpose of emergency response to environmental pollution incidents and for the development and implementation of corrective actions for pollution incidents, other than pollution incidents addressed through the Virginia Underground Petroleum Storage Tank Fund, as described in § 62.1-44.34:11 of the State Water Control Law; (ii) to conduct assessments of potential sources of toxic contamination in accordance with the policy developed pursuant to § 62.1-44.19:10; and (iii) to assist small businesses for the purposes described in § 10.1-1197.3.

B. The Fund shall be a nonlapsing revolving fund consisting of grants, general funds, and other such moneys as appropriated by the General Assembly, and moneys received by the State Treasurer for:

1. Noncompliance penalties assessed pursuant to § 10.1-1311, civil penalties assessed pursuant to subsection B of § 10.1-1316, and civil charges assessed pursuant to subsection C of § 10.1-1316.

2. Civil penalties assessed pursuant to subsection C of § 10.1-1418.1, civil penalties assessed pursuant to subsections A and E of § 10.1-1455, and civil charges assessed pursuant to subsection F of § 10.1-1455.

3. Civil charges assessed pursuant to subdivision 8d (8d) of § 62.1-44.15 and civil penalties assessed pursuant to subsection (a) of § 62.1-44.32, excluding assessments made for violations of Article 2.3 (§ 62.1-44.15:24 et seq.), 2.4 (§ 62.1-44.15:51 et seq.), 2.5 (§ 62.1-44.15:67 et seq.), 9 (§ 62.1-44.34:8 et seq.), or 10 (§ 62.1-44.34:10 et seq.); of Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

4. Civil penalties and civil charges assessed pursuant to § 62.1-270.

5. Civil penalties assessed pursuant to subsection A of § 62.1-252 and civil charges assessed pursuant to subsection B of § 62.1-252.

6. Civil penalties assessed in conjunction with special orders by the Director pursuant to § 10.1-1186 and by the Waste Management Board pursuant to subsection G of § 10.1-1455.

§ 15.2-2403.3. 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 municipal separate storm sewer system (MS4) permit issued by the State Water Control Board or maintains its own stormwater service district.

§ 62.1-44.3. Definitions.

Unless a different meaning is required by the context, the following terms as used in this chapter shall have the meanings hereinafter respectively ascribed to them:

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are

not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural uses, electric power generation, commercial, and industrial uses.

"Board" means the State Water Control Board.

"Certificate" means any certificate or permit issued by the Board.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Establishment" means any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal-processing operations, quarry, oil refinery, boat, vessel, and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

"Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil or rock.

"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resources.

*"Land-disturbance approval" means an approval allowing a land-disturbing activity to commence issued by (i) a Virginia Erosion and Stormwater Management Program authority after the requirements of § 62.1-44.15:34 have been met or (ii) a Virginia Erosion and Sediment Control Program authority after the requirements of § 62.1-44.15:55 have been met.*

"The law" or "this law" means the law contained in this chapter as now existing or hereafter amended.

"Member" means a member of the Board.

*"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, that is:*

*1. Owned or operated by a federal entity, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including a special district under state law such as a sewer district, flood control district, drainage district or similar entity, or a designated and approved management agency under § 208 of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) that discharges to surface waters;*

*2. Designed or used for collecting or conveying stormwater;*

*3. Not a combined sewer; and*

*4. Not part of a publicly owned treatment works.*

"Normal agricultural activities" means those activities defined as an agricultural operation in § 3.2-300 and any activity that is conducted as part of or in furtherance of such agricultural operation but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

"Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and any activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, tar, oil, chemicals, and all other substances except industrial wastes and sewage which may cause pollution in any state waters.

"Owner" means the Commonwealth or any of its political subdivisions, including but not limited to sanitation district commissions and authorities and any public or private institution, corporation, association, firm, or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of § 62.1-44.5.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.

"Policies" means policies established under subdivisions (3a) and (3b) of § 62.1-44.15.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided

that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution" for the terms and purposes of this chapter.

"Pretreatment requirements" means any requirements arising under the Board's pretreatment regulations including the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the owner of a publicly owned treatment works; or any reporting requirements imposed by the owner of a publicly owned treatment works or by the regulations of the Board.

"Pretreatment standards" means any standards of performance or other requirements imposed by regulation of the Board upon an industrial user of a publicly owned treatment works.

"Reclaimed water" means water resulting from the treatment of domestic, municipal, or industrial wastewater that is suitable for a direct beneficial or controlled use that would not otherwise occur. Specifically excluded from this definition is "gray water."

"Reclamation" means the treatment of domestic, municipal, or industrial wastewater or sewage to produce reclaimed water for a direct beneficial or controlled use that would not otherwise occur.

"Regulation" means a regulation issued under *subdivision (10) of § 62.1-44.15* ~~(10)~~.

"Reuse" means the use of reclaimed water for a direct beneficial use or a controlled use that is in accordance with the requirements of the Board.

"Rule" means a rule adopted by the Board to regulate the procedure of the Board pursuant to *subdivision (7) of § 62.1-44.15* ~~(7)~~.

"Ruling" means a ruling issued under *subdivision (9) of § 62.1-44.15* ~~(9)~~.

"Sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places together with such industrial wastes and underground, surface, storm, or other water as may be present.

"Sewage treatment works" or "treatment works" means any device or system used in the storage, treatment, disposal, or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power, and other equipment, and appurtenances, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal of residues or effluent resulting from such treatment. These terms shall not include onsite sewage systems or alternative discharging sewage systems.

"Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting sewage or industrial wastes or other wastes to a point of ultimate disposal.

"Special order" means a special order issued under subdivisions (8a), (8b), and (8c) of § 62.1-44.15.

"Standards" means standards established under subdivisions (3a) and (3b) of § 62.1-44.15.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**§ 62.1-44.5. Prohibition of waste discharges or other quality alterations of state waters except as authorized by permit; notification required.**

A. Except in compliance with a certificate, *land-disturbance approval*, or permit issued by the Board or other entity authorized by the Board to issue a certificate, *land-disturbance approval*, or permit pursuant to this chapter, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses; ~~or~~

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions; *or*

5. Discharge stormwater into state waters from Municipal Separate Storm Sewer Systems or land disturbing activities.

B. Any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes, or any noxious or deleterious substance into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written notice to the Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act.

**§ 62.1-44.15. Powers and duties; civil penalties.**

It shall be the duty of the Board and it shall have the authority:

- (1) [Repealed.]
- (2) To study and investigate all problems concerned with the quality of state waters and to make reports and recommendations.
  - (2a) To study and investigate methods, procedures, devices, appliances, and technologies that could assist in water conservation or water consumption reduction.
  - (2b) To coordinate its efforts toward water conservation with other persons or groups, within or without the Commonwealth.
  - (2c) To make reports concerning, and formulate recommendations based upon, any such water conservation studies to ensure that present and future water needs of the citizens of the Commonwealth are met.
  - (3a) To establish such standards of quality and policies for any state waters consistent with the general policy set forth in this chapter, and to modify, amend, or cancel any such standards or policies established and to take all appropriate steps to prevent quality alteration contrary to the public interest or to standards or policies thus established, except that a description of provisions of any proposed standard or policy adopted by regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the standard or policy are most properly referable. The Board shall, from time to time, but at least once every three years, hold public hearings pursuant to § 2.2-4007.01 but, upon the request of an affected person or upon its own motion, hold hearings pursuant to § 2.2-4009, for the purpose of reviewing the standards of quality, and, as appropriate, adopting, modifying, or canceling such standards. Whenever the Board considers the adoption, modification, amendment, or cancellation of any standard, it shall give due consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to obtain as a consequence of the standards as adopted, modified, amended, or cancelled. The Board shall also give due consideration to the public health standards issued by the Virginia Department of Health with respect to issues of public health policy and protection. If the Board does not follow the public health standards of the Virginia Department of Health, the Board's reason for any deviation shall be made in writing and published for any and all concerned parties.
  - (3b) Except as provided in subdivision (3a), such standards and policies are to be adopted or modified, amended, or cancelled in the manner provided by the Administrative Process Act (§ 2.2-4000 et seq.).
  - (4) To conduct or have conducted scientific experiments, investigations, studies, and research to discover methods for maintaining water quality consistent with the purposes of this chapter. To this end the Board may cooperate with any public or private agency in the conduct of such experiments, investigations, and research and may receive in behalf of the Commonwealth any moneys that any such agency may contribute as its share of the cost under any such cooperative agreement. Such moneys shall be used only for the purposes for which they are contributed and any balance remaining after the conclusion of the experiments, investigations, studies, and research, shall be returned to the contributors.
  - (5) To issue, revoke, or amend certificates *and land-disturbance approvals* under prescribed conditions for: (a) the discharge of sewage, *stormwater*, industrial wastes, and other wastes into or adjacent to state waters; (b) the alteration otherwise of the physical, chemical, or biological properties of state waters; (c) excavation in a wetland; or (d) on and after October 1, 2001, the conduct of the following activities in a wetland: (i) new activities to cause draining that significantly alters or degrades existing wetland acreage or functions, (ii) filling or dumping, (iii) permanent flooding or impounding, or (iv) new activities that cause significant alteration or degradation of existing wetland acreage or functions. However, to the extent allowed by federal law, any person holding a certificate issued by the Board that is intending to upgrade the permitted facility by installing technology, control equipment, or other apparatus that the permittee demonstrates to the satisfaction of the Director will result in improved energy efficiency, reduction in the amount of nutrients discharged, and improved water quality shall not be required to obtain a new, modified, or amended permit. The permit holder shall provide the demonstration anticipated by this subdivision to the Department no later than 30 days prior to commencing construction.
    - (5a) All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollution Discharge Elimination System permit shall not exceed five years. The term of a

Virginia Water Protection Permit shall be based upon the projected duration of the project, the length of any required monitoring, or other project operations or permit conditions; however, the term shall not exceed 15 years. The term of a Virginia Pollution Abatement permit shall not exceed 10 years, except that the term of a Virginia Pollution Abatement permit for confined animal feeding operations shall be 10 years. The Department of Environmental Quality shall inspect all facilities for which a Virginia Pollution Abatement permit has been issued to ensure compliance with statutory, regulatory, and permit requirements. Department personnel performing inspections of confined animal feeding operations shall be certified under the voluntary nutrient management training and certification program established in § 10.1-104.2. The term of a certificate issued by the Board shall not be extended by modification beyond the maximum duration and the certificate shall expire at the end of the term unless an application for a new permit has been timely filed as required by the regulations of the Board and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit.

(5b) Any certificate *or land-disturbance approval* issued by the Board under this chapter may, after notice and opportunity for a hearing, be amended or revoked on any of the following grounds or for good cause as may be provided by the regulations of the Board:

1. The owner has violated any regulation or order of the Board, any condition of a certificate *or land-disturbance approval*, any provision of this chapter, or any order of a court, where such violation results in a release of harmful substances into the environment ~~or~~, poses a substantial threat of release of harmful substances into the environment, *causes unreasonable property degradation*, or presents a hazard to human health or the violation is representative of a pattern of serious or repeated violations which, in the opinion of the Board, demonstrates the owner's disregard for or inability to comply with applicable laws, regulations, or requirements;

2. The owner has failed to disclose fully all relevant material facts or has misrepresented a material fact in applying for a certificate *or land-disturbance approval*, or in any other report or document required under this law or under the regulations of the Board;

3. The activity for which the certificate *or land-disturbance approval* was issued endangers human health or the environment *or causes unreasonable property degradation* and can be regulated to acceptable levels *or practices* by amendment or revocation of the certificate *or land-disturbance approval*; or

4. There exists a material change in the basis on which the *certificate, land-disturbance approval, or permit* was issued that requires either a temporary or a permanent reduction or elimination of any discharge *or land-disturbing activity* controlled by the certificate, *land-disturbance approval, or permit* necessary to protect human health or the environment *or stop or prevent unreasonable degradation of property*.

(5c) Any certificate issued by the Board under this chapter relating to dredging projects governed under Chapter 12 (§ 28.2-1200 et seq.) or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 may be conditioned upon a demonstration of financial responsibility for the completion of compensatory mitigation requirements. Financial responsibility may be demonstrated by a letter of credit, a certificate of deposit, or a performance bond executed in a form approved by the Board. If the U.S. Army Corps of Engineers requires demonstration of financial responsibility for the completion of compensatory mitigation required for a particular project, then the mechanism and amount approved by the U.S. Army Corps of Engineers shall be used to meet this requirement.

(6) To make investigations and inspections, to ensure compliance with *the conditions of any certificates, land-disturbance approvals, standards, policies, rules, regulations, rulings, and special orders* which ~~that~~ it may adopt, issue, or establish, and to furnish advice, recommendations, or instructions for the purpose of obtaining such compliance. In recognition of §§ 32.1-164 and 62.1-44.18, the Board and the State Department of Health shall enter into a memorandum of understanding establishing a common format to consolidate and simplify inspections of sewage treatment plants and coordinate the scheduling of the inspections. The new format shall ensure that all sewage treatment plants are inspected at appropriate intervals in order to protect water quality and public health and at the same time avoid any unnecessary administrative burden on those being inspected.

(7) To adopt rules governing the procedure of the Board with respect to: (a) hearings; (b) the filing of reports; (c) the issuance of certificates and ~~special~~ orders; and (d) all other matters relating to procedure; and to amend or cancel any rule adopted. Public notice of every rule adopted under this section shall be by such means as the Board may prescribe.

(8a) Except as otherwise provided in ~~Articles 2.4 (§ 62.1-44.15:51 et seq.) and 2.5 (§ 62.1-44.15:67 et seq.)~~ *subdivision (19) and Article 2.3 (§ 62.1-44.15:24 et seq.)*, to issue special orders to owners ~~(i)~~, including owners as defined in § 62.1-44.15:24, who (i) are permitting or causing the pollution, as defined by § 62.1-44.3, of state waters *or the unreasonable degradation of property* to cease and desist from such pollution *or degradation*, (ii) ~~who~~ have failed to construct facilities in accordance with final approved plans and specifications to construct such facilities in accordance with final approved plans and specifications, (iii) ~~who~~ have violated the terms and provisions of a certificate *or land-disturbance approval* issued by the Board to comply with such terms and provisions, (iv) ~~who~~ have failed to comply

with a directive from the Board to comply with such directive, (v) ~~who~~ have contravened duly adopted and promulgated water quality standards and policies to cease and desist from such contravention and to comply with such water quality standards and policies, (vi) ~~who~~ have violated the terms and provisions of a pretreatment permit issued by the Board or by the owner of a publicly owned treatment works to comply with such terms and provisions, or (vii) ~~who~~ have contravened any applicable pretreatment standard or requirement to comply with such standard or requirement; and also to issue such orders to require any owner to comply with the provisions of this chapter and any decision of the Board. Except as otherwise provided by a separate article, orders issued pursuant to this ~~subsection~~ *subdivision* may include civil penalties of up to \$32,500 per violation, not to exceed \$100,000 per order. The Board may assess penalties under this ~~subsection~~ *subdivision* if (a) the person has been issued at least two written notices of alleged violation by the Department for the same or substantially related violations at the same site, (b) such violations have not been resolved by demonstration that there was no violation, by an order issued by the Board or the Director, or by other means, (c) at least 130 days have passed since the issuance of the first notice of alleged violation, and (d) there is a finding that such violations have occurred after a hearing conducted in accordance with subdivision (8b). 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, the compliance history of the facility or person, any economic benefit realized from the noncompliance, and the ability of the person to pay the penalty. The Board shall provide the person with the calculation for the proposed penalty prior to any hearing conducted for the issuance of an order that assesses penalties pursuant to this ~~subsection~~ *subdivision*. The issuance of a notice of alleged violation by the Department shall not be considered a case decision as defined in § 2.2-4001. Any notice of alleged violation shall include a description of each violation, the specific provision of law violated, and information on the process for obtaining a final decision or fact finding from the Department on whether or not a violation has occurred, and nothing in this section shall preclude an owner from seeking such a determination. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund (§ 10.1-2500 et seq.), except that civil penalties assessed for violations of Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14 et seq.) shall be paid into the Virginia Petroleum Storage Tank Fund in accordance with § 62.1-44.34:11, and except that civil penalties assessed for violations of *subdivision (19) or Article 2.3* (§ 62.1-44.15:24 et seq.) shall be paid *into the Stormwater Local Assistance Fund* in accordance with ~~the provisions of § 62.1-44.15:48 62.1-44.15:29.1.~~

(8b) Such special orders are to be issued only after a hearing before a hearing officer appointed by the Supreme Court in accordance with § 2.2-4020 or, if requested by the person, before a quorum of the Board with at least 30 days' notice to the affected owners, of the time, place, and purpose thereof, and they shall become effective not less than 15 days after service as provided in § 62.1-44.12; provided that if the Board finds that any such owner is grossly affecting or presents an imminent and substantial danger to (i) the public health, safety, or welfare, or the health of animals, fish, or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural, or other reasonable uses, it may issue, without advance notice or hearing, an emergency special order directing the owner to cease such pollution or discharge immediately, and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof to the owner, to affirm, modify, amend, or cancel such emergency special order. If an owner who has been issued such a special order or an emergency special order is not complying with the terms thereof, the Board may proceed in accordance with § 62.1-44.23, and where the order is based on a finding of an imminent and substantial danger, the court shall issue an injunction compelling compliance with the emergency special order pending a hearing by the Board. If an emergency special order requires cessation of a discharge, the Board shall provide an opportunity for a hearing within 48 hours of the issuance of the injunction.

(8c) The provisions of this section notwithstanding, the Board may proceed directly under § 62.1-44.32 for any past violation or violations of any provision of this chapter or any regulation duly promulgated hereunder.

(8d) ~~With~~ *Except as otherwise provided in subdivision (19), subdivision 2 of § 62.1-44.15:25, or § 62.1-44.15:63, with the consent of any owner who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any condition of a certificate, land-disturbance approval, or permit, or any provision of this chapter, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit specified in subsection (a) of § 62.1-44.32 (a).* Such civil charges shall be instead of any appropriate civil penalty which could be imposed under *subsection (a) of § 62.1-44.32 (a)* and shall not be subject to the provisions of § 2.2-514. Such civil charges shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund (§ 10.1-2500 et seq.), excluding civil charges assessed for violations of Article 9 (§ 62.1-44.34:8 et seq.) or 10 (§ 62.1-44.34:10 et seq.) of Chapter 3.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles, or civil charges assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.); *or 2.5* (§ 62.1-44.15:67 et seq.) or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under ~~that article~~ *Article 2.3 or 2.5.*

The amendments to this section adopted by the 1976 Session of the General Assembly shall not be construed as limiting or expanding any cause of action or any other remedy possessed by the Board prior to the effective date of said amendments.

(8e) The Board shall develop and provide an opportunity for public comment on guidelines and procedures that contain specific criteria for calculating the appropriate penalty for each violation based upon the severity of the violations, the extent of any potential or actual environmental harm, the compliance history of the facility or person, any economic benefit realized from the noncompliance, and the ability of the person to pay the penalty.

(8f) Before issuing a special order under subdivision (8a) or by consent under (8d), with or without an assessment of a civil penalty, to an owner of a sewerage system requiring corrective action to prevent or minimize overflows of sewage from such system, the Board shall provide public notice of and reasonable opportunity to comment on the proposed order. Any such order under subdivision (8d) may impose civil penalties in amounts up to the maximum amount authorized in § 309(g) of the Clean Water Act. Any person who comments on the proposed order shall be given notice of any hearing to be held on the terms of the order. In any hearing held, such person shall have a reasonable opportunity to be heard and to present evidence. If no hearing is held before issuance of an order under subdivision (8d), any person who commented on the proposed order may file a petition, within 30 days after the issuance of such order, requesting the Board to set aside such order and provide a formal hearing thereon. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Board shall immediately set aside the order, provide a formal hearing, and make such petitioner a party. If the Board denies the petition, the Board shall provide notice to the petitioner and make available to the public the reasons for such denial, and the petitioner shall have the right to judicial review of such decision under § 62.1-44.29 if he meets the requirements thereof.

(9) To make such rulings under §§ 62.1-44.16, 62.1-44.17, and 62.1-44.19 as may be required upon requests or applications to the Board, the owner or owners affected to be notified by certified mail as soon as practicable after the Board makes them and such rulings to become effective upon such notification.

(10) To adopt such regulations as it deems necessary to enforce the general *soil erosion control and stormwater management program* and water quality management program of the Board in all or part of the Commonwealth, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.

(11) To investigate any large-scale killing of fish.

(a) Whenever the Board shall determine that any owner, whether or not he shall have been issued a certificate for discharge of waste, has discharged sewage, industrial waste, or other waste into state waters in such quantity, concentration, or manner that fish are killed as a result thereof, it may effect such settlement with the owner as will cover the costs incurred by the Board and by the Department of Game and Inland Fisheries in investigating such killing of fish, plus the replacement value of the fish destroyed, or as it deems proper, and if no such settlement is reached within a reasonable time, the Board shall authorize its executive secretary to bring a civil action in the name of the Board to recover from the owner such costs and value, plus any court or other legal costs incurred in connection with such action.

(b) If the owner is a political subdivision of the Commonwealth, the action may be brought in any circuit court within the territory embraced by such political subdivision. If the owner is an establishment, as defined in this chapter, the action shall be brought in the circuit court of the city or the circuit court of the county in which such establishment is located. If the owner is an individual or group of individuals, the action shall be brought in the circuit court of the city or circuit court of the county in which such person or any of them reside.

(c) For the purposes of this subsection the State Water Control Board shall be deemed the owner of the fish killed and the proceedings shall be as though the State Water Control Board were the owner of the fish. The fact that the owner has or held a certificate issued under this chapter shall not be raised as a defense in bar to any such action.

(d) The proceeds of any recovery had under this subsection shall, when received by the Board, be applied, first, to reimburse the Board for any expenses incurred in investigating such killing of fish. The balance shall be paid to the Board of Game and Inland Fisheries to be used for the fisheries' management practices as in its judgment will best restore or replace the fisheries' values lost as a result of such discharge of waste, including, where appropriate, replacement of the fish killed with game fish or other appropriate species. Any such funds received are hereby appropriated for that purpose.

(e) Nothing in this subsection shall be construed in any way to limit or prevent any other action which is now authorized by law by the Board against any owner.

(f) Notwithstanding the foregoing, the provisions of this subsection shall not apply to any owner who adds or applies any chemicals or other substances that are recommended or approved by the State Department of Health to state waters in the course of processing or treating such waters for public water

supply purposes, except where negligence is shown.

(12) To administer programs of financial assistance for planning, construction, operation, and maintenance of water quality control facilities for political subdivisions in the Commonwealth.

(13) To establish policies and programs for effective area-wide or basin-wide water quality control and management. The Board may develop comprehensive pollution abatement and water quality control plans on an area-wide or basin-wide basis. In conjunction with this, the Board, when considering proposals for waste treatment facilities, is to consider the feasibility of combined or joint treatment facilities and is to ensure that the approval of waste treatment facilities is in accordance with the water quality management and pollution control plan in the watershed or basin as a whole. In making such determinations, the Board is to seek the advice of local, regional, or state planning authorities.

(14) To establish requirements for the treatment of sewage, industrial wastes, and other wastes that are consistent with the purposes of this chapter; however, no treatment shall be less than secondary or its equivalent, unless the owner can demonstrate that a lesser degree of treatment is consistent with the purposes of this chapter.

(15) To promote and establish requirements for the reclamation and reuse of wastewater that are protective of state waters and public health as an alternative to directly discharging pollutants into waters of the state. The requirements shall address various potential categories of reuse and may include general permits and provide for greater flexibility and less stringent requirements commensurate with the quality of the reclaimed water and its intended use. The requirements shall be developed in consultation with the Department of Health and other appropriate state agencies. This authority shall not be construed as conferring upon the Board any power or duty duplicative of those of the State Board of Health.

(16) To establish and implement policies and programs to protect and enhance the Commonwealth's wetland resources. Regulatory programs shall be designed to achieve no net loss of existing wetland acreage and functions. Voluntary and incentive-based programs shall be developed to achieve a net resource gain in acreage and functions of wetlands. The Board shall seek and obtain advice and guidance from the Virginia Institute of Marine Science in implementing these policies and programs.

(17) To establish additional procedures for obtaining a Virginia Water Protection Permit pursuant to §§ 62.1-44.15:20 and 62.1-44.15:22 for a proposed water withdrawal involving the transfer of water resources between major river basins within the Commonwealth that may impact water basins in another state. Such additional procedures shall not apply to any water withdrawal in existence as of July 1, 2012, except where the expansion of such withdrawal requires a permit under §§ 62.1-44.15:20 and 62.1-44.15:22, in which event such additional procedures may apply to the extent of the expanded withdrawal only. The applicant shall provide as part of the application (i) an analysis of alternatives to such a transfer, (ii) a comprehensive analysis of the impacts that would occur in the source and receiving basins, (iii) a description of measures to mitigate any adverse impacts that may arise, (iv) a description of how notice shall be provided to interested parties, and (v) any other requirements that the Board may adopt that are consistent with the provisions of this section and §§ 62.1-44.15:20 and 62.1-44.15:22 or regulations adopted thereunder. This subdivision shall not be construed as limiting or expanding the Board's authority under §§ 62.1-44.15:20 and 62.1-44.15:22 to issue permits and impose conditions or limitations on the permitted activity.

(18) To be the lead agency for the Commonwealth's nonpoint source pollution management program, including coordination of the nonpoint source control elements of programs developed pursuant to certain state and federal laws, including § 319 of the federal Clean Water Act and § 6217 of the federal Coastal Zone Management Act. Further responsibilities include the adoption of regulations necessary to implement a nonpoint source pollution management program in the Commonwealth, the distribution of assigned funds, the identification and establishment of priorities to address nonpoint source related water quality problems, the administration of the Statewide Nonpoint Source Advisory Committee, and the development of a program for the prevention and control of soil erosion, sediment deposition, and nonagricultural runoff to conserve Virginia's natural resources.

(19) *To review for compliance with the provisions of this chapter the Virginia Erosion and Stormwater Management Programs adopted by localities pursuant to § 62.1-44.15:27, the Virginia Erosion and Sediment Control Programs adopted by localities pursuant to subdivision B 3 of § 62.1-44.15:27, and the programs adopted by localities pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The Board shall develop and implement a schedule for conducting such program reviews as often as necessary but at least once every five years. Following the completion of a compliance review in which deficiencies are found, the Board shall establish a schedule for the locality to follow in correcting the deficiencies and bringing its program into compliance. If the locality fails to bring its program into compliance in accordance with the compliance schedule, then the Board is authorized to (i) issue a special order to any locality imposing a civil penalty not to exceed \$5,000 per violation with the maximum amount not to exceed \$50,000 per order for noncompliance with the state program, to be paid into the state treasury and deposited in the Stormwater Local Assistance Fund established in § 62.1-44.15:29.1 or (ii) with the consent of the locality, provide in an order issued against the locality for the payment of civil charges for violations in lieu of civil penalties, in specific sums not to exceed the limit stated in this subdivision. Such civil charges shall be in lieu of any*

appropriate civil penalty that could be imposed under subsection (a) of § 62.1-44.32 and shall not be subject to the provisions of § 2.2-514. The Board shall not delegate to the Department its authority to issue special orders pursuant to clause (i). In lieu of issuing an order, the Board is authorized to take legal action against a locality pursuant to § 62.1-44.23 to ensure compliance.

Article 2.3.

Virginia Erosion and Stormwater Management Act (VESMA).

§ 62.1-44.15:24. Definitions.

As used in this article, unless the context requires a different meaning:

"Agreement in lieu of a stormwater management plan" means a contract between the VESMP authority or the Board acting as a VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP this article for the construction of a single-family residence detached residential structure; such contract may be executed by the VSMP VESMP authority in lieu of a soil erosion control and stormwater management plan or by the Board acting as a VSMP authority in lieu of a stormwater management plan.

"Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation provisions of this chapter.

"Applicant" means any person submitting a soil erosion control and stormwater management plan to a VESMP authority, or a stormwater management plan to the Board when it is serving as a VSMP authority, for approval in order to obtain authorization to commence a land-disturbing activity.

"CWA" means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, as amended by P.L. 95-217, P.L. 95-576, P.L. 96-483, and P.L. 97-117, or any subsequent revisions thereto.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is 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 or any shoreline where the erosion results from wave action or other coastal processes.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, or excavation, except that the term shall not include those exemptions specified in § 62.1-44.15:34 excavating, or filling of land.

"Land-disturbance approval" means the same as that term is defined in § 62.1-44.3.

"Municipal separate storm sewer" or "MS4" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works the same as that term is defined in § 62.1-44.3.

"Municipal Separate Storm Sewer System Management Program" means a management program covering the duration of a state permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this article and its attendant regulations, using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land

surface in a diffuse manner by stormwater runoff.

"Owner" means the same as that term is defined in § 62.1-44.3. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Permit" or "VSMP authority permit" means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable a Virginia Pollutant Discharge Elimination System (VPDES) permit issued by the Board pursuant to § 62.1-44.15 for stormwater discharges from a land-disturbing activity or MS4.

"Permittee" means the person to which whom the permit or state permit is issued.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"State permit" means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Board for stormwater discharges from an MS4. Under these permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations and this article and its attendant regulations.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil Erosion Control and Stormwater Management plan" or "plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to this article.

"Stormwater," for the purposes of this article, means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of a VSMP.

"Subdivision" means the same as that term is defined in § 15.2-2201.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that is established by a VESCP authority pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The VESCP shall include, where applicable, such items as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality that is approved by the Board to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.). Only a locality for which the Department administered a Virginia Stormwater Management Program as of July 1, 2017, is authorized to choose to operate a VESCP pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by a VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of this article.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the Board or a locality approved by the Board to operate a Virginia Erosion and Stormwater Management Program. For state agency or federal entity land-disturbing activities and land-disturbing activities subject to approved standards and specifications, the Board shall serve as the VESMP authority.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a

larger common plan of development or sale that results in one acre or more of land disturbance.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a Virginia Stormwater Management Program of the Department. An authority may include a locality, state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 62.1-44.15:31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 when administering a VSMP on behalf of a locality that, pursuant to subdivision B 3 of § 62.1-44.15:27, has chosen not to adopt and administer a VESMP.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

#### **§ 62.1-44.15:25. Further powers and duties of the State Water Control Board.**

In addition to other powers and duties conferred upon the Board by this chapter, it shall permit, regulate, and control soil erosion and stormwater runoff in the Commonwealth. The Board may issue, deny, revoke, terminate, or amend state stormwater individual permits or coverage issued under state general permits; adopt regulations; approve and periodically review Virginia Stormwater Management Programs and management programs developed in conjunction with a state municipal separate storm sewer permit; enforce the provisions of this article; and *and may* otherwise act to ensure the general health, safety, and welfare of the citizens of the Commonwealth as well as protect the quality and quantity of state waters from the potential harm of unmanaged stormwater. The Board may *and soil erosion. It shall be the duty of the Board and it shall have the authority to:*

1. Issue, deny, amend, revoke, terminate, and enforce state permits for the control of stormwater discharges from Municipal Separate Storm Sewer Systems and land-disturbing activities.

2. Take administrative and legal actions to ensure compliance with the provisions of this article by any person subject to state or VSMP authority permit requirements under this article, and those entities with an approved Virginia Stormwater Management Program and management programs developed in conjunction with a state municipal separate storm sewer system permit, including the proper enforcement and implementation of, and continual compliance with, this article.

3. In accordance with procedures of the Administrative Process Act (§ 2.2-4000 et seq.), amend or revoke any state permit issued under this article on the following grounds or for good cause as may be provided by the regulations of the Board:

a. Any person subject to state permit requirements under this article has violated or failed, neglected, or refused to obey any order or regulation of the Board, any order, notice, or requirement of the Department, any condition of a state permit, any provision of this article, or any order of a court, where such violation results in the unreasonable degradation of properties, water quality, stream channels, and other natural resources; or the violation is representative of a pattern of serious or repeated violations, including the disregard for or inability to comply with applicable laws, regulations, permit conditions, orders, rules, or requirements;

b. Any person subject to state permit requirements under this article has failed to disclose fully all relevant material facts or has misrepresented a material fact in applying for a state permit, or in any other report or document required under this law or under the regulations of the Board;

c. The activity for which the state permit was issued causes unreasonable degradation of properties, water quality, stream channels, and other natural resources; or

d. There exists a material change in the basis on which the state permit was issued that requires either a temporary or a permanent reduction or elimination of any discharge or land-disturbing activity controlled by the state permit necessary to prevent unreasonable degradation of properties, water quality, stream channels, and other natural resources.

4. Cause investigations and inspections to ensure compliance with any state or VSMP authority permits, conditions, policies, rules, regulations, rulings, and orders which it may adopt, issue, or establish and to furnish advice, recommendations, or instructions for the purpose of obtaining such compliance.

5. In accordance with procedures of the Administrative Process Act (§ 2.2-4000 et seq.), adopt rules governing (i) hearings, (ii) the filing of reports, (iii) the issuance of permits and special orders, and (iv) all other matters relating to procedure, and amend or cancel any rule adopted.

6. Issue special orders to any person subject to state or VSMP authority permit requirements under

this article (i) who is permitting or causing the unreasonable degradation of properties, water quality, stream channels, and other natural resources to cease and desist from such activities; (ii) who has failed to construct facilities in accordance with final approved plans and specifications to construct such facilities; (iii) who has violated the terms and provisions of a state or VSMP authority permit issued by the Board or VSMP authority to comply with the provisions of the state or VSMP authority permit, this article, and any decision of the VSMP authority, the Department, or the Board; or (iv) who has violated the terms of an order issued by the court, the VSMP authority, the Department, or the Board to comply with the terms of such order, and also to issue orders to require any person subject to state or VSMP authority permit requirements under this article to comply with the provisions of this article and any decision of the Board.

Such special orders are to be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.) and shall become effective not less than 15 days after the date of mailing with confirmation of delivery of the notice to the last known address of any person subject to state or VSMP authority permit requirements under this article, provided that if the Board finds that any such person subject to state or VSMP authority permit requirements under this article is grossly affecting or presents an imminent and substantial danger to (i) the public health, safety, or welfare or the health of animals, fish, or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural, or other reasonable uses, it may issue, without advance notice or hearing, an emergency special order directing any person subject to state or VSMP authority permit requirements under this article to cease such pollution or discharge immediately, and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof to any person subject to state or VSMP authority permit requirements under this article, to affirm, modify, amend, or cancel such emergency special order. If any person subject to state or VSMP authority permit requirements under this article who has been issued such a special order or an emergency special order is not complying with the terms thereof, the Board may proceed in accordance with § 62.1-44.15:48, and where the order is based on a finding of an imminent and substantial danger, the court shall issue an injunction compelling compliance with the emergency special order pending a hearing by the Board. If an emergency special order requires cessation of a discharge, the recipient of the order may appeal its issuance to the circuit court of the jurisdiction wherein the discharge was alleged to have occurred *special orders pursuant to subdivision (8a) or (8b) of § 62.1-44.15 to any owner subject to requirements under this article, except that for any land-disturbing activity that disturbs an area measuring not less than 10,000 square feet but less than one acre in an area of a locality that is not designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and that is not part of a larger common plan of development or sale that disturbs one acre or more of land, such special orders may include civil penalties of up to \$5,000 per violation, not to exceed \$50,000 per order. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.*

The provisions of this section notwithstanding, the Board may proceed directly under § 62.1-44.15:48 or Article 5 (§ 62.1-44.20 et seq.) for any past violation or violations of any provision of this article or any regulation duly adopted hereunder.

2. With the consent of any person owner subject to state or VSMP authority permit requirements under this article who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the Department or VSMP authority, any condition of a state or VSMP authority permit, or any provision of this article, the Board may provide, in an order issued by the Board pursuant to subdivision (8d) of § 62.1-44.15 against such person owner, for the payment of civil charges for violations in specific sums. *Such sums shall not to exceed the limit specified in subsection A subdivision A 1 or B 1, as applicable, of § 62.1-44.15:48.* Such civil charges shall be collected in lieu of any appropriate civil penalty that could be imposed pursuant to subsection A of § 62.1-44.15:48 and shall not be subject to the provisions of § 2.2-514. Such civil charges shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Stormwater Management Local Assistance Fund established pursuant to § 62.1-44.15:29 62.1-44.15:29.1.

**§ 62.1-44.15:25.1. Additional local authority.**

*Any locality serving as a VESMP authority shall have the authority to:*

1. *Issue orders in accordance with the procedures of subdivision 10 a of § 15.2-2122 to any owner subject to the requirements of this article. Such orders may include civil penalties in specific sums not to exceed the limit specified in subdivision A 2 or B 2, as applicable, of § 62.1-44.15:48, and such civil penalties shall be paid into the treasury of the locality in accordance with subdivision A 2 of § 62.1-44.15:48. The provisions of this section notwithstanding, the locality may proceed directly under § 62.1-44.15:48 for any past violation or violations of any provision of this article or any ordinance duly adopted hereunder.*

2. *Issue consent orders with the consent of any person who has violated or failed, neglected, or refused to obey any ordinance adopted pursuant to the provisions of this article, any condition of a locality's land-disturbance approval, or any order of a locality serving as a VESMP authority. Such consent order may provide for the payment of civil charges not to exceed the limits specified in*

subdivision A 2 or B 2, as applicable, of § 62.1-44.15:48. Such civil charges shall be in lieu of any appropriate civil penalty that could be imposed under this article. Any civil charges collected shall be paid to the treasury of the locality in accordance with subdivision A 2 of § 62.1-44.15:48.

**§ 62.1-44.15:27. Virginia Programs for Erosion Control and Stormwater Management.**

A. Any locality that operates a regulated MS4 or that notifies the Department of its decision to participate in the establishment of a VSMP administers a Virginia Stormwater Management Program (VSMP) as of July 1, 2017, shall be required to adopt a VSMP for land-disturbing activities and administer a VESMP consistent with the provisions of this article according to a schedule set by the Department. Such schedule shall require implementation no later than July 1, 2014. Thereafter, the Department shall provide an annual schedule by which localities can submit applications to implement a VSMP. Localities subject to this subsection are authorized to coordinate plan review and inspections with other entities in accordance with subsection H. The Department shall operate a VSMP on behalf of any that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The VESMP shall be adopted according to a process established by the Department.

B. Any locality that does not operate a regulated MS4 and that does not for which the Department administers a VSMP as of July 1, 2017, shall choose one of the following options and shall notify the Department, of its choice according to a schedule set process established by the Department, of its decision to participate in the establishment of a VSMP. A locality that decides not to establish a VSMP shall still comply:

1. Adopt and administer a VESMP consistent with the requirements set forth in provisions of this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.). A locality that is subject to the provisions of that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.);

2. Adopt and administer a VESMP consistent with the provisions of this article that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), except that the Department shall provide the locality with review of the plan required by § 62.1-44.15:34 and provide a recommendation to the locality on the plan's compliance with the water quality and water quantity technical criteria; or

3. Adopt and administer a VESCP pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). For such a land-disturbing activity in a Chesapeake Bay Preservation Area, the VESCP authority also shall adopt requirements set forth in this article and attendant regulations as required to regulate Chesapeake Bay Preservation Act land-disturbing those activities in accordance with §§ 62.1-44.15:28 and 62.1-44.15:34.

Notwithstanding any other provision of this subsection, any county that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect, on a schedule set by the Department, to defer the implementation of the county's VSMP until no later than January 1, 2015. During this deferral period, when such county thus lacks the legal authority to operate a VSMP, the Department shall operate a VSMP on behalf of the county and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls. Any such county electing to defer the establishment of its VSMP shall still comply with the requirements set forth in this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

B. The Board shall administer a VSMP on behalf of each VESCP authority for any land-disturbing activity that (a) disturbs one acre or more of land or (b) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

C. Any town that is required to or elects to adopt and administer a VESMP or VESCP, as applicable, may choose one of the following options and shall notify the Department of its choice according to a process established by the Department:

1. Any town, including a town that operates a regulated MS4, lying within a county that has adopted a VSMP in accordance with subsection A may decide, but shall not be required, may enter into an agreement with the county to become subject to the county's VSMP. Any VESMP. If a town lying lies within a the boundaries of more than one county, it may enter into an agreement with any of those counties that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect a VESMP.

2. Any town that chooses not to adopt and administer a VESMP pursuant to subdivision B 3 and that lies within a county may enter into an agreement with the county to become subject to the county's

VSMP according to the deferred schedule established in subsection A. During the county's deferral period, the Department shall operate a VSMP on behalf of the town and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls for the town as provided in subsection A VESMP or VESCP, as applicable. If a town lies within the boundaries of more than one county, the town shall be considered to be wholly within the county in which the larger portion of the town lies. Towns shall inform the Department of their decision according to a schedule established by the Department. Thereafter, the Department shall provide an annual schedule by which towns can submit applications to adopt a VSMP it may enter into an agreement with any of those counties.

C. 3. Any town that is subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) may enter into an agreement with a county pursuant to subdivision C 1 or 2 only if the county administers a VESMP for land-disturbing activities that disturb 2,500 square feet or more.

D. Any locality that chooses not to implement a VESMP pursuant to subdivision B 3 may notify the Department at any time that it has chosen to implement a VESMP pursuant to subdivision B 1 or 2. Any locality that chooses to implement a VESMP pursuant to subdivision B 2 may notify the Department at any time that it has chosen to implement a VESMP pursuant to subdivision B 1. A locality may petition the Board at any time for approval to change from fully administering a VESMP pursuant to subdivision B 1 to administering a VESMP in coordination with the Department pursuant to subdivision B 2 due to a significant change in economic conditions or other fiscal emergency in the locality. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall govern any appeal of the Board's decision.

E. In support of VSMP VESMP authorities, the Department shall:

1. Provide assistance grants to localities not currently operating a local stormwater management program to help the localities to establish their VSMP.
2. Provide provide technical assistance and training.
3. Provide qualified services in specified geographic areas to a VSMP to assist localities in the administration of components of their programs. The Department shall actively assist and general assistance to localities in the establishment and administration of their individual or regional programs and in the selection of a contractor or other entity that may provide support to the locality or regional support to several localities.

D. F. The Department shall develop a model ordinance for establishing a VSMP VESMP consistent with this article and its associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

E. G. Each locality that administers an approved VSMP that operates a regulated MS4 or that chooses to administer a VESMP shall, by ordinance, establish a VSMP VESMP that shall be administered in conjunction with a local MS4 program and a local erosion and sediment control program if required pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) management program, if applicable, and which shall include the following:

1. Consistency Ordinances, policies, and technical materials consistent with regulations adopted in accordance with provisions of this article;
2. Requirements for land-disturbance approvals;
3. Requirements for plan review, inspection, and enforcement consistent with the requirements of this article, including provisions requiring periodic inspections of the installation of stormwater management measures. A VESMP authority may require monitoring and reports from the person responsible for meeting the permit conditions to ensure compliance with the permit and to determine whether the measures required in the permit provide effective stormwater management;
4. Provisions charging each applicant a reasonable fee to defray the cost of program administration for a regulated land-disturbing activity that does not require permit coverage. Such fee may be in addition to any fee charged pursuant to the statewide fee schedule established in accordance with subdivision 9 of § 62.1-44.15:28, although payment of fees may be consolidated in order to provide greater convenience and efficiency for those responsible for compliance with the program. A VESMP authority shall hold a public hearing prior to establishing such fees. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and the VESMP authority's expense involved;
5. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and
3. 6. Provisions for the integration of the VSMP with local erosion and sediment control, coordination of the VESMP with flood insurance, flood plain management, and other programs requiring compliance prior to authorizing construction land disturbance in order to make the submission and approval of plans, issuance of permits land-disturbance approvals, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

F. The Board may approve a state entity, including the Department, federal entity, or, for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility

companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 to operate a Virginia Stormwater Management Program consistent with the requirements of this article and its associated regulations and the VSMP authority's Department-approved annual standards and specifications. For these programs, enforcement shall be administered by the Department and the Board where applicable in accordance with the provisions of this article.

G. The Board shall approve a VSMP when it deems a program consistent with this article and associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

H. A VSMP The Board shall approve a VESMP when it deems a program consistent with this article and associated regulations.

I. A VESMP authority may enter into agreements or contracts with the Department, soil and water conservation districts, adjacent localities, planning district commissions, or other public or private entities to carry out or assist with the responsibilities of this article plan review and inspections.

I. If a locality establishes a VSMP, it shall issue a consolidated stormwater management and erosion and sediment control permit that is consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.). When available in accordance with subsection J, such permit, where applicable, shall also include a copy of or reference to state VSMP permit coverage authorization to discharge.

J. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VSMP A VESMP authority shall then be required to obtain evidence of state VSMP permit coverage where it from the Department's online reporting system, where such coverage is required, prior to providing land-disturbance approval to begin land disturbance.

K. Any VSMP adopted pursuant to and consistent with this article shall be considered to meet the stormwater management requirements under the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and attendant regulations, and effective July 1, 2014, shall not be subject to local program review under the stormwater management provisions of the Chesapeake Bay Preservation Act.

L. All VSMP authorities shall comply with the provisions of this article and the stormwater management provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and related regulations. The VSMP VESMP authority responsible for regulating the land-disturbing activity shall require compliance with the issued permit, permit its applicable ordinances and the conditions, of its land-disturbance approval and plan specifications. The state Board shall enforce state permits and require compliance with its applicable regulations, including when serving as a VSMP authority in a locality that chose not to adopt a VESMP in accordance with subdivision B 3.

**§ 62.1-44.15:27.1. Virginia Stormwater Management Programs administered by the Board.**

A. The Board shall administer a Virginia Stormwater Management Program (VSMP) on behalf of any locality that notifies the Department pursuant to subsection B of § 62.1-44.15:27 that it has chosen to not administer a VESMP as provided by subdivision B 3 of § 62.1-44.15:27. In such a locality:

1. The Board shall implement a VSMP in order to manage the quality and quantity of stormwater runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance, as required by this article.

2. No person shall conduct a land-disturbing activity until he has obtained land-disturbance approval from the VESCP authority and, if required, submitted to the Department an application that includes a permit registration statement and stormwater management plan, and the Department has issued permit coverage.

B. The Board shall adopt regulations establishing specifications for the VSMP, including permit requirements and requirements for plan review, inspection, and enforcement that reflect the analogous stormwater management requirements for a VESMP set forth in applicable provisions of this article.

**§ 62.1-44.15:28. Development of regulations.**

A. The Board is authorized to adopt regulations that establish requirements for the effective control of soil erosion, sediment deposition, and stormwater, including nonagricultural runoff, that shall be met in any VESMP to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and that specify minimum technical criteria and administrative procedures for Virginia Stormwater Management Programs VESMPs. The regulations shall:

1. Establish standards and procedures for administering a VSMP VESMP;
2. Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion standards of effectiveness of the VESMP and criteria and procedures for reviewing and evaluating its effectiveness. The minimum standards of program effectiveness established by the Board shall provide that (i) no soil erosion control and stormwater management plan shall be approved until it is reviewed by a plan reviewer certified pursuant to § 62.1-44.15:30, (ii) each inspection of a land-disturbing activity shall be conducted by an inspector certified pursuant to § 62.1-44.15:30, and

(iii) each VESMP shall contain a program administrator, a plan reviewer, and an inspector, each of whom is certified pursuant to § 62.1-44.15:30 and all of whom may be the same person;

3. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

4. Include any survey of lands and waters as the Board deems appropriate or as any applicable law requires to identify areas, including multijurisdictional and watershed areas, with critical soil erosion and sediment problems;

5. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of soil erosion and sediment resulting from land-disturbing activities;

6. Establish water quality and water quantity technical criteria. These criteria shall be periodically modified as required in order to reflect current engineering methods;

~~3-~~ 7. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

~~4-~~ 8. Require as a minimum the inclusion in ~~VSMPs~~ VESMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a ~~VSMP~~ VESMP authority shall grant ~~land-disturbing activity~~ land-disturbance approval, the conditions and processes under which such approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;

~~5-~~ 9. Establish ~~by regulations a statewide permit~~ a statewide fee schedule to cover all costs associated with the implementation of a ~~VSMP~~ VESMP related to land-disturbing activities of ~~one acre or greater~~ where permit coverage is required, and for land-disturbing activities where the Board serves as a VESMP authority or VSMP authority. Such fee attributes include the costs associated with plan review, VSMP permit registration statement review, permit issuance, ~~state coverage permit coverage~~ verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for ~~land-disturbing activities between 2,500 square feet and up to one acre in a land-disturbing activity that disturbs 2,500 square feet or more but less than one acre in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) localities.~~ The fee schedule shall be governed by the following:

a. The revenue generated from the statewide ~~stormwater permit~~ fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a ~~VSMP~~ VESMP, no more than 30 percent of the total revenue generated by the statewide ~~stormwater permit~~ fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the ~~VSMP~~ VESMP authority;

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a ~~VSMP~~ VESMP; however, the fees shall be set at a level sufficient for the Department, the Board, and the ~~VSMP~~ VESMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or standards and specifications where applicable. When establishing a ~~VSMP~~, the ~~VSMP~~ VESMP, the VESMP authority shall assess the statewide ~~fee fees pursuant to the schedule~~ and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision § a. A ~~VSMP's~~ VESMP's portion of the fees shall be used solely to carry out the ~~VSMP's~~ VESMP's responsibilities under this article and its attendant regulations, associated ordinances, or annual standards and specifications;

c. Until July 1, 2014, the fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the Board, or where the Board has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for an entity for which it has approved annual standards and specifications, shall be \$750 for each large construction activity with sites or common plans of development equal to or greater than five acres and \$450 for each small construction activity with sites or common plans of development equal to or greater than one acre and less than five acres. On and after July 1, 2014, such fees shall only apply where coverage has been issued under the Board's General Permit for Discharges of Stormwater from Construction Activities to a state agency or federal entity for which it has approved annual standards and specifications. After establishment, such fees may be modified in the future through regulatory actions.

d. Until July 1, 2014, the Department is authorized to assess a \$125 reinspection fee for each visit to a project site that was necessary to check on the status of project site items noted to be in noncompliance and documented as such on a prior project inspection.

e. In establishing the fee schedule under this subdivision, the Department shall ensure that the VSMP VESMP authority portion of the statewide permit fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities for small construction activity involving a single family ~~single-family~~ detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VSMP VESMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale;

f. d. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed;

6. Establish statewide standards for stormwater management from land-disturbing activities of one acre or greater, except as specified otherwise within this article, and allow for the consolidation in the permit of a comprehensive approach to addressing stormwater management and erosion and sediment control, consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and this article. However, such standards shall also apply to land-disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations;

7. Establish a procedure by which a stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

8. e. Notwithstanding the other provisions of this subdivision A § 9, establish a procedure by which neither a registration statement nor payment of the Department's portion of the statewide permit fee established pursuant to that this subdivision 9 shall be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

9. 10. Establish statewide standards for soil erosion control and stormwater management from land-disturbing activities;

11. Establish a procedure by which a soil erosion control and stormwater management plan or stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

12. Provide for reciprocity with programs in other states for the certification of proprietary best management practices;

10. 13. Require that VSMPs VESMPs maintain after-development runoff rate of flow and characteristics that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition.

a. Except where more stringent requirements are necessary to address total maximum daily load requirements or to protect exceptional state waters, any land-disturbing activity that provides for stormwater management shall was subject to the water quantity requirements that were in effect pursuant to this article prior to July 1, 2014, shall be deemed to satisfy the conditions of this subsection if the practices are designed to (i) detain the water quality volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition; and. Any land-disturbing activity that complies with these requirements shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or any ordinances adopted pursuant to § 62.1-44.15:27 or 62.1-44.15:33;

b. Any stream restoration or relocation project that incorporates natural channel design concepts is not a man-made channel and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this article;

11. 14. Encourage low-impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater;

12. 15. Promote the reclamation and reuse of stormwater for uses other than potable water in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters;

13. 16. Establish procedures to be followed when a locality that operates a VSMP wishes to transfer administration of the VSMP to the Department chooses to change the type of program it administers pursuant to subsection D of § 62.1-44.15:27;

14. 17. Establish a statewide permit fee schedule for stormwater management related to municipal

separate storm sewer system MS4 permits; and

15. 18. Provide for the evaluation and potential inclusion of emerging or innovative stormwater control technologies that may prove effective in reducing nonpoint source pollution.

B. The Board may integrate and consolidate components of the regulations implementing the Erosion and Sediment Control program and the Chesapeake Bay Preservation Area Designation and Management program with the regulations governing the Virginia Stormwater Management Program (VSMP) Permit program or repeal components so that these programs may be implemented in a consolidated manner that provides greater consistency, understanding, and efficiency for those regulated by and administering a VSMP.

**§ 62.1-44.15:29. Virginia Stormwater Management Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Stormwater Management Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected by the Department pursuant to §§ § 62.1-44.15:28; 62.1-44.15:38; and 62.1-44.15:71 and all civil penalties collected pursuant to § 62.1-44.19:22 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the Department's responsibilities under this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

An accounting of moneys received by and distributed from the Fund shall be kept by the State Comptroller.

**§ 62.1-44.15:29.1. Stormwater Local Assistance Fund.**

A. *The State Comptroller shall continue in the state treasury the Stormwater Local Assistance Fund (the Fund) established by Chapter 806 of the Acts of Assembly of 2013, which shall be administered by the Department. All civil penalties and civil charges collected by the Board pursuant to §§ 62.1-44.15:25, 62.1-44.15:48, 62.1-44.15:63, and 62.1-44.15:74, subdivision (19) of § 62.1-44.15, and § 62.1-44.19:22 shall be paid into the state treasury and credited to the Fund, together with such other funds as may be made available to the Fund, which shall also receive bond proceeds from bonds authorized by the General Assembly, sums appropriated to it by the General Assembly, and other grants, gifts, and moneys as may be made available to it from any other source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.*

B. *The purpose of the Fund is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet (i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements, (ii) requirements for local impaired stream TMDLs, (iii) water quality measures of the Chesapeake Bay Watershed Implementation Plan, and (iv) water quality requirements related to the permitting of small municipal separate storm sewer systems. The grants shall be used solely for stormwater capital projects, including (a) new stormwater best management practices, (b) stormwater best management practice retrofitting or maintenance, (c) stream restoration, (d) low-impact development projects, (e) buffer restoration, (f) pond retrofitting, and (g) wetlands restoration. Such grants shall be made in accordance with eligibility determinations made by the Department pursuant to criteria established by the Board.*

C. *Moneys in the Fund shall be used solely for the purpose set forth herein and disbursements from it shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.*

**§ 62.1-44.15:30. Training and certification.**

A. ~~The Board shall issue certificates of competence separate or combined certifications concerning the content and application of specified subject areas of this article and accompanying regulations, including program administration, plan review, and project inspection, to personnel of VSMP authorities and to any other persons who have completed training programs or in other ways demonstrated adequate knowledge to the satisfaction of the Board. As part of The Board also shall issue a Responsible Land Disturber certificate to personnel and contractors who have demonstrated adequate knowledge to the satisfaction of the Board.~~

B. ~~The Department shall administer education and training programs authorized pursuant to subsection E of § 62.1-44.15:52, the Department shall develop or certify expanded components to address program administration, plan review, and project inspection elements for specified subject areas of this article and attendant regulations. Reasonable and is authorized to charge persons attending such programs reasonable fees to cover the costs of these additional components may be charged administering the programs.~~

B. ~~Effective July 1, 2014, personnel~~ C. *Personnel of VSMP or VESMP authorities who are administering programs, reviewing plans, or conducting inspections pursuant to this chapter article shall*

hold a ~~certificate of competence~~ certification in the appropriate subject area as provided in subsection A. This requirement shall not apply to third-party individuals who prepare and submit plans to a VESMP or VSMP authority.

D. The Department shall establish procedures and requirements for issuance and periodic renewal of certifications.

E. Professionals registered in the Commonwealth pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 shall be deemed to have met the provisions of this section for the purposes of renewals of such certifications.

**§ 62.1-44.15:31. Standards and specifications for state agencies, federal entities, and other specified entities.**

A. ~~State entities, including the Department of Transportation, and for linear projects set out in subsection B;~~ As an alternative to submitting soil erosion control and stormwater management plans for its land-disturbing activities pursuant to § 62.1-44.15:34, the Virginia Department of Transportation shall, and any other state agency or federal entity may, submit standards and specifications for its conduct of land-disturbing activities for Department of Environmental Quality approval. Approved standards and specifications shall be consistent with this article. The Department of Environmental Quality shall have 60 days after receipt in which to act on any standards and specifications submitted or resubmitted to it for approval.

B. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and federal entities, and authorities created pursuant to § 15.2-5102 may, annually submit a single set of standards and specifications for Department approval that describes describe how land-disturbing activities shall be conducted. Such standards and specifications shall be consistent with the requirements of this article and associated regulations, including the regulations governing the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities and the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and associated regulations. Each project constructed in accordance with the requirements of this article, its attendant regulations, and where required standards and specifications shall obtain coverage issued under the state general permit prior to land disturbance. The standards may be submitted for the following types of projects:

1. Construction, installation, or maintenance of electric transmission and distribution lines, oil or gas transmission and distribution pipelines, communication utility lines, and water and sewer lines; and

2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

The Department shall have 60 days after receipt in which to act on any standards and specifications submitted or resubmitted to it for approval. A linear project not included in subdivision 1 or 2, or for which the owner chooses not to submit standards and specifications, shall comply with the requirements of the VESMP or the VESCP and VSMP, as appropriate, in any locality within which the project is located.

C. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34, any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of a wetlands mitigation or stream restoration bank, pursuant to a mitigation banking instrument signed by the Department, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted. The Department shall have 60 days after receipt in which to act on standards and specifications submitted to it or resubmitted to it for approval.

D. All standards and specifications submitted to the Department shall be periodically updated according to a schedule to be established by the Department and shall be consistent with the requirements of this article. Approval of standards and specifications by the Department does not relieve the owner or operator of the duty to comply with any other applicable local ordinances or regulations. Standards and specifications shall include:

1. Technical criteria to meet the requirements of this article and regulations developed under this article;

2. Provisions for the long-term responsibility and maintenance of any stormwater management control devices and other techniques specified to manage the quantity and quality of runoff;

3. Provisions for erosion and sediment control and stormwater management program administration; of the standards and specifications program, project-specific plan design, plan review and plan approval, and construction inspection and enforcement compliance;

4. Provisions for ensuring that responsible personnel and contractors assisting the owner in carrying out the land-disturbing activity obtain training or qualifications for soil erosion control and stormwater management as set forth in regulations adopted pursuant to this article;

5. Provisions for ensuring that personnel implementing approved standards and specifications

pursuant to this section obtain certifications or qualifications for erosion and sediment control and stormwater management comparable to those required for local government VESMP personnel pursuant to subsection C of § 62.1-44.15:30;

5. 6. Implementation of a project tracking and notification system that ensures notification to the Department of all land-disturbing activities covered under this article; and

6. 7. Requirements for documenting onsite changes as they occur to ensure compliance with the requirements of the this article.

B. Linear projects subject to annual standards and specifications include:

1. Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and

2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

Linear projects not included in subdivisions 1 and 2 shall comply with the requirements of the local or state VSMP in the locality within which the project is located.

G. E. The Department shall perform random site inspections or inspections in response to a complaint to assure ensure compliance with this article, the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and regulations adopted thereunder. The Department may take enforcement actions in accordance with this article and related regulations.

D. F. The Department shall assess an administrative charge to cover the costs of services rendered associated with its responsibilities pursuant to this section, including standards and specifications review and approval, project inspections, and compliance. The Board may take enforcement actions in accordance with this article and related regulations.

#### § 62.1-44.15:33. Authorization for more stringent ordinances.

A. Localities that are VSMP serving as VESMP authorities are authorized to adopt more stringent soil erosion control or stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a an MS4 permit or a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address TMDL total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances a public hearing is held after giving due notice. *This process shall not be required when a VESMP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:34. However, this section shall not be construed to authorize a VESMP authority to impose a more stringent timeframe for land-disturbance review and approval than those provided in this article.*

B. Localities that are VSMP serving as VESMP authorities shall submit a letter report to the Department when more stringent stormwater management ordinances or more stringent requirements authorized by such stormwater management ordinances, such as may be set forth in design manuals, policies, or guidance documents developed by the localities, are determined to be necessary pursuant to this section within 30 days after adoption thereof. Any such letter report shall include a summary explanation as to why the more stringent ordinance or requirement has been determined to be necessary pursuant to this section. Upon the request of an affected landowner or his agent submitted to the Department with a copy to be sent to the locality, within 90 days after adoption of any such ordinance or derivative requirement, localities shall submit the ordinance or requirement and all other supporting materials to the Department for a determination of whether the requirements of this section have been met and whether any determination made by the locality pursuant to this section is supported by the evidence. The Department shall issue a written determination setting forth its rationale within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

C. Localities shall not prohibit or otherwise limit the use of any best management practice (BMP) approved for use by the Director or the Board except as follows:

1. When the Director or the Board approves the use of any BMP in accordance with its stated conditions, the locality serving as a VSMP VESMP authority shall have authority to preclude the onsite use of the approved BMP, or to require more stringent conditions upon its use, for a specific land-disturbing project based on a review of the stormwater management plan and project site conditions. Such limitations shall be based on site-specific concerns. Any project or site-specific determination purportedly authorized pursuant to this subsection may be appealed to the Department and the Department shall issue a written determination regarding compliance with this section to the requesting party within 90 days of submission. Any such determination, or a failure by the Department to make any such determination within the 90-day period, may be appealed to the Board.

2. When a locality is seeking to uniformly preclude jurisdiction-wide or otherwise limit geographically the use of a BMP approved by the Director or Board, or to apply more stringent

conditions to the use of a BMP approved by the Director or Board, upon the request of an affected landowner or his agent submitted to the Department, with a copy submitted to the locality, within 90 days after adoption, such authorizing ordinances, design manuals, policies, or guidance documents developed by the locality that set forth the BMP use policy shall be provided to the Department in such manner as may be prescribed by the Department that includes a written justification and explanation as to why such more stringent limitation or conditions are determined to be necessary. The Department shall review all supporting materials provided by the locality to determine whether the requirements of this section have been met and that any determination made by the locality pursuant to this section is reasonable under the circumstances. The Department shall issue its determination to the locality in writing within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

D. Based on a determination made in accordance with subsection B or C, any ordinance or other requirement enacted or established by a locality that is found to not comply with this section shall be null and void, replaced with state minimum standards, and remanded to the locality for revision to ensure compliance with this section. Any such ordinance or other requirement that has been proposed but neither enacted nor established shall be remanded to the locality for revision to ensure compliance with this section.

E. Any provisions of a local *erosion and sediment control* or stormwater management program in existence before January 1, 2013 2016, that contains more stringent provisions than this article shall be exempt from the requirements of this section *if the locality chooses to retain such provisions when it becomes a VESMP authority*. However, such provisions shall be reported to the Board at the time of submission of the locality's ~~VSMP~~ VESMP approval package.

**§ 62.1-44.15:34. Regulated activities; submission and approval of a permit application; security for performance; exemptions.**

A. A person shall not conduct any land-disturbing activity until (i) he has submitted a ~~permit to the appropriate VESMP authority~~ an application to the ~~VSMP authority~~ that includes a state ~~VSMP~~ permit registration statement, if such statement is required, and, after July 1, 2014, a required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a stormwater management plan, and has obtained ~~VSMP authority approval to begin land disturbance~~. A locality that is not a ~~VSMP authority~~ shall provide a general notice to applicants of the state permit coverage requirement and report all approvals pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) to begin land disturbance of one acre or greater to the Department at least monthly. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a ~~VSMP authority~~ shall be required to obtain evidence of state ~~VSMP~~ permit coverage where it is required prior to providing approval to begin land disturbance. The ~~VSMP authority~~ shall act on any permit plan, if required, and (ii) the VESMP authority has issued its land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 shall be submitted to the VESMP authority. Any VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided in this article.

1. A VESMP authority that is implementing its program pursuant to subsection A of § 62.1-44.15:27 or subdivision B 1 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the ~~VSMP~~ VESMP authority to be a complete application. The ~~VSMP authority~~ may either issue project VESMP authority shall issue either land-disturbance approval or denial and shall provide written rationale for the any denial. The ~~VSMP authority~~ shall act on any permit application that has been previously disapproved within 45 days after the application has been revised, resubmitted for approval, and deemed complete. Prior to issuance of any approval, the ~~VSMP~~ Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required. The VESMP authority also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

2. A VESMP authority implementing its program in coordination with the Department pursuant to subdivision B 2 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the VESMP authority to be complete. The VESMP authority shall forward a soil erosion control and stormwater management plan to the Department for review within five days of receipt. If the plan is incomplete, the Department shall return the plan to the locality immediately and the application process

shall start over. If the plan is complete, the Department shall review it for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority. The VESMP authority shall either (i) issue the land-disturbance approval or (ii) issue a denial and provide a written rationale for the denial. In no case shall a locality have more than 60 days for its decision on an application after it has been determined to be complete. Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required.

The VESMP authority also shall forward to the Department any resubmittal of a previously disapproved application within five days after receipt, and the VESMP authority shall determine whether the plan is complete within 15 days of its receipt of the plan. The Department shall review the plan for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority, and the VESMP authority shall act on the resubmitted application within 45 days after receipt.

3. When a state agency or federal entity submits a soil erosion control and stormwater management plan for a project, land disturbance shall not commence until the Board has reviewed and approved the plan and has issued permit coverage when it is required.

a. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity (i) in any locality that has not adopted a local program with more stringent ordinances than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the plan is consistent with the requirements of the state program.

b. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity in one locality with a local program with more stringent ordinances than those of the state program, unless the plan is consistent with the requirements of the local program.

c. If onsite changes occur, the state agency or federal entity shall submit an amended soil erosion control and stormwater management plan to the Department.

d. The state agency or federal entity responsible for the land-disturbing activity shall ensure compliance with the approved plan. As necessary, the Board shall provide project oversight and enforcement.

4. Prior to issuance of any land-disturbance approval, the VESMP authority may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the VESMP authority, to ensure that measures could be taken by the VESMP authority at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions that may be required of him by the permit conditions comply with the conditions imposed by the VESMP authority as a result of his land-disturbing activity. If the VESMP authority takes such action upon such failure by the applicant, the VESMP authority may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of the requirements of the permit VESMP authority's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated. These requirements are in addition to all other provisions of law relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

B. A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to coverage under the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities until July 1, 2014, at which time it shall no longer be considered a small construction activity but shall be then regulated under the requirements of this article. The VESMP authority may require changes to an approved soil erosion control and stormwater management plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or

2. Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the VESMP authority and the owner.

C. In order to prevent further erosion, a VESMP authority may require approval of a soil erosion control and stormwater management plan for any land identified as an erosion impact area by the VESMP authority.

D. A VESMP authority may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.

E. The following requirements shall apply to land-disturbing activities in the Commonwealth:

1. Any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance may, in accordance with regulations adopted by the Board, be required to obtain permit coverage.

2. For a land-disturbing activity occurring in an area not designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control requirements and water quantity technical criteria adopted pursuant to this article shall apply to any activity that disturbs 10,000 square feet or more, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A. This subdivision shall also apply to additions or modifications to existing single-family detached residential structures.

b. Soil erosion control requirements and water quantity and water quality technical criteria shall apply to any activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

3. For a land-disturbing activity occurring in an area designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control and water quantity and water quality technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, other than a single-family detached residential structure. However, the governing body of any affected locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

b. For land-disturbing activities for single-family detached residential structures, soil erosion control and water quantity technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, and the locality also may require compliance with the water quality technical criteria. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

G. F. Notwithstanding any other provisions of this article, the following activities are ~~exempt~~, not required to comply with the requirements of this article unless otherwise required by federal law:

1. Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;

2. Installation, maintenance, or repair of any individual service connection;

3. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Installation, maintenance, or repair of any septic tank line or drainage field 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. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of pursuant to Title 45.1;

~~2.~~ 6. Clearing of lands specifically for bona fide agricultural purposes and; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; or as additionally set forth by the Board in regulations, including; agricultural engineering operations as follows; including 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 or as additionally set forth by the Board in regulations. 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 Chapter 11 (§ 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

3. Single family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures. However, localities subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) may regulate these single family residences where land disturbance exceeds 2,500 square feet;

4. Land-disturbing activities that disturb less than one acre of land area except for land-disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance; however, the governing body of any locality that administers a VSMP may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

5. 7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

8. 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 Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

9. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and

11. Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.

G. Notwithstanding any other provision of this article, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

6. 1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

7. 2. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

8. ~~Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity~~

3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

**§ 62.1-44.15:35. Nutrient credit use and additional offsite options for construction activities.**

A. As used in this section:

"Nutrient credit" or "credit" means a type of offsite option that is a nutrient credit certified pursuant to Article 4.02 (§ 62.1-44.19:12 et seq.).

"Offsite option" means an alternative available, away from the real property where land disturbance is occurring, to address water quality or water quantity technical criteria established pursuant to § 62.1-44.15:28.

"Tributary," within the Chesapeake Bay watershed, has the same meaning as in § 62.1-44.19:13. For areas outside of the Chesapeake Bay watershed, "tributary" includes the following watersheds: Albemarle Sound, Coastal; Atlantic Ocean, Coastal; Big Sandy; Chowan; Clinch-Powell; New Holston (Upper Tennessee); New River; Roanoke; and Yadkin.

"Virginia Stormwater Management Program Authority" or "VSMP authority" has the same meaning as in § 62.1-44.15:24 and includes, until July 1, 2014, any locality that has adopted a local stormwater management program.

B. A VSMP authority is authorized to allow compliance with stormwater nonpoint nutrient runoff water quality criteria established pursuant to § 62.1-44.15:28, in whole or in part, through the use of the applicant's acquisition of nutrient credits in the same tributary.

C. No applicant shall use nutrient credits to address water quantity control requirements. No applicant shall use nutrient credits or other offsite options. No offsite option shall be used in contravention of local water quality-based limitations (i) determined pursuant to subsection B of § 62.1-44.19:14, (ii) adopted pursuant to § 62.1-44.15:33 or other applicable authority, (iii) deemed necessary to protect public water supplies from demonstrated adverse nutrient impacts, or (iv) as otherwise may be established or approved by the Board. Where such a limitation exists, offsite options may be used provided that such options do not preclude or impair compliance with the local limitation.

D. A VSMP authority shall allow offsite options in accordance with subsection I C. Unless prohibited by subsection B, a VESMP authority or a VSMP authority:

1. May allow the use of offsite options for compliance with water quality and water quantity technical criteria established pursuant to § 62.1-44.15:28, in whole or in part; and

2. Shall allow the use of nutrient credits for compliance with the water quality technical criteria when:

1. a. Less than five acres of land will be disturbed;

2. The ~~postconstruction phosphorous control~~ b. The phosphorous water quality reduction requirement is less than 10 pounds per year; or

3. The state permit applicant demonstrates *c. It is demonstrated* to the satisfaction of the VESMP or VSMP authority that (i) alternative site designs have been considered that may accommodate onsite best management practices, (ii) onsite best management practices have been considered in alternative site designs to the maximum extent practicable, (iii) appropriate onsite best management practices will be implemented, and (iv) full compliance with ~~postdevelopment nonpoint nutrient runoff compliance requirements~~ *water quality technical criteria* cannot practicably be met onsite. For purposes of this subdivision, if an applicant demonstrates *The requirements of clauses (i) through (iv) shall be deemed to have been met if it is demonstrated that* onsite control of at least 75 percent of the required phosphorous nutrient reductions, the applicant shall be deemed to have met the requirements of clauses (i) through (iv) *water quality reduction will be achieved.*

E. Documentation of the applicant's acquisition of nutrient credits shall be provided to the VSMP authority and the Department in a certification from the credit provider documenting the number of phosphorus nutrient credits acquired and the associated ratio of nitrogen nutrient credits at the credit-generating entity. Until the effective date of regulations establishing application fees in accordance with § 62.1-44.19:20, the credit provider shall pay the Department a water quality enhancement fee equal to six percent of the amount paid by the applicant for the credits. Such fee shall be deposited into the Virginia Stormwater Management Fund established by § 62.1-44.15:29.

F. Nutrient credits used pursuant to subsection B shall be generated in the same or adjacent eight-digit hydrologic unit code as defined by the United States Geological Survey as the permitted site except as otherwise limited in subsection C. Nutrient credits outside the same or adjacent eight-digit hydrologic unit code may only be used if it is determined by the VSMP authority that no credits are available within the same or adjacent eight-digit hydrologic unit code when the VSMP authority accepts the final site design. In such cases, and subject to other limitations imposed in this section, credits available within the same tributary may be used. In no case shall credits from another tributary be used.

G. For that portion of a site's compliance with stormwater nonpoint nutrient runoff water quality criteria being obtained through nutrient credits, the applicant shall (i) comply with a 1:1 ratio of the nutrient credits to the site's remaining postdevelopment nonpoint nutrient runoff compliance requirement being met by credit use and (ii) use credits certified as perpetual credits pursuant to Article 4.02 (§ 62.1-44.19:12 et seq.).

H. D. No VSMP or VESMP authority may grant an exception to, or waiver of, ~~postdevelopment post-development~~ nonpoint nutrient runoff compliance requirements unless offsite options have been considered and found not available.

I. E. The VSMP or VESMP authority shall require that nutrient credits and other offsite options approved by the Department or applicable state board, including locality pollutant loading pro rata share programs established pursuant to § 15.2-2243, achieve the necessary nutrient *phosphorous water quality* reductions prior to the commencement of the applicant's land-disturbing activity. A pollutant loading pro rata share program established by a locality pursuant to § 15.2-2243 and approved by the Department or applicable state board prior to January 1, 2011, including those that may achieve nutrient reductions after the commencement of the land-disturbing activity, may continue to operate in the approved manner for a transition period ending July 1, 2014. ~~The applicant~~ *In the case of a phased project, the land disturber may acquire or achieve the offsite nutrient reductions prior to the commencement of each phase of the land-disturbing activity in an amount sufficient for each such phase. The land disturber shall have the right to select between the use of nutrient credits or other offsite options, except during the transition period in those localities to which the transition period applies. The locality may use funds collected for nutrient reductions pursuant to a locality pollutant loading pro rata share program under § 15.2-2243 for nutrient reductions in the same tributary within the same locality as the land-disturbing activity or for the acquisition of nutrient credits. In the case of a phased project, the applicant may acquire or achieve the offsite nutrient reductions prior to the commencement of each phase of the land-disturbing activity in an amount sufficient for each such phase.*

J. Nutrient reductions obtained through nutrient credits shall be credited toward compliance with any nutrient allocation assigned to a municipal separate storm sewer system in a Virginia Stormwater Management Program Permit or Total Maximum Daily Load applicable to the location where the activity for which the nutrient credits are used takes place. If the activity for which the nutrient credits are used does not discharge to a municipal separate storm sewer system, the nutrient reductions shall be credited toward compliance with the applicable nutrient allocation.

~~K. A~~ F. *With the consent of the land disturber, in resolving enforcement actions, the VESMP authority or the Board may include the use of offsite options to compensate for (i) nutrient control deficiencies occurring during the period of noncompliance and (ii) permanent nutrient control deficiencies.*

G. *This section shall not be construed as limiting the authority established under § 15.2-2243; however, under any pollutant loading pro rata share program established thereunder, the subdivider or developer shall be given appropriate credit for nutrient reductions achieved through offsite options. The locality may use funds collected for nutrient reductions pursuant to a locality pollutant loading pro rata share program for nutrient reductions in the same tributary within the same locality as the*

land-disturbing activity, or for the acquisition of nutrient credits.

H. Nutrient credits shall not be used to address water quantity technical criteria. Nutrient credits shall be generated in the same or adjacent fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset, as the land-disturbing activity. If no credits are available within these subbasins when the VESMP or VSMP authority accepts the final site design, credits available within the same tributary may be used. The following requirements apply to the use of nutrient credits:

1. Documentation of the acquisition of nutrient credits shall be provided to the VESMP authority and the Department or the VSMP authority in a certification from the credit provider documenting the number of phosphorus nutrient credits acquired and the associated ratio of nitrogen nutrient credits at the credit-generating entity.

2. Until the effective date of regulations establishing application fees in accordance with § 62.1-44.19:20, the credit provider shall pay the Department a water quality enhancement fee equal to six percent of the amount paid for the credits. Such fee shall be deposited into the Virginia Stormwater Management Fund established by § 62.1-44.15:29.

3. For that portion of a site's compliance with water quality technical criteria being obtained through nutrient credits, the land disturber shall (i) comply with a 1:1 ratio of the nutrient credits to the site's remaining post-development nonpoint nutrient runoff compliance requirement being met by credit use and (ii) use credits certified as perpetual credits pursuant to Article 4.02 (§ 62.1-44.19:12 et seq.).

4. A VESMP or VSMP authority shall allow the full or partial substitution of perpetual nutrient credits for existing onsite nutrient controls when (i) the nutrient credits will compensate for 10 or fewer pounds of the annual phosphorous requirement associated with the original land-disturbing activity or (ii) existing onsite controls are not functioning as anticipated after reasonable attempts to comply with applicable maintenance agreements or requirements and the use of nutrient credits will account for the deficiency. Upon determination by the VESMP or VSMP authority that the conditions established by clause (i) or (ii) have been met, the party responsible for maintenance shall be released from maintenance obligations related to the onsite phosphorous controls for which the nutrient credits are substituted.

L. To the extent available, with the consent of the applicant, the VSMP authority, the Board or the Department may include the use of nutrient credits or other offsite measures in resolving enforcement actions to compensate for (i) nutrient control deficiencies occurring during the period of noncompliance and (ii) permanent nutrient control deficiencies.

M. This section shall not be construed as limiting the authority established under § 15.2-2243; however, under any pollutant loading pro rata share program established thereunder, the subdivider or developer shall be given appropriate credit for nutrient reductions achieved through nutrient credits or other offsite options.

N. In order to properly account for allowed nonpoint nutrient offsite reductions, an applicant shall report to the Department, in accordance with Department procedures, information regarding all offsite reductions that have been authorized to meet stormwater postdevelopment nonpoint nutrient runoff compliance requirements.

O. An applicant or a permittee found to be in noncompliance with the requirements of this section shall be subject to the enforcement and penalty provisions of this article.

1. The use of nutrient credits to meet post-construction nutrient control requirements shall be accounted for in the implementation of total maximum daily loads and MS4 permits as specified in subdivisions 1, 2, and 3. In order to ensure that the nutrient reduction benefits of nutrient credits used to meet post-construction nutrient control requirements are attributed to the location of the land-disturbing activity where the credit is used, the following account method shall be used:

1. Chesapeake Bay TMDL.

a. Where nutrient credits are used to meet nutrient reduction requirements applicable to redevelopment projects, a 1:1 credit shall be applied toward MS4 compliance with the Chesapeake Bay TMDL waste load allocation or related MS4 permit requirement applicable to the MS4 service area, including the site of the land-disturbing activity, such that the nutrient reductions of redevelopment projects are counted as part of the MS4 nutrient reductions to the same extent as when land-disturbing activities use onsite measures to comply.

b. Where nutrient credits are used to meet post-construction requirements applicable to new development projects, the nutrient reduction benefits represented by such credits shall be attributed to the location of the land-disturbing activity where the credit is used to the same extent as when land-disturbing activities use onsite measures to comply.

c. A 1:1 credit shall be applied toward compliance by a locality that operates a regulated MS4 with its Chesapeake Bay TMDL waste load allocation or related MS4 permit requirement to the extent that nutrient credits are obtained by the MS4 jurisdiction from a nutrient credit-generating entity as defined in § 62.1-44.19:13 independent of or in excess of those required to meet the post-construction requirements.

2. Local nutrient-related TMDLs adopted prior to the land-disturbing activity.

a. Where nutrient credits are used to meet nutrient reduction requirements applicable to redevelopment projects, a 1:1 credit shall be applied toward MS4 compliance with any local TMDL waste load allocation or related MS4 permit requirement applicable to the MS4 service area, including the site of the land-disturbing activity, such that the nutrient reductions of redevelopment projects are counted as part of the MS4 nutrient reductions to the same extent as when land-disturbing activities use onsite measures to comply, provided the nutrient credits are generated upstream of where the land-disturbing activity discharges to the water body segment that is subject to the TMDL.

b. Where nutrient credits are used to meet post-construction requirements applicable to new development projects, the nutrient reduction benefits represented by such credits shall be attributed to the location of the land-disturbing activity where the credit is used to the same extent as when land-disturbing activities use onsite measures to comply, provided the nutrient credits are generated upstream of where the land-disturbing activity discharges to the water body segment that is subject to the TMDL.

c. A 1:1 credit shall be applied toward MS4 compliance with any local TMDL waste load allocation or related MS4 permit requirement to the extent that nutrient credits are obtained by the MS4 jurisdiction from a nutrient credit-generating entity as defined in § 62.1-44.19:13 independent of or in excess of those required to meet the post-construction requirements. However, such credits shall be generated upstream of where the land-disturbing activity discharges to the water body segment that is subject to the TMDL.

### 3. Future local nutrient-related TMDLs.

This subdivision applies only to areas where there has been a documented prior use of nutrient credits to meet nutrient control requirements in an MS4 service area that flows to or is upstream of a water body segment for which a nutrient-related TMDL is being developed. For a TMDL waste load allocation applicable to the MS4, the Board shall develop the TMDL waste load allocation with the nutrient reduction benefits represented by the nutrient credit use being attributed to the MS4, except when the Board determines during the TMDL development process that reasonable assurance of implementation cannot be provided for nonpoint source load allocations due to the nutrient reduction benefits being attributed in this manner. The Board shall have no obligation to account for nutrient reduction benefits in this manner if the MS4 does not provide the Board with adequate documentation of (i) the location of the land-disturbing activities, (ii) the number of nutrient credits, and (iii) the generation of the nutrient credits upstream of the site at which the land-disturbing activity discharges to the water body segment addressed by the TMDL. Such attribution shall not be interpreted as amending the requirement that the TMDL be established at a level necessary to meet the applicable water quality standard.

### § 62.1-44.15:37. Notices to comply and stop work orders.

A. The VSMP authority (i) shall provide for periodic inspections of the installation of stormwater management measures; (ii) may require monitoring and reports from the person responsible for meeting the permit conditions to ensure compliance with the permit and to determine whether the measures required in the permit provide effective stormwater management; and (iii) shall conduct such investigations and perform such other actions as are necessary to carry out the provisions of this article. If the VSMP authority, where authorized to enforce this article, or the Department When the VESMP authority or the Board determines that there is a failure to comply with the permit conditions, notice shall be served upon the permittee or person responsible for carrying out the permit conditions or conditions of land-disturbance approval, or to obtain an approved plan, permit, or land-disturbance approval prior to commencing land-disturbing activities, the VESMP authority or the Board may serve a notice to comply upon the owner, permittee, or person conducting land-disturbing activities without an approved plan, permit, or approval. Such notice to comply shall be served by delivery by facsimile, email, or other technology; by mailing with confirmation of delivery to the address specified in the permit or land-disturbance application, if available, or in the land records of the locality; or by delivery at the site of the development activities to the agent or employee supervising such activities to a person previously identified to the VESMP authority by the permittee or owner. The notice to comply shall specify the measures needed to comply with the permit conditions and shall specify the or land-disturbance approval conditions, or shall identify the plan approval or permit or land-disturbance approval needed to comply with this article, and shall specify a reasonable time within which such measures shall be completed. In any instance in which a required permit or land-disturbance approval has not been obtained, the VESMP authority or the Board may require immediate compliance. In any other case, the VESMP authority or the Board may establish the time for compliance by taking into account the risk of damage to natural resources and other relevant factors. Notwithstanding any other provision in this subsection, a VESMP authority or the Board may count any days of noncompliance as days of violation should the VESMP authority or the Board take an enforcement action. The issuance of a notice to comply by the Board shall not be considered a case decision as defined in § 2.2-4001.

B. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection B by the VSMP authority, where authorized to enforce this article, or by the Board, or the permit may be revoked by the VSMP authority, or the state permit may be revoked by the Board.

The Board or the VSMP authority, where authorized to enforce this article, may pursue enforcement in accordance with § 62.1-44.15:48.

B. If a permittee fails to comply with a notice issued in accordance with subsection A within the time specified, the VSMP authority, where authorized to enforce this article, or the Department may issue an in a notice to comply issued in accordance with subsection A, a locality serving as the VESMP authority or the Board may issue a stop work order requiring the owner, permittee, person responsible for carrying out an approved plan, or person conducting the land-disturbing activities without an approved plan or required permit or land-disturbance approval to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits and approvals are obtained, and specified corrective measures have been completed. The VESMP authority or the Board shall lift the order immediately upon completion and approval of corrective action or upon obtaining an approved plan or any required permits or approvals.

Such orders shall be issued (i) in accordance with local procedures if issued by a locality serving as a VSMP authority or (ii) after a hearing held in accordance with the requirements C. When such an order is issued by the Board, it shall be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.) if issued by the Department. Such orders shall become effective upon service on the person in the manner set forth in subsection A. However, where the alleged noncompliance is causing or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, the locality serving as the VESMP authority or the Board may issue, without advance notice or procedures, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order.

D. The owner, permittee, or person conducting a land-disturbing activity may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to occur or other appropriate court.

E. An aggrieved owner of property sustaining pecuniary damage from soil erosion or sediment deposition resulting from a violation of an approved plan or required land-disturbance approval, or from the conduct of a land-disturbing activity commenced without an approved plan or required land-disturbance approval, may give written notice of an alleged violation to the locality serving as the VESMP authority and to the Board.

1. If the VESMP authority has not responded to the alleged violation in a manner that causes the violation to cease and abates the damage to the aggrieved owner's property within 30 days following receipt of the notice from the aggrieved owner, the aggrieved owner may request that the Board conduct an investigation and, if necessary, require the violator to stop the alleged violation and abate the damage to the property of the aggrieved owner.

2. Upon receipt of the request, the Board shall conduct an investigation of the aggrieved owner's complaint. If the Board's investigation of the complaint indicates that (i) there is a violation and the VESMP authority has not responded to the violation as required by the VESMP and (ii) the VESMP authority has not responded to the alleged violation in a manner that causes the violation to cease and abates the damage to the aggrieved owner's property within 30 days from receipt of the notice from the aggrieved owner, then the Board shall give written notice to the VESMP authority that the Board intends to issue an order pursuant to subdivision 3.

3. If the VESMP authority has not instituted action to stop the violation and abate the damage to the aggrieved owner's property within 10 days following receipt of the notice from the Board, the Board is authorized to issue an order requiring the owner, person responsible for carrying out an approved plan, or person conducting the land-disturbing activity without an approved plan or required land-disturbance approval to cease all land-disturbing activities until the violation of the plan has ceased or an approved plan and required land-disturbance approval are obtained, as appropriate, and specified corrective measures have been completed. The Board also may immediately initiate a program review of the VESMP.

4. Such orders are to be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.) and they shall become effective upon service on the person by mailing, with confirmation of delivery, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the VSMP authority or Department Board. Any subsequent identical mail or notice that is sent by the Board may be sent by regular mail. However, if the VSMP authority or the Department Board finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site immediately and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order.

5. If a person who has been issued an order or an emergency order is not complying with the terms thereof, the VSMP authority or the Department Board may institute a proceeding in accordance with § 62.1-44.15:42 the appropriate circuit court for an injunction, mandamus, or other appropriate remedy compelling the person to comply with such order. Any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty in accordance with the provisions of § 62.1-44.15:48. Any civil penalties assessed by a court shall be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.

**§ 62.1-44.15:39. Right of entry.**

The Department, the VSMP authority, where authorized to enforce this article, any duly authorized agent of the Department or VSMP authority, or any locality that is the operator of a regulated municipal separate storm sewer system In addition to the Board's authority set forth in § 62.1-44.20, a locality serving as a VESMP authority or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article. For operators of localities that operate regulated municipal separate storm sewer systems, this authority shall apply only to those properties from which a discharge enters their municipal separate storm sewer systems.

In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, a VSMP VESMP authority may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by the permit conditions associated with conditions imposed by the VESMP authority on a land-disturbing activity when a permittee an owner, after proper notice, has failed to take acceptable action within the time specified.

**§ 62.1-44.15:40. Information to be furnished.**

The Board, the Department, or the VSMP authority, where authorized to enforce this article, may require every permit applicant, every permittee, or any person subject to state permit requirements under this article a locality serving as a VESMP authority may require every owner, including every applicant for a permit or land-disturbance approval, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article. The Board or Department also may require any locality that is a VESMP authority to furnish when requested any information as may be required to accomplish the purposes of this article. Any personal information shall not be disclosed except to an appropriate official of the Board, Department, U.S. Environmental Protection Agency, or VSMP VESMP authority or as may be authorized pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, disclosure of records of the Department, the Board, or the VSMP VESMP authority relating to (i) active federal environmental enforcement actions that are considered confidential under federal law, (ii) enforcement strategies, including proposed sanctions for enforcement actions, and (iii) any secret formulae, secret processes, or secret methods other than effluent data used by any permittee owner or under that permittee's owner's direction is prohibited. Upon request, such enforcement records shall be disclosed after a proposed sanction resulting from the investigation has been determined by the Department, the Board, or the VSMP locality serving as a VESMP authority. This section shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any land-disturbing activity that may have occurred, or similar documents.

**§ 62.1-44.15:41. Liability of common interest communities.**

A. Whenever a common interest community cedes responsibility for the maintenance, repair, and replacement of a stormwater management facility on its real property to the Commonwealth or political subdivision thereof, such common interest community shall be immune from civil liability in relation to such stormwater management facility. In order for the immunity established by this subsection to apply, (i) the common interest community must cede such responsibility by contract or other instrument executed by both parties and (ii) the Commonwealth or the governing body of the political subdivision shall have accepted the responsibility ceded by the common interest community in writing or by resolution. As used in this section, maintenance, repair, and replacement shall include, without limitation, cleaning of the facility, maintenance of adjacent grounds that are part of the facility, maintenance and replacement of fencing where the facility is fenced, and posting of signage indicating the identity of the governmental entity that maintains the facility. Acceptance or approval of an easement, subdivision plat, site plan, or other plan of development shall not constitute the acceptance by the Commonwealth or the governing body of the political subdivision required to satisfy clause (ii). The immunity granted by this section shall not apply to actions or omissions by the common interest community constituting intentional or willful misconduct or gross negligence. For the purposes of this section, "common interest community" means the same as that term is defined in § 55-528.

B. Except as provided in subsection A, the fact that any permittee holds or has held a permit or state

permit issued under this article shall not constitute a defense in any civil action involving private rights.

**§ 62.1-44.15:46. Appeals.**

Any permittee or party aggrieved by a state permit or (i) a permit or permit enforcement decision of the Department or Board under this article or (ii) a decision of the Board under this article concerning a land-disturbing activity in a locality subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final such decision of the Department or Board under this article, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with § 62.1-44.29. Appeals of other final decisions of the Board under this article shall be subject to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. A person shall be deemed to meet such standard if (i) such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized; (ii) such injury is fairly traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to decisions rendered by localities. Appeals of decisions rendered by localities shall be conducted in accordance with local appeal procedures and shall include an opportunity for judicial review in the circuit court of the locality in which the land disturbance occurs or is proposed to occur. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the circuit court shall be subject to review by the Court of Appeals, as in other cases under this article.

A final decision by a locality, when serving as a VESMP authority, shall be subject to judicial review, provided that an appeal is filed in the appropriate court within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in a land-disturbing activity.

**§ 62.1-44.15:48. Penalties, injunctions, and other legal actions.**

A. For a land-disturbing activity that disturbs 2,500 square feet or more of land in an area of a locality that is designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), or that disturbs one acre or more of land or is part of a larger common plan of development or sale that disturbs one acre or more of land anywhere else in the Commonwealth:

1. Any person who violates any applicable provision of this article or of any regulation, ordinance, permit, or standard and specification adopted or approved by the Board hereunder, or who fails, neglects, or refuses to comply with any order of the Board, or a court, issued as herein provided, shall be subject to a civil penalty pursuant to § 62.1-44.32. The court shall direct that any penalty be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.

2. Any person who violates any applicable provision of this article, or any ordinance adopted pursuant to this article, including those adopted pursuant to the conditions of an MS4 permit, or any condition of a local land-disturbance approval, or who fails, neglects, or refuses to comply with any order of a VSMP authority authorized to enforce this article, the Department, the Board, locality serving as a VESMP authority or a court, issued as herein provided, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The Board shall adopt a regulation establishing a schedule of civil penalties to be utilized by the VSMP authority in enforcing the provisions of this article. The Board, Department, or VSMP authority may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court. Such civil penalties shall be paid into the treasury of the locality in which the violation occurred and are to be used solely for stormwater management capital projects, including (i) new stormwater best management practices; (ii) stormwater best management practice maintenance, inspection, or retrofitting; (iii) stream restoration; (iv) low-impact development projects; (v) buffer restoration; (vi) pond retrofitting; and (vii) wetlands restoration.

Where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.

B. For a land-disturbing activity that disturbs an area measuring not less than 10,000 square feet but less than one acre in an area that is not designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and is not part of a larger common plan of development or sale that disturbs one acre or more of land:

1. Any person who violates any applicable provision of this article or of any regulation or order of the Board issued pursuant to this article, or any condition of a land-disturbance approval issued by the Board, or fails to obtain a required land-disturbance approval, shall be subject to a civil penalty not to

exceed \$5,000 for each violation with a limit of \$50,000 within the discretion of the court in a civil action initiated by the Board. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$50,000. The court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.

2. Any locality serving as a VESMP authority shall adopt an ordinance providing that a violation of any ordinance or provision of its program adopted pursuant to this article, or any condition of a land-disturbance approval, shall be subject to a civil penalty. Such ordinance shall provide that any person who violates any applicable provision of this article or any ordinance or order of a locality issued pursuant to this article, or any condition of a land-disturbance approval issued by the locality, or fails to obtain a required land-disturbance approval, shall be subject to a civil penalty not to exceed \$5,000 for each violation with a limit of \$50,000 within the discretion of the court in a civil action initiated by the locality. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$50,000. Any civil penalties assessed by a court as a result of a summons issued by a locality as an approved VSMP authority shall be paid into the treasury of the locality wherein the land lies, except where the violator is the locality itself, or its agent. When the penalties are assessed by the court as a result of a summons issued by the Board or Department, or and used pursuant to subdivision A 2, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the Virginia Stormwater Management Local Assistance Fund established pursuant to § 62.1-44.15:29. Such civil penalties paid into the treasury of the locality in which the violation occurred are to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct § 62.1-44.15:29.1.

B. Any person who willfully or negligently violates any provision of this article, any regulation or order of the Board, any order of a VSMP authority authorized to enforce this article or the Department, any ordinance of any locality approved as a VSMP authority, any condition of a permit or state permit, or any order of a court 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 nor more than \$32,500, either or both. Any person who knowingly violates any provision of this article, any regulation or order of the Board, any order of the VSMP authority or the Department, any ordinance of any locality approved as a VSMP authority, any condition of a permit or state permit, or any order of a court issued as herein provided, or who knowingly makes any false statement in any form required to be submitted under this article or knowingly renders inaccurate any monitoring device or method required to be maintained under this article, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation. 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. Each day of violation of each requirement shall constitute a separate offense.

C. Any person who knowingly violates any provision of this article, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

D. Violation of any provision of this article may also include the following sanctions:

1. The Board, Department, or the VSMP authority, where authorized to enforce this article,

C. The violation of any provision of this article may also result in the following sanctions:

1. The Board may seek an injunction, mandamus, or other appropriate remedy pursuant to § 62.1-44.23. A locality serving as a VESMP authority may apply to the appropriate court in any jurisdiction wherein the land lies to enjoin a violation or a threatened violation of the provisions of this article or of the local ordinance without the necessity of showing that an adequate remedy at law does not exist a local ordinance or order or the conditions of a local land-disturbance approval. Any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this article shall be subject, in the discretion of the court, to a civil penalty that shall be assessed and used in accordance with the provisions of subsection A or B, as applicable.

2. With the consent of any person who has violated or failed, neglected, or refused to obey any ordinance, any condition of a permit or state permit, any regulation or order of the Board, any order of the VSMP authority or the Department, or any provision of this article, the Board, Department, or

VSMP authority may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in this section. Such civil charges shall be instead of any appropriate civil penalty that could be imposed under this section. Any civil charges collected shall be paid to the locality or state treasury pursuant to subsection A. *The Board or a locality serving as a VESMP authority may use the criminal provisions provided in § 62.1-44.32.*

**§ 62.1-44.15:49. Enforcement authority of MS4 localities.**

A. Localities shall adopt a stormwater ordinance pursuant to the conditions of a MS4 permit that is consistent with this article and its associated regulations and that contains provisions including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities and shall include additional provisions. *Each locality subject to an MS4 permit shall adopt an ordinance to implement a municipal separate storm sewer system management program that is consistent with this chapter and that contains provisions as required to comply with a state MS4 permit. Such locality may utilize the civil penalty provisions in subsection A subdivision A 2 of § 62.1-44.15:48, the injunctive authority as provided for in subdivision D 1 subsection C of § 62.1-44.15:48, and the civil charges as authorized in subdivision D 2 of § 62.1-44.15:48 § 62.1-44.15:25.1, and the criminal provisions in § 62.1-44.32, to enforce the ordinance. At the request of another MS4, the locality may apply the penalties provided for in this section to direct or indirect discharges to any MS4 located within its jurisdiction.*

B. Any person who willfully and knowingly violates any provision of such an ordinance is guilty of a Class 1 misdemeanor.

C. The local ordinance authorized by this section shall remain in full force and effect until the locality has been approved as a VSMP authority.

**§ 62.1-44.15:50. Cooperation with federal and state agencies.**

A VSMP VESMP authority and the Department are authorized to cooperate and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities for stormwater management.

Article 2.4.

Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program.

**§ 62.1-44.15:51. Definitions.**

As used in this article, unless the context requires a different meaning:

"Agreement in lieu of a plan" means a contract between the ~~plan-approving~~ VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family ~~residence~~ detached residential structure; this contract may be executed by the ~~plan-approving~~ VESCP authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing in order to obtain authorization for land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a ~~certificate of competence~~ certification from the Board in the area of project inspection or (ii) is enrolled in the 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 VESCP authority who (i) holds a ~~certificate of competence~~ certification from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a ~~certificate of competence~~ certification from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing

activity but *is* 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 or to shorelines where the erosion results from wave action or other coastal processes.

"Land-disturbing activity" "Land disturbance" or "land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and 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 the land-disturbing activity is confined to the area of the road, street, or sidewalk that 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. Permitted surface or deep mining operations and projects; or oil and gas operations and projects conducted pursuant to Title 45.1;

6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, 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 Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. 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 Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

11. 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 Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

12. Emergency work to protect life, limb, or property, and emergency repairs; however, 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 VESCP authority.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means *the same as provided in § 62.1-44.3. For a land-disturbing activity that is regulated under this article, "owner" also includes* the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control 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 Commonwealth, governmental body, including a federal

or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VЕСP" means a program approved by the Board that has been established by a VЕСP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, ~~permit requirements, annual standards and specifications,~~ policies and guidelines, technical materials, and requirements for plan review, inspection, ~~enforcement where authorized in this article,~~ and evaluation consistent with the requirements of this article ~~and its associated regulations.~~

"Virginia Erosion and Sediment Control Program authority" or "VЕСP authority" means ~~an authority a locality approved by the Board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the Department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15-2-5102. A locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program pursuant to subdivision B 3 of § 62.1-44.15:27 is required to become a VЕСP authority in accordance with this article.~~

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

**§ 62.1-44.15:51.1. Applicability.**

*The requirements of this article shall apply in any locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program (VESMP) pursuant to subdivision B 3 of § 62.1-44.15:27. Each such locality shall be required to adopt and administer a Board-approved VЕСP.*

**§ 62.1-44.15:52. Virginia Erosion and Sediment Control Program.**

A. The Board shall develop a program and adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) for the effective control of soil erosion, sediment deposition, and nonagricultural runoff that shall be met in any control program to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. Stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or § 62.1-44.15:54 or 62.1-44.15:65. Any plan approved prior to July 1, 2014, that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water ~~quality~~ volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one-year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirement for natural or man-made channels as defined in regulations promulgated pursuant to § 62.1-44.15:54 or 62.1-44.15:65. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of this subsection shall be satisfied by compliance with water quantity requirements in the *Virginia Erosion and Stormwater Management Act* (§ 62.1-44.15:24 et seq.) and attendant regulations, unless such land-disturbing activities are in accordance with the grandfathering provisions of the *Virginia Erosion and Stormwater Management Act* (VSMP) ~~Permit~~ (VESMP) Regulations or exempt pursuant to subdivision ~~6~~ 7 G 2 of § 62.1-44.15:34.

The regulations shall:

1. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including, but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics,

transportation, and public facilities and services;

2. Include such survey of lands and waters as may be deemed appropriate by the Board or required by any applicable law to identify areas, including multijurisdictional and watershed areas, with critical erosion and sediment problems; and

3. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities.

B. The Board shall provide technical assistance and advice to, and conduct and supervise educational programs for VESCP authorities.

C. The Board shall adopt regulations establishing minimum standards of effectiveness of erosion and sediment control programs, and criteria and procedures for reviewing and evaluating the effectiveness of VESCPs. In developing minimum standards for program effectiveness, the Board shall consider information and standards on which the regulations promulgated pursuant to subsection A are based.

D. The Board shall approve VESCP authorities and shall periodically conduct a comprehensive program compliance review and evaluation to ensure that all VESCPs operating under the jurisdiction of this article meet minimum standards of effectiveness in controlling soil erosion, sediment deposition, and nonagricultural runoff. The Department shall develop a schedule for conducting periodic reviews and evaluations of the effectiveness of VESCPs unless otherwise directed by the Board. Such reviews where applicable shall be coordinated with those being implemented in accordance with the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and associated regulations and the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and associated regulations. The Department may also conduct a comprehensive or partial program compliance review and evaluation of a VESCP at a greater frequency than the standard schedule pursuant to subdivision (19) of § 62.1-44.15.

E. The Board shall issue ~~certificates of competence~~ *certifications* concerning the content, application, and intent of specified subject areas of this article and accompanying regulations, including program administration, plan review, and project inspection, to personnel of program authorities and to any other persons who have completed training programs or in other ways demonstrated adequate knowledge. The Department shall administer education and training programs for specified subject areas of this article and accompanying regulations, and is authorized to charge persons attending such programs reasonable fees to cover the costs of administering the programs. Such education and training programs shall also contain expanded components to address plan review and project inspection elements of the *Virginia Erosion and Stormwater Management Act* (§ 62.1-44.15:24 et seq.) and attendant regulations in accordance with § 62.1-44.15:30.

F. Department personnel conducting inspections pursuant to this article shall hold a ~~certificate of competence~~ *certification* as provided in subsection E.

**§ 62.1-44.15:53. Certification of program personnel.**

A. The minimum standards of VESCP effectiveness established by the Board pursuant to subsection C of § 62.1-44.15:52 shall provide that (i) an erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer; (ii) inspections of land-disturbing activities shall be conducted by a certified inspector; and (iii) a VESCP shall contain a certified program administrator, a certified plan reviewer, and a certified project inspector, who may be the same person.

B. Any person who holds a certificate of competence from the Board in the area of plan review, project inspection, or program administration that was attained prior to the adoption of the mandatory certification provisions of subsection A shall be deemed to satisfy the requirements of that area of certification.

C. Professionals registered in the Commonwealth pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 or a professional soil scientist as defined in § 54.1-2200 shall be deemed to satisfy the certification requirements *have met the provisions of this section* for the purposes of renewals of certifications.

**§ 62.1-44.15:54. Virginia Erosion and Sediment Control Program.**

A. Counties and cities shall adopt and administer a VESCP.

Any town lying within a county that has adopted its own VESCP may adopt its own program or shall become subject to the county program. If a town lies within the boundaries of more than one county, the town shall be considered for the purposes of this article to be wholly within the county in which the larger portion of the town lies. Any locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program (VESMP) pursuant to subdivision B 3 of § 62.1-44.15:27 shall administer a VESCP in accordance with this article; however, a town may enter into an agreement with a county to administer the town's VESCP pursuant to subsection C of § 62.1-44.15:27.

B. A VESCP authority may enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other public or private entities to assist with carrying out the provisions of this article, including the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities on a unit or units of land as well as for monitoring, reports, inspections, and enforcement ~~where authorized in this article~~, of such land-disturbing activities.

C. Any VESCP adopted by a county, city, or town shall be approved by the Board if it establishes

by ordinance requirements that are consistent with this article and associated regulations.

D. Each approved VESCP operated by a county, city, or town shall include provisions for the integration coordination of the VESCP with Virginia stormwater management, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing a land-disturbing activity in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

E. The Board may approve a state entity, federal entity, or, for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 to operate a VESCP consistent with the requirements of this article and its associated regulations and the VESCP authority's Department-approved annual standards and specifications. For these programs, enforcement shall be administered by the Department and the Board where applicable in accordance with the provisions of this article shall conduct compliance reviews of VESCPs in accordance with subdivision (19) of § 62.1-44.15. The Board or Department also may require any locality that is a VESCP authority to furnish when requested any information as may be required to accomplish the purposes of this article.

F. Following completion of a compliance review of a VESCP in accordance with subsection D of § 62.1-44.15:52, the Department shall provide results and compliance recommendations to the Board in the form of a corrective action agreement if deficiencies are found; otherwise, the Board may find the program compliant. If a comprehensive or partial program compliance review conducted by the Department of a VESCP indicates that the VESCP authority has not administered, enforced where authorized to do so, or conducted its VESCP in a manner that satisfies the minimum standards of effectiveness established pursuant to subsection C of § 62.1-44.15:52, the Board shall establish a schedule for the VESCP authority to come into compliance. The Board shall provide a copy of its decision to the VESCP authority that specifies the deficiencies, actions needed to be taken, and the approved compliance schedule required to attain the minimum standard of effectiveness and shall include an offer to provide technical assistance to implement the corrective action. If the VESCP authority has not implemented the necessary compliance actions identified by the Board within 30 days following receipt of the corrective action agreement, or such additional period as is granted to complete the implementation of the corrective action, then the Board shall have the authority to (i) issue a special order to any VESCP, imposing a civil penalty not to exceed \$5,000 per day with the maximum amount not to exceed \$20,000 per violation for noncompliance with the state program, to be paid into the state treasury and deposited in the Virginia Stormwater Management Fund established by § 62.1-44.15:29 or (ii) revoke its approval of the VESCP. The Administrative Process Act (§ 2.2-4000 et seq-) shall govern the activities and proceedings of the Board and the judicial review thereof.

In lieu of issuing a special order or revoking the program, the Board is authorized to take legal action against a VESCP to ensure compliance.

G. If the Board revokes its approval of the VESCP of a county, city, or town, and the locality is in a district, the district, upon approval of the Board, shall adopt and administer a VESCP for the locality. To carry out its program, the district shall adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq-) consistent with this article and associated regulations. The regulations may be revised from time to time as necessary. The program and regulations shall be available for public inspection at the principal office of the district.

H. If the Board (i) revokes its approval of a VESCP of a district, or of a county, city, or town not in a district, or (ii) finds that a local program consistent with this article and associated regulations has not been adopted by a district or a county, city, or town that is required to adopt and administer a VESCP, the Board shall find the VESCP authority provisional, and have the Department assist with the administration of the program until the Board finds the VESCP authority compliant with the requirements of this article and associated regulations. "Assisting with administration" includes but is not limited to the ability to review and comment on plans to the VESCP authority, to conduct inspections with the VESCP authority, and to conduct enforcement in accordance with this article and associated regulations.

I. If the Board revokes its approval of a state entity, federal entity, or, for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102, the Board shall find the VESCP authority provisional, and have the Department assist with the administration of the program until the Board finds the VESCP authority compliant with the requirements of this article and associated regulations. "Assisting with administration" includes the ability to review and comment on plans to the VESCP authority and to conduct inspections with the VESCP authority in accordance with this article and associated regulations.

J. F. Any VESCP authority that administers an erosion and sediment control program may charge applicants a reasonable fee to defray the cost of program administration. Such fee may be in addition to any fee charged for administration of a Virginia Stormwater Management Program, although payment of

fees may be consolidated in order to provide greater convenience and efficiency for those responsible for compliance with the programs. A VESCP authority shall hold a public hearing prior to establishing a schedule of fees. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and the VESCP authority's expense involved.

~~K. The governing body of any county, city, or town, or a district board~~ *G. Any locality* that is authorized to administer a VESCP, may adopt an ordinance or regulation where applicable providing that violations of any regulation or order of the Board, any provision of its program, any condition of a ~~permit land-disturbance approval~~, or any provision of this article shall be subject to a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties that exceed a total of \$10,000. ~~Adoption of such an ordinance providing that violations are subject to a civil penalty shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of § 62.1-44.15-63.~~ The penalties set out in this subsection are also available to the Board in its enforcement actions.

**§ 62.1-44.15:55. Regulated land-disturbing activities; submission and approval of erosion and sediment control plan.**

A. Except as provided in § 62.1-44.15:56 for state agency and federal entity land-disturbing activities § 62.1-44.15:31 for a land-disturbing activity conducted by a state agency, federal entity, or other specified entity, no person shall engage in any land-disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. ~~Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VESCP authority shall then be required to obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to begin land disturbance. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan may, at the request of one or all of the VESCP authorities, be submitted to the Department for review and approval rather than to each jurisdiction concerned. The Department may charge the jurisdictions requesting the review a fee sufficient to cover the cost associated with conducting the review. A VESCP may enter into an agreement with an adjacent VESCP regarding the administration of multijurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures. Where Virginia Pollutant Discharge Elimination System permit coverage is required, a VESCP authority shall be required to obtain evidence of such coverage from the Department's online reporting system prior to approving the erosion and sediment control plan. A VESCP authority may enter into an agreement with an adjacent VESCP or VESMP authority regarding the administration of multijurisdictional projects specifying who shall be responsible for all or part of the administrative procedures. Should adjacent authorities fail to come to such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP authority.~~

B. The VESCP authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of this article and the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. 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 VESCP authority, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any VESCP authority may waive the certificate of competence requirement for 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, as provided by § 62.1-44.15:52. 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 this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion

and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.

C. The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

D. Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and authorities created pursuant to § 15.2-5102 may, file general erosion and sediment control standards and specifications annually with the Department for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and associated regulations where applicable. The specifications shall apply to:

1. Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and
2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The Department shall have 60 days in which to approve the standards and specifications. If no action is taken by the Department within 60 days, the standards and specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 shall comply with the requirements of the appropriate VESCP. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.

E. Any person engaging, in more than one jurisdiction, in the creation and operation of a wetland mitigation or stream restoration bank or banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control standards and specifications for wetland mitigation or stream restoration banks annually with the Department for review and approval consistent with guidelines established by the Board.

The Department shall have 60 days in which to approve the specifications. If no action is taken by the Department within 60 days, the specifications shall be deemed approved. Individual approval of separate projects under this subsection is not necessary when approved specifications are implemented through a project-specific erosion and sediment control plan. Projects not included in this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance. Approval of general erosion and sediment control specifications by the Department does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.

F. D. In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

G. E. For the purposes of subsections A and B, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

F. *Notwithstanding any other provisions of this article, the following activities are not required to comply with the requirements of this article unless otherwise required by federal law:*

1. *Disturbance of a land area of less than 10,000 square feet in size or less than 2,500 square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). However, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;*
2. *Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;*
3. *Installation, maintenance, or repair of any individual service connection;*
4. *Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;*
5. *Installation, maintenance, or repair of any septic tank line or drainage field unless included in an*

overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;

7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the Board in regulations. 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 Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

8. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

9. 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 Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity;

11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and

12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

**§ 62.1-44.15:57. Approved plan required for issuance of grading, building, or other permits; security for performance.**

Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities regulated under this article shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and, certification that the plan will be followed, and, upon the development of an online reporting system by the Department but no later than July 1, 2014, evidence of Virginia Stormwater Management Program Pollutant Discharge Elimination System permit coverage where it is required. Prior to issuance of any permit, the agency may also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency, to ensure that measures could be taken by the agency at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action that may be required of him by the approved plan as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation, which shall not exceed 25 percent of the estimated cost of the conservation action. If the agency takes such conservation action upon such failure by the permittee, the agency may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the achievement of adequate stabilization of the land-disturbing activity in any project or section thereof, the bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated based upon the percentage of stabilization accomplished in the project or section thereof. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

**§ 62.1-44.15:58. Monitoring, reports, and inspections.**

A. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activity and require that an individual holding a certificate of competence, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. However, any VESCP authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence detached residential structure. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the VESCP authority, where authorized

to enforce this article, or the Department determines that there is a failure to comply with the plan following an inspection, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. When the VESCP authority or the Board determines that there is a failure to comply with the conditions of land-disturbance approval or to obtain an approved plan or a land-disturbance approval prior to commencing land-disturbing activity, the VESCP authority or the Board may serve a notice to comply upon the owner or person responsible for carrying out the land-disturbing activity. Such notice to comply shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the plan or land-disturbance application, if available, or in the land records of the locality; or by delivery at the site to a person previously identified to the VESCP authority by the owner. The notice to comply shall specify the measures needed to comply with the ~~plan~~ land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify ~~the~~ a reasonable time within which such measures shall be completed. In any instance in which a required land-disturbance approval has not been obtained, the VESCP authority or the Board may require immediate compliance. In any other case, the VESCP authority or the Board may establish the time for compliance by taking into account the risk of damage to natural resources and other relevant factors. Notwithstanding any other provision in this subsection, a VESCP authority or the Board may count any days of noncompliance as days of violation should the VESCP authority or the Board take an enforcement action. The issuance of a notice to comply by the Board shall not be considered a case decision as defined in § 2.2-4001. Upon failure to comply within the time specified, ~~the permit any plan approval or land-disturbance approval may be revoked and the VESCP authority, where authorized to enforce this article, the Department,~~ or the Board may pursue enforcement as provided by § 62.1-44.15:63.

B. Notwithstanding the provisions of subsection A, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement ~~where an authority is granted such powers by this article.~~

C. Upon issuance of an inspection report denoting a violation of this section, or § 62.1-44.15:55 or ~~62.1-44.15:56~~, in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority, ~~where authorized to enforce this article, or the Department or the Board~~ may issue an 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 or, if land-disturbing activities have commenced without an approved plan as provided in § 62.1-44.15:55, requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. *When such an order is issued by the Board, it shall be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.).* 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 Commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan or any required permits, such an, such a stop work order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the ~~Department Board~~, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The stop work order for disturbance without an approved plan or permits shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as permits and plan approvals are secured, except in such situations where an agricultural exemption applies. If the alleged violator has not obtained an approved erosion and sediment control plan or any required permit within seven days from the date of service of the stop work order, the ~~Department Board~~ or the chief administrative officer or his designee on behalf of the VESCP authority may issue a subsequent order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. The subsequent order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the permit application plan or the land records of the locality in which the site is located. The owner may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or failing, neglecting, or refusing to obey an order issued by the ~~Department Board~~ or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation

was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the Department, the Board, or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § 62.1-44.15:63.

**§ 62.1-44.15:60. Right of entry.**

~~The Department, the VESCP authority, where authorized to enforce this article, In addition to the Board's authority set forth in § 62.1-44.20, a locality serving as a VESCP authority or any duly authorized agent of the Department or such VESCP authority thereof~~ may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.

In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, a VESCP authority may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by the permit conditions associated with conditions imposed by the VESCP authority on a land-disturbing activity when a permittee an owner, after proper notice, has failed to take acceptable action within the time specified.

**§ 62.1-44.15:62. Judicial appeals.**

A. A final decision by a county, city, or town, when serving as a VESCP authority under this article, shall be subject to judicial review, provided that an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

B. Final decisions of the Board, Department, or district shall be subject to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 62.1-44.15:63. Penalties, injunctions and other legal actions.**

A. ~~Violators of § 62.1-44.15:55, 62.1-44.15:56, or 62.1-44.15:58 shall be guilty of a Class 1 misdemeanor.~~

~~B. Any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the Department or VESCP authority, any condition of a permit land-disturbance approval, or any provision of this article or associated regulation shall, upon a finding of an appropriate court, be assessed a civil penalty. If a locality or district serving as a VESCP authority has adopted a uniform schedule of civil penalties as permitted by subsection K G of § 62.1-44.15:54, such assessment shall be in accordance with the schedule. The VESCP authority or the Department Board may issue a summons for collection of the civil penalty. In any trial for a scheduled violation, it shall be the burden of the locality or Department Board or the VESCP authority to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where and are to be used solely for stormwater management capital projects, including (i) new stormwater best management practices; (ii) stormwater best management practice maintenance, inspection, or retrofitting; (iii) stream restoration; (iv) low-impact development projects; (v) buffer restoration; (vi) pond retrofitting; and (vii) wetlands restoration. Where the violator is the locality itself, or its agent, or where the Department Board is issuing the summons, the court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund established pursuant to § 62.1-44.15:29.1.~~

~~C. B. The VESCP authority, the Department Board, or the owner of property that has sustained damage or which is in imminent danger of being damaged may apply to the circuit court in any jurisdiction wherein the land lies or other appropriate court to enjoin a violation or a threatened violation under § 62.1-44.15:55, 62.1-44.15:56, or 62.1-44.15:58 without the necessity of showing that an adequate remedy at law does not exist; however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the VESCP, the Department Board, and the VESCP authority that a violation of the VESCP has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the VESCP, the Department Board, nor the VESCP authority has taken corrective action within 15 days to eliminate the conditions that have caused, or create the probability of causing, damage to his property.~~

~~D. C. In addition to any criminal or civil penalties provided under this article, any person who violates any provision of this article may be liable to the VESCP authority or the Department Board, as appropriate, in a civil action for damages.~~

~~E. D. Without limiting the remedies that may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the VESCP authority wherein the land lies or the Department Board. Any civil penalties assessed by a court shall be paid into~~

the treasury of the locality wherein the land lies, ~~except that where and used pursuant to requirements of subsection A. Where~~ the violator is the locality itself, or its agent, ~~or other VESCP authority,~~ or where the penalties are assessed as the result of an enforcement action brought by the ~~Department Board,~~ the court shall direct the penalty to be paid into the state treasury *and deposited by the State Treasurer into the Stormwater Local Assistance Fund (§ 62.1-44.15:29.1).*

~~E. E.~~ With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the ~~Department or~~ VESCP authority, any condition of a ~~permit land-disturbance approval,~~ or any provision of this article or associated regulations, the Board, the Director, or VESCP authority may provide, in an order issued by the Board or VESCP authority against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection ~~E D.~~ Such civil charges shall be instead of any appropriate civil penalty that could be imposed under subsection ~~B or E A or D.~~

~~G. F.~~ Upon request of a VESCP authority, the attorney for the Commonwealth shall take legal action to enforce the provisions of this article. Upon request of the Board, ~~the Department, or the district,~~ the Attorney General shall take appropriate legal action on behalf of the Board, ~~the Department, or the district~~ to enforce the provisions of this article.

~~H. Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.~~

**§ 62.1-44.15:64. Stop work orders by Board; civil penalties.**

A. An aggrieved owner of property sustaining pecuniary damage resulting from a violation of an approved erosion and sediment control plan or required ~~permit land-disturbance approval,~~ or from the conduct of land-disturbing activities commenced without an approved plan or required ~~permit land-disturbance approval,~~ may give written notice of the alleged violation to the VESCP authority and to the ~~Director Board.~~

B. ~~Upon receipt of the notice from the aggrieved owner and notification to the VESCP authority, the Director shall conduct an investigation of the aggrieved owner's complaint.~~

~~C. If the VESCP authority has not responded to the alleged violation in a manner that causes the violation to cease and abates the damage to the aggrieved owner's property within 30 days following receipt of the notice from the aggrieved owner, the aggrieved owner may request that the Director Board conduct an investigation and, if necessary, require the violator to stop the alleged violation and abate the damage to his property.~~

~~D. If (i) the Director's C. If the Board's investigation of the complaint indicates that (i) the VESCP authority has not responded to the alleged violation as required by the VESCP, (ii) the VESCP authority has not responded to the alleged violation within 30 days from the date of the notice given pursuant to subsection A, and (iii) the Director is requested by the aggrieved owner there is a violation and it is necessary to require the violator to cease the violation as requested by the aggrieved owner, then the Director Board shall give written notice to the VESCP authority that the Department Board intends to issue an order pursuant to subsection E D.~~

~~E. D.~~ If the VESCP authority has not instituted action to stop the violation and abate the damage to the aggrieved owner's property within 10 days following receipt of the notice from the ~~Director, the Department Board, the Board~~ is authorized to issue an order requiring the owner, ~~permittee,~~ person responsible for carrying out an approved erosion and sediment control plan, or person conducting the land-disturbing activities without an approved plan or required ~~permit land-disturbance approval~~ to cease all land-disturbing activities until the violation of the plan ~~or permit~~ has ceased or an approved plan and required ~~permits land-disturbance approval~~ are obtained, as appropriate, and specified corrective measures have been completed. The ~~Department Board~~ also may immediately initiate a program review of the VESCP.

~~F. E.~~ Such orders are to be issued ~~after a hearing held~~ in accordance with the ~~requirements procedures~~ of the Administrative Process Act (§ 2.2-4000 et seq.), and they shall become effective upon service on the person by mailing with confirmation of delivery, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the ~~Director Board.~~ Any subsequent identical mail or notice that is sent by the ~~Department Board~~ may be sent by regular mail. However, if the ~~Department Board~~ finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, it may issue, without advance notice or hearing, an emergency order directing such person to cease all land-disturbing activities on the site immediately and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order.

~~G. F.~~ If a person who has been issued an order or emergency order is not complying with the terms thereof, the Board may institute a proceeding in the appropriate circuit court for an injunction, mandamus, or other appropriate remedy compelling the person to comply with such order.

~~H. G.~~ Any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection G shall be subject, in the discretion of the court, to a civil

penalty not to exceed \$2,000 for each violation. Any civil penalties assessed by a court shall be paid into the state treasury and deposited by the State Treasurer into the Stormwater Local Assistance Fund (§ 62.1-44.15:29.1).

**§ 62.1-44.15:65. Authorization for more stringent ordinances.**

A. As part of a VESCP, a ~~district or~~ locality is authorized to adopt more stringent soil erosion and sediment control ~~regulations or~~ ordinances than those necessary to ensure compliance with the Board's regulations, provided that the more stringent ~~regulations or~~ ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 ~~permit or~~ a locally adopted watershed management study and are determined by the ~~district or~~ locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ~~regulations or~~ ordinances, a public hearing is held after giving due notice. The VESCP authority shall report to the Board when more stringent ~~stormwater management regulations or erosion and sediment control~~ ordinances are determined to be necessary pursuant to this section. ~~However, this~~ *This process shall not be required when a VESCP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:55.* This section shall not be construed to authorize any ~~district or locality~~ VESCP authority to impose any more stringent ~~regulations for plan approval or permit issuance~~ ordinances for land-disturbance review and approval than those specified in §§ § 62.1-44.15:55 and 62.1-44.15:57.

B. Any provisions of an erosion and sediment control program in existence before July 1, 2012, that contains more stringent provisions than this article shall be exempt from the analysis requirements of subsection A.

**§ 62.1-44.15:69. Powers and duties of the Board.**

The Board is responsible for carrying out the purposes and provisions of this article and is authorized to:

1. Provide land use and development and water quality protection information and assistance to the various levels of local, regional, and state government within the Commonwealth.
2. Consult, advise, and coordinate with the Governor, the Secretary, the General Assembly, other state agencies, regional agencies, local governments, and federal agencies for the purpose of implementing this article.
3. Provide financial and technical assistance and advice to local governments and to regional and state agencies concerning aspects of land use and development and water quality protection pursuant to this article.
4. Promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).
5. Develop, promulgate, and keep current the criteria required by § 62.1-44.15:72.
6. Provide technical assistance and advice or other aid for the development, adoption, and implementation of local comprehensive plans, zoning ordinances, subdivision ordinances, and other land use and development and water quality protection measures utilizing criteria established by the Board to carry out the provisions of this article.
7. Develop procedures for use by local governments to designate Chesapeake Bay Preservation Areas in accordance with the criteria developed pursuant to § 62.1-44.15:72.
8. Ensure that local government comprehensive plans, zoning ordinances, and subdivision ordinances are in accordance with the provisions of this article. Determination of compliance shall be in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).
9. Make application for federal funds that may become available under federal acts and to transmit such funds when applicable to any appropriate person.
10. Take administrative and legal actions *pursuant to subdivision (19) of § 62.1-44.15* to ensure compliance by counties, cities, and towns with the provisions of this article including the proper enforcement and implementation of, and continual compliance with, this article.
11. Perform such other duties and responsibilities related to the use and development of land and the protection of water quality as the Secretary may assign.

**§ 62.1-44.15:74. Local governments to designate Chesapeake Bay Preservation Areas; incorporate into local plans and ordinances; impose civil penalties.**

A. Counties, cities, and towns in Tidewater Virginia shall use the criteria developed by the Board to determine the extent of the Chesapeake Bay Preservation Area within their jurisdictions. Designation of Chesapeake Bay Preservation Areas shall be accomplished by every county, city, and town in Tidewater Virginia not later than 12 months after adoption of criteria by the Board.

B. Counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan consistent with the provisions of this article.

C. All counties, cities, and towns in Tidewater Virginia shall have zoning ordinances that incorporate measures to protect the quality of state waters in the Chesapeake Bay Preservation Areas consistent with the provisions of this article. Zoning in Chesapeake Bay Preservation Areas shall comply with all

criteria set forth in or established pursuant to § 62.1-44.15:72.

D. Counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into their subdivision ordinances consistent with the provisions of this article. Counties, cities, and towns in Tidewater Virginia shall ensure that all subdivisions developed pursuant to their subdivision ordinances comply with all criteria developed by the Board.

E. In addition to any other remedies which may be obtained under any local ordinance enacted to protect the quality of state waters in Chesapeake Bay Preservation Areas, counties, cities, and towns in Tidewater Virginia may incorporate the following penalties into their zoning, subdivision, or other ordinances:

1. Any person who (i) violates any provision of any such ordinance or (ii) violates or fails, neglects, or refuses to obey any local governmental body's or official's final notice, order, rule, regulation, or variance or permit condition authorized under such ordinance shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county, city, or town in which the violation occurred for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order, except that where the violator is the county, city, or town itself, or its agent, the court shall direct the penalty to be paid into the state treasury *and deposited by the State Treasurer into the Stormwater Local Assistance Fund established by § 62.1-44.15:29.1.*

2. With the consent of any person who (i) violates any provision of any local ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any local governmental body's or official's notice, order, rule, regulation, or variance or permit condition authorized under such ordinance, the local government may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county, city, or town in which the violation occurred for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, except that where the violator is the county, city, or town itself, or its agent, the civil charges shall be paid into the state treasury *and deposited by the State Treasurer into the Stormwater Local Assistance Fund established by § 62.1-44.15:29.1.* Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision 1. Civil charges may be in addition to the cost of any restoration required or ordered by the local governmental body or official.

F. Localities that are subject to the provisions of this article may by ordinance adopt an appeal period for any person aggrieved by a decision of a board that has been established by the locality to hear cases regarding ordinances adopted pursuant to this article. The ordinance shall allow the aggrieved party a minimum of 30 days from the date of such decision to appeal the decision to the circuit court.

**§ 62.1-44.19:22. Enforcement and penalties.**

A. Transfer of certified nutrient credits by an operator of a nutrient credit-generating entity may be suspended by the Department until such time as the operator comes into compliance with this article and attendant regulations.

B. Any operator of a nutrient credit-generating entity who violates any provision of this article, or of any regulations adopted hereunder, shall be subject to a civil penalty not to exceed \$10,000 within the discretion of the court. The Department may issue a summons for collection of the civil penalty, and the action may be prosecuted in the appropriate circuit court. When the penalties are assessed by the court as a result of a summons issued by the Department, the court shall direct the penalty to be paid into the state treasury and deposited by the State Treasurer into the ~~Virginia Stormwater Management~~ *Local Assistance Fund established pursuant to § 62.1-44.15:29 § 62.1-44.15:29.1.*

**§ 62.1-44.22. Private actions.**

The fact that any owner holds or has held a certificate *or land-disturbance approval* issued under this chapter shall not constitute a defense in any civil action involving private rights.

*Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.*

**§ 62.1-44.23. Enforcement by injunction, etc.**

Any person violating or failing, neglecting or refusing to obey any rule, regulation, order, water quality standard, pretreatment standard, *approved standard and specification*, or requirement of or any provision of any certificate *or land-disturbance approval* issued by the Board, or by the owner of a publicly owned treatment works issued to an industrial user, or any provisions of this chapter, except as provided by a separate article, may be compelled in a proceeding instituted in any appropriate court by the Board to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

**§ 62.1-44.25. Right to hearing.**

Any owner under §§ *Article 2.3 (§ 62.1-44.15:24 et seq.), Article 2.5 (§ 62.1-44.15:67 et seq.), or § 62.1-44.16, 62.1-44.17, and or 62.1-44.19* aggrieved by any action of the Board taken without a

formal hearing, or by inaction of the Board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the Board. In cases involving actions of the Board, such petition must be filed within ~~thirty~~ 30 days after notice of such action is mailed to such owner by certified mail.

**§ 62.1-44.26. Hearings.**

A. The formal hearings held *by the Board* under this chapter shall be conducted pursuant to § 2.2-4009 or 2.2-4020 and may be conducted by the Board itself at a regular or special meeting of the Board, or by at least one member of the Board designated by the chairman to conduct such hearings on behalf of the Board at any other time and place authorized by the Board.

B. A verbatim record of the proceedings of such hearings shall be taken and filed with the Board. Depositions may be taken and read as in actions at law.

C. The Board shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Board in the manner prescribed in § 2.2-4022. Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions.

**§ 62.1-44.29. Judicial review.**

Any owner aggrieved by or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Board under *subdivision (5), (8a), (8b), (8c), or (19) of § 62.1-44.15 (5), 62.1-44.15 (8a), (8b), and (8c), or § 62.1-44.15:20, 62.1-44.15:21, 62.1-44.15:22, 62.1-44.15:23, 62.1-44.16, 62.1-44.17, 62.1-44.19, or 62.1-44.25*, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the United States Constitution. A person shall be deemed to meet such standard if (i) such person has suffered an actual or imminent injury which is an invasion of a legally protected interest and which is concrete and particularized; (ii) such injury is fairly traceable to the decision of the Board and not the result of the independent action of some third party not before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

**§ 62.1-44.31. Violation of order or certificate or failure to cooperate with Board.**

It shall be unlawful for any owner to fail to comply with any ~~special~~ order adopted by the Board, which has become final under the provisions of this chapter, or to fail to comply with a pretreatment condition incorporated into the permit issued to it by the owner of a publicly owned treatment works or to fail to comply with any pretreatment standard or pretreatment requirement, or to discharge sewage, industrial waste or other waste in violation of any condition contained in a certificate *or land-disturbance approval* issued by the Board or in excess of the waste covered by such certificate *or land-disturbance approval*, or to fail or refuse to furnish information, plans, specifications or other data reasonably necessary and pertinent required by the Board under this chapter.

For the purpose of this section, the term "owner" shall mean, in addition to the definition contained in §§ 62.1-44.3 and 62.1-44.15:24, any responsible corporate officer so designated in the applicable discharge permit.

**§ 62.1-44.32. Penalties.**

(a) Except as otherwise provided in this chapter, any person who violates any provision of this chapter, or who fails, neglects, or refuses to comply with any *regulation, certificate, land-disturbance approval, or order* of the Board, or order of a court, issued as herein provided, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. Such civil penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 (§ 10.1-2500 et seq.) of Title 10.1, excluding penalties assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.), 2.4 (§ 62.1-44.15:51 et seq.), 2.5 (§ 62.1-44.15:67 et seq.), 9 (§ 62.1-44.34:8 et seq.), or 10 (§ 62.1-44.34:10 et seq.) of Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

Such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city, or town in which the violation occurred, to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the owner in violation is such county, city, or town itself, or its agent, the court shall direct such penalty to be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 of Title 10.1, excluding penalties assessed for violations of Article 2.3, 2.4, 2.5, 9, or 10 of Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

In the event that a county, city, or town, or its agent, is the owner, such county, city, or town, or its agent, may initiate a civil action against any user or users of a waste water treatment facility to recover that portion of any civil penalty imposed against the owner proximately resulting from the act or acts of

such user or users in violation of any applicable federal, state, or local requirements.

(b) Except as otherwise provided in this chapter, any person who willfully or negligently violates (1) any provision of this chapter, any regulation or order of the Board, or any condition of a certificate or land-disturbance approval of the Board, (2) any land-disturbance approval, ordinance, or order of a locality serving as a Virginia Erosion and Stormwater Management Program authority, or (3) any order of a court 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 nor more than \$32,500, either or both. Any person who knowingly violates (A) any provision of this chapter, any regulation or order of the Board, or any condition of a certificate or land-disturbance approval of the Board, (B) any land-disturbance approval, ordinance, or order of a locality serving as a Virginia Erosion and Stormwater Management Program authority, or (C) any order of a court issued as herein provided, or who knowingly makes any false statement in any form required to be submitted under this chapter or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation. 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. Each day of violation of each requirement shall constitute a separate offense.

(c) Except as otherwise provided in this chapter, any person who knowingly violates any provision of this chapter, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

(d) Criminal prosecution under this section shall be commenced within three years of discovery of the offense, notwithstanding the limitations provided in any other statute.

2. That §§ 62.1-44.15:26, 62.1-44.15:32, 62.1-44.15:36, 62.1-44.15:38, 62.1-44.15:42 through 62.1-44.15:45, 62.1-44.15:47, 62.1-44.15:56, 62.1-44.15:61, and 62.1-44.15:71 of the Code of Virginia are repealed.

3. That any locality that operates a regulated municipal separate storm sewer system (MS4) and was required to adopt a Virginia Stormwater Management Program (VSMP) as of July 1, 2014, is authorized to continue to operate its Virginia Erosion and Sediment Control Program (VESCP) and its VSMP until the State Water Control Board approves its consolidated VESMP.

4. That any locality that does not operate a regulated MS4 and elected to adopt a VSMP is authorized to continue to operate its VESCP and its VSMP until the State Water Control Board approves its consolidated VESMP.

5. That any locality that does not operate a regulated MS4, did not elect to adopt a VSMP, and chooses to fully administer a VESMP pursuant to subdivision B 1 of § 62.1-44.15:27 of the Code of Virginia, as amended by this act, is authorized to continue to operate its VESCP until the State Water Control Board approves its consolidated VESMP. For any such locality that does not, as of the effective date of this act, employ a person holding a certificate of competence in the area of stormwater management plan review, project inspection, or program administration, the Department of Environmental Quality (the Department) shall assist with those responsibilities until new training and certifications have been obtained according to a timeframe to be established by the Department.

6. That any locality that does not operate a regulated MS4, did not elect to adopt a VSMP, and chooses to administer a VESMP with the Department's assistance pursuant to subdivision B 2 of § 62.1-44.15:27 of the Code of Virginia, as amended by this act, is authorized to continue to operate its VESCP until the State Water Control Board approves its consolidated VESMP. For any such locality that, as of the effective date of this act, does not employ a person holding a certificate of competence in the area of stormwater management plan review, project inspection, or program administration, the Department shall assist with those responsibilities until new training and certifications have been obtained according to a timeframe to be established by the Department. The Department shall be responsible for stormwater management plan review in any such locality.

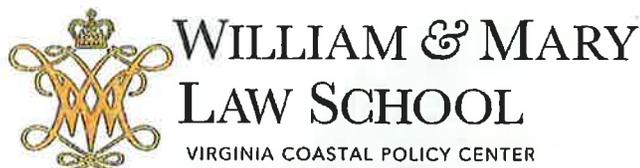
7. That any person who holds a valid separate, combined, or dual certificate of competence from the State Water Control Board in the area of erosion and sediment control plan review, project inspection, or program administration, or such a certificate in stormwater management plan review, project inspection, or program administration, shall retain such certification until the Department establishes new training and certifications and provides a schedule according to which

such a person may meet the eligibility requirements for certification or recertification, as applicable. The State Water Control Board shall incorporate the valid certificates of competence into the new eligibility requirements for certification or recertification purposes as appropriate.

8. That the Department shall conduct an evaluation of fees related to the consolidated Virginia Erosion and Stormwater Management Program in order to determine whether the program can be funded adequately under the current fee structure. The Department shall conduct its evaluation based on revenues and resource needs from July 1, 2014, to June 30, 2016, and shall complete its assessment by September 1, 2016. Every VSMP authority and VESCP authority shall submit information to the Department by August 1, 2016, concerning its use of the fees that it received under the Virginia Stormwater Management Program and Virginia Erosion and Sediment Control Program between July 1, 2014, and June 30, 2016. The information shall be submitted on a form to be provided by the Department. The Department shall then convene a Stakeholders Advisory Group (SAG) to review the Department's evaluation and consider the need to establish revised fees to fund the consolidated VESMP and any other issues of concern regarding the Virginia Erosion and Stormwater Management Program. The Department shall report the results of its evaluation and the SAG's discussion to the Governor and the chairs of the Senate Finance Committee, the House Appropriations Committee, the Senate Agriculture, Conservation and Natural Resources Committee, and the House Agriculture, Chesapeake and Natural Resources Committee by the first day of the 2017 Regular Session.

9. That the State Water Control Board (the Board) shall adopt regulations to implement the requirements of this act. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia. However, the Department shall (i) provide a Notice of Intended Regulatory Action, (ii) form a stakeholders advisory group, (iii) provide for a 60-day public comment period prior to the Board's adoption of the regulations, and (iv) provide the Board with a written summary of comments received and responses to comments prior to the Board's adoption of the regulations.

10. That the provisions of this act shall become effective July 1, 2017, or 30 days after the adoption by the State Water Control Board of the regulations required by the ninth enactment of this act, whichever occurs later.



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April 26, 2016

The Honorable M. Keith Hodges  
Delegate, 98<sup>th</sup> District  
230 Virginia Street  
Urbanna, Virginia 23175

Dear Delegate Hodges:

It was a pleasure to meet with you and Lewie Lawrence to discuss your concerns surrounding the administration of Virginia's existing stormwater, erosion and sediment control, and Chesapeake Bay Preservation Act programs and your desire to examine new solutions that work for our coastal communities and resources.

As discussed, it is our understanding that you would like to have the Virginia Coastal Policy Center (VCPC) conduct a study and analysis of the existing programs and identified problems, followed by suggested policy and/or legislative solutions. The process we propose for doing this study and analysis is as follows:

- 1) The VCPC will conduct a series of interviews with targeted individuals seeking to discern commonly perceived problems with these programs. The list of targeted individuals will include state agency staff, local government leaders, stakeholder NGOs, and experts from the private sector.
- 2) In parallel with the interviews, the VCPC will develop a series of white papers summarizing the current state of the law, regulations and guidance concerning these programs.
- 3) Upon the conclusion of the interviews, the VCPC will supplement the legal analyses noted above with complementary documents identifying the perceived and actual problems, linking them to the law, regulations, and policies that govern in Virginia. The VCPC will share the content of this problem document with you and a small set of viewers so as to ground truth the conclusions reached by the VCPC.
- 4) The VCPC will produce a set of policy and/or legislative options for possible resolution of the perceived and actual problems. It will invite a workgroup of interested parties to participate in a roundtable discussion to solicit their reactions and responses to the proposed resolutions. The workgroup will first receive an overview of the "state of the law" white papers noted above so that all participants are equally educated. The problems and solutions roundtable discussion will follow. To help ensure our ability to provide an informed, researched set of recommendations to you, VCPC will convene, facilitate, and manage the workgroup.

- 5) After the roundtable discussion, the VCPC will analyze the contributions provided by the roundtable participants and prepare a final document containing potential recommendations and options. VCPC will provide the roundtable with an opportunity to review the final document for substantive error, the need for major changes, etc., prior to its completion and delivery to you. VCPC will not seek a signatory approval of the final document from all participants; rather it will seek to ensure that priority positions, concerns, and solutions are part of the final document.

Throughout the process, the VCPC will keep you educated and informed of the work and its progress.

Our goal is to complete the work for you no later than mid-November 2016. If we can finish it on an earlier schedule, we will do so. If this concept as proposed in this letter is one that will suit your needs, the VCPC will develop a timeline for the work and share it with you. We anticipate the research and interviews to occur throughout this summer.

While we had discussed with you the need for reimbursement for the time and expenses incurred by VCPC for this project, we have determined that the Commonwealth and your goals would be best served if the VCPC conducted this work within the framework of its existing operational budget.

We would very much appreciate your reviewing this suggested process and would welcome the opportunity discuss it with you and answer any questions or respond to any suggestions you may have. If you or your office could follow up with Roy Hoagland, the VCPC Co-Director who will serve as the lead for this work, we would be grateful. We can then schedule a follow up call at a mutually convenient time. Roy can be reached at 804.221.0404 or [rahoagland@wm.edu](mailto:rahoagland@wm.edu).

We have copied Lewie Lawrence of the Middle Peninsula Planning District Commission so that he, too, is aware of our proposal.

Sincerely yours,



Elizabeth A. Andrews, Director



Roy A. Hoagland, Co-Director

Copy: Lewie Lawrence, MPPDC